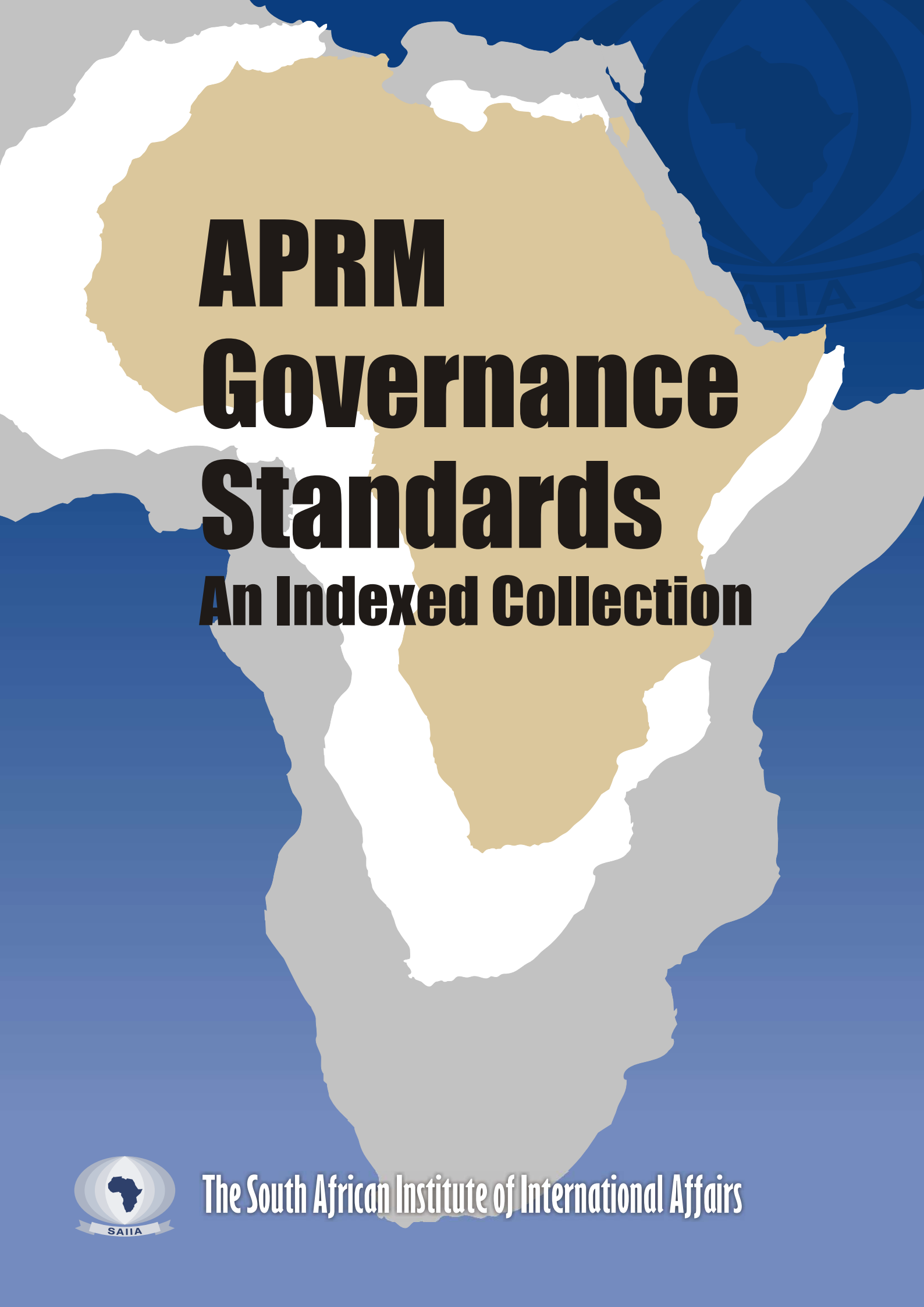


A stylized map of the African continent is centered on the page. The continent is divided into two colors: a tan/gold color for the northern and eastern parts, and a light grey color for the southern and western parts. The map is set against a background of blue and grey. In the top right corner, there is a faint, circular logo of the African Union, featuring a map of Africa in the center and the word 'AU' at the bottom.

APRM Governance Standards

An Indexed Collection



The South African Institute of International Affairs

African Peer Review Mechanism Standards

This publication was produced
with support from the Royal Netherlands Embassy
in South Africa.



The South African Institute of International Affairs



The South African Institute of International Affairs

PO Box 31596, Braamfontein
2017 South Africa
Tel: (27-11) 339 2021
Fax: (27-11) 339 2154
Website: www.saiia.org.za

ISBN 1-919969-12-8

Foreword

The African Peer Review Mechanism (APRM) cites a variety of standards, codes and declarations that are the criteria against which governance in Africa can be measured in APRM. Some are issued by the Organisation of African Unity, the African Union, the United Nations and selected international bodies.

To make these diverse documents more accessible and to facilitate broader understanding of governance commitments, the South African Institute of International Affairs (SAIIA) has brought them together in a single indexed collection.

For simplicity, the standards are grouped according to the organisation that promulgated the standard or declaration. Under each issuing organization, standards are ordered alphabetically by the first word of the title. To enable researchers to more quickly locate standards relevant to a given aspect of governance, a subject index has been provided.

The efforts and assistance of a number of people and institutions have been invaluable for completing this volume. Most importantly, sincere thanks go out to the Royal Netherlands Embassy, whose generosity in funding the SAIIA APRM and governance project has made this volume possible. At SAIIA, thanks are due to the staff members and interns who procured and consolidated the standards, including Peroshni Govender, Helen Papaconstantinos, Laura Lopez and Steven Gruzd. Terence Corrigan deserves a special mention for managing production and indexing of this volume. Finally, a very special word of thanks goes to Claire Waters who patiently spent many hours ensuring that the layout was professionally done.

Ross Herbert

Head: Governance and APRM Project

South African institute of International Affairs

March 2007

Note on the Standards

The African Peer Review Mechanism (APRM) cites a variety of standards, codes and declarations that are the criteria against which governance in Africa can be measured. These standards are contained in two of the official APRM documents: the Objectives, Standards, Criteria and Indicators (OSCI) and the Self-Assessment Questionnaire. This volume includes all of the standards cited in either of those documents with the following exceptions and clarifications.

- International Auditing Standards, the Report of the World Summit for Social Development and International Accounting Standards are too lengthy to include, but this volume includes website links to the full texts.
- The Beijing Declaration and Platform for Action has been shortened for inclusion in this volume, but a weblink is provided for readers who wish to access the full document.
- The 'African Platform on the Right to Education (1999)'. It is cited in the Questionnaire but we were unable to find this document through the African Union, the APRM Secretariat or United Nations.
- The Questionnaire refers to the 'International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families' (democracy and political governance section, relevant to objectives 3 and 9) and the 'Convention on Protection of Rights of Migrant Workers,' (Democracy and Political Governance, relevant to objective 3). It is assumed that they refer to the same standard, the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families by the United Nations.
- Both the OSCI and Questionnaire refer to International Accounting Standards, but do not specify the source of these. The International Accounting Standards Board is the recognised standards body in this area and has therefore been referenced in this volume. They are updated continuously so do not have a single year of issuance.
- The OSCI refers to 'Principles for Securities and Insurance Supervision and Regulations' and the Questionnaire to 'Core Principles for Security and Insurance Supervision and Regulations.' These documents do not, however, specify the issuing agency. Since the International Association of Insurance Supervisors is acknowledged as an insurance authority across the world, its Insurance Core Principles have been included here.
- The King and Cadbury reports on corporate governance are not included in the list of standards in either the OSCI or the Questionnaire. However, the narrative portion of the OSCI notes that countries should 'promote the adoption of good business ethics (e.g. Cadbury and King codes) in achieving the objectives of the organisation.' Moreover, the explanatory material in the Questionnaire at the top of the corporate governance section discusses the King report and cites its definition of corporate ethics. Therefore, we have included them as standards. The King report is copyrighted, but this volume indicates where it can be purchased. The Cadbury report was too long to include in its entirety, so a summary has been included along with a weblink to enable readers to access the full document.
- The OSCI and Questionnaire refer to Core Principles for Effective Banking Supervision, but do not specify the issuing agency. The Basle Committee is the recognised international standards body in this area and their standard carries the same name so has been included here.
- The UN's Millennium Development Goals are not listed in the OSCI or Questionnaire, but they are part of the UN's Millennium Declaration – which is mentioned. To assist readers in more quickly locating the actual goals they have been included in this volume.
- The Questionnaire lists only 'principles of corporate governance (international and national)' without giving a source. The OSCI refers generically to 'principles of corporate governance (OECD and Commonwealth)' but does not give the specific names of the standards. The following are the relevant documents issued by the OECD and Commonwealth: Principles for Corporate Governance in the Commonwealth (Commonwealth Association for Corporate Governance); Guidelines on Corporate Governance of State-Owned Enterprises (OECD); Principles of Corporate Governance (OECD).
- The list of standards in the OSCI and Questionnaire refer only generically to money laundering standards. However, the Questionnaire provides a table of 'useful websites' that includes the Financial Action Task Force as a source of information on money laundering standards. Thus we have included the FATF's two standards here: The Forty Recommendations and the Special Recommendations on Terrorist Financing.
- The APRM documents mention regional and national standards but do not specify them because they may vary for each country and subregion. As a result, these have not been included.
- The International Labour Organisation (ILO) has passed numerous codes regulating the working environment, but the APRM guidance documents do not specify which are applicable. Those included in this volume are viewed by the ILO as eight "fundamental" labour standards.
- The World Health Organisation has produced numerous standards, but the APRM guidance documents do not specify which of these are applicable. Readers are directed to this body's website.
- Two declarations adopted by the African Union after the creation of the APRM have been included, as they are applicable to all AU states. They are the Solemn Declaration on Gender Equality in Africa, and the African Charter on Democracy, Elections and Governance.

Contents

African Union

African Charter on Democracy, Elections and Governance (2007).....	1
AU Constitutive Act (2000).....	9
Convention on Preventing and Combating Corruption (2003)	17
Nepad Declaration on Democracy, Political, Economic and Corporate Governance (2002)	25
Protocol Relating to the Establishment of the Peace and Security Council of the AU (2002).....	29
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)	41
Solemn Declaration on Gender Equality in Africa (2004).....	49

Bank for International Settlements**Committee on Payment and Settlement Systems**

Core Principles for Systemically Important Payment Systems (2001).....	51

Basle Committee on Banking Supervision

Core Principles for Effective Banking Supervision (1997)	59

Cadbury Committee

Report of the Committee on the Financial Aspects of Corporate Governance – Cadbury Report (1992).....	77

Commonwealth Association for Corporate Governance

Principles for Corporate Governance in the Commonwealth (1999)	81

Financial Action Task Force

The Forty Recommendations (2003)	91
Special Recommendations on Terrorist Financing (2004)	105

International Accounting Standards Board

International Accounting Standards.....	107

International Association of Insurance Supervisors

Insurance Core Principles (2000)	109

International Conference on Popular Participation in the Recovery and Development Process in Africa

African Charter for Popular Participation in Development and Transformation (1990)	115

International Federation of Accountants

International Standards in Auditing – The Handbook of International Auditing, Assurance, and Ethics Pronouncements (2007 edition)	123

International Labour Organisation

Abolition of Forced Labour Convention (1957)	125
Discrimination (Employment and Occupation) Convention (1958).....	127
Equal Remuneration Convention (1951).....	129
Forced Labour Convention (1930).....	133
Freedom of Association and Protection of the Right to Organise Convention (1948).....	139
Minimum Age Convention (1973)	143
Right to Organise and Collective Bargaining Convention (1949)	147
Worst Forms of Child Labour Convention (1999)	151

International Monetary Fund

Code of Good Practices on Transparency in Monetary and Financial Policies: Declaration of Principles (1999).....	155
International Monetary Fund (IMF), Revised Code of Good Practices on Fiscal Transparency (2001)	163

Contents

International Monetary Fund and World Bank

Guidelines for Public Debt Management (2001)	165

King Committee

King Committee Report on Corporate Governance for South Africa (2002)	185

Organisation of African Unity

African Charter on Human and People's Rights (1981)	187
African Charter on the Rights and Welfare of the Child (1990)	195
Convention Governing the Specific Aspects of Refugee Problems in Africa (1969)	205
Declaration and Plan of Action for the Promotion and Protection of Human Rights (1999)	209
Declaration and Plan of Action on Drug Control Abuse and Illicit Drug Trafficking in Africa (1996)	213
Declaration of the Assembly of Heads of State and Government on the Establishment within the OAU of a Mechanism for Conflict Prevention, Management and Resolution (1993)	217
Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government (2000)	221
Declaration on the Principles Governing Democratic Elections in Africa (2002)	223
Memorandum of Understanding, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2002)	227
New Partnership for Africa's Development (2001)	237
Solemn Declaration, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2000)	261
Treaty Establishing the African Economic Community (1991)	267

Organisations for Economic Co-operation and Development

Best Practices for Budget Transparency (2001)	289
Conventions on Combating Bribery of Foreign Public Officials in International Business Transactions (1997)	293
Guidelines on Corporate Governance of State-Owned Enterprises (2005)	297
Principles of Corporate Governance (2004)	315

United Nations

Convention against Corruption (2003)	337
Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (1984)	361
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)	369
Convention on the Elimination of All Forms of Discrimination against Women (1979)	373
Convention on the Political Rights of Women (1952)	381
Convention on the Rights of the Child (1989)	383
Convention Relating to the Status of Refugees (1951)	393
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)	401
Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion and Belief (1981)	403
Declaration on the Elimination of Violence against Women (1993)	405
Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (1986)	409

Contents

Declaration on the Protection of All Persons from being Subjected to Torture and other Cruel, Inhuman, and Degrading Treatment or Punishment (1975).....	413
Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (1998).....	415
Declaration on the Rights of Disabled Persons (1975)	419
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious And Linguistic Minorities (1992).....	421
Declaration on the Right to Development (1986)	423
Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949)	427
International Covenant on Civil and Political Rights (1966).....	455
International Covenant on Economic, Social and Cultural Rights (1966).....	465
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	471
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).....	479
Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002)	499
Optional Protocol to the International Covenant on Civil and Political Rights (1966).....	505
Optional Protocol to the Rights of the Child on the Involvement of Children in Armed Conflicts (2000)	507
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000).....	511
Protocol Relating to the Status of Refugees (1967 entry into force).....	517
United Nations Charter (1945).....	519
United Nations Millennium Declaration (2000)	533
United Nations' Millennium Development Goals (2000)	539
Universal Declaration of Human Rights (1948)	541
United Nations	
Fourth World Conference on Women	
Beijing Declaration and Programme of Action (1995)	545
United Nations	
United Nations Educational, Scientific and Cultural Organisation	
Declaration of Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and Countering Racism, Apartheid and Incitement to War (1978)	549
United Nations	
United Nations Security Council	
Resolution on Women in Conflict (2000)	553
United Nations	
World Summit for Social Development	
Report of the World Summit for Social Development (1995)	555
United Nations	
World Summit on Sustainable Development	
Johannesburg Declaration on Sustainable Development (2002)	557
World Health Organisation	
Codes on Industrial and Environmental Safety and Hygiene.....	599
Index	601

Index by Key Concept

General Standards Applying to All Sections of APRM

Constitutive Act of the African Union (2000), AU	9
NEPAD Declaration on Democracy, Political, Economic and Corporate Governance (2003), AU	25
New Partnership for Africa's Development - Framework document (2001), OAU	237
United Nations Charter (1945), UN	519

Banking and Business Regulation

Core Principles for Effective Banking Supervision (1997), Basle Committee on Banking Supervision	59
Core Principles for Systemically Important Payment Systems (2001), Committee on Payment and Settlement Systems, BIS	51
Insurance Core Principles (2000), International Association of Insurance Supervisors	109
Principles of Corporate Governance (2004), OECD	315

Conflict

Declaration and Plan of Action on Drug Control Abuse and Illicit Drug Trafficking in Africa (1996), OAU	213
Declaration of the Assembly of Heads of State and Government on the Establishment within the OAU of a Mechanism for Conflict Prevention, Management and Resolution (1993), OAU	217
Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949), UN	427
Memorandum of Understanding, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2002), OAU	227
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (2000), UN	507
Protocol Relating to the Establishment of the Peace and Security Council of the AU (2002), AU	29
Resolution on Women in Conflict (2000), UN Security Council	553
Solemn Declaration, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2000), OAU	261

Corporate Governance Principles

Convention against Corruption (2003), UN	337
Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997), OECD	293
Convention on Preventing and Combating Corruption (2003), AU	17
Core Principles for Effective Banking Supervision (1997), Basle Committee on Banking Supervision	59
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), UN	401
Guidelines on Corporate Governance of State-Owned Enterprises (2005), OECD	297
Insurance Core Principles (2000), International Association of Insurance Supervisors	109
International Accounting Standards, IASB	107
International Standards in Auditing - The Handbook of International Auditing, Assurance, and Ethics Pronouncements (2006 edition), International Federation of Accountants (IFAC)	123
King Committee Report on Corporate Governance for South Africa (2002)	185
Memorandum of Understanding, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2002), OAU	227

Principles for Corporate Governance in the Commonwealth (1999), CACG	81
Principles of Corporate Governance (2004), OECD	315
Report of the Committee on the Financial Aspects of Corporate Governance - Cadbury Report (1992) Cadbury Committee	77
Solemn Declaration, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2000), OAU	261
Special Recommendations on Terrorist Financing (2004), FATF	105
The Forty Recommendations (2003), FATF	91

Corruption

Convention against Corruption (2004), UN	337
Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997), OECD	293
Convention on Preventing and Combating Corruption (2003), AU	17
The Forty Recommendations (2003), FATF	91
International Standards in Auditing – Handbook of International Auditing, Assurance, and Ethics Pronouncements (2006 edition), International Federation of Accountants (IFAC)	123
Special Recommendations on Terrorist Financing (2004), FATF	105

Democracy, Constitutionalism, Balance of Powers

African Charter on Democracy, Elections and Governance (2007), AU	1
Declaration of Fundamental Principles concerning the Contribution of the Mass Media to strengthening Peace and International Understanding, to the Promotion of Human Rights and Countering Racism, Apartheid and Incitement to War (1978), Unesco	549
Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government (2000), OAU	221
Declaration on the Principles Governing Democratic Elections in Africa (2002), OAU	223
Memorandum of Understanding, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2002), OAU	227
Solemn Declaration, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2000), OAU	261

Development Aspirations and Inclusion

African Charter for Popular Participation in Development and Transformation (1990), International Conference on Popular Participation in the Recovery and Development Process in Africa	115
African Charter on Democracy, Elections and Governance (2007), AU	1
Johannesburg Declaration on Sustainable Development (2002), WSSD	557
Memorandum of Understanding, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2002), OAU	227
Millennium Declaration (2000), UN	533
Millennium Development Goals (2000), UN	539
Report of the World Summit for Social Development (1995)	555
Solemn Declaration, Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (2000), OAU	261

Fiscal Governance

Best Practices for Budget Transparency (2001), OECD	289

Code of Good Practices on Transparency in Monetary and Financial Policies: Declaration of Principles (1999), IMF.....	155
Guidelines for Public Debt Management (2001), IMF and World Bank	165
Revised Code of Good Practices on Fiscal Transparency (1998), IMF.....	163
Treaty Establishing the African Economic Community (1991), OAU	267

Gender

Beijing Declaration and Platform for Action (1995), Fourth World Conference on Women	545
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), UN	369
Convention on the Elimination of All Forms of Discrimination against Women (1979), UN	373
Convention on the Political Rights of Women (1952), UN	381
Declaration on the Elimination of Violence against Women (1993), UN.....	405
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003), AU	41
Resolution on Women in Conflict (2000), UN Security Council	553
Solemn Declaration on Gender Equality in Africa (2004), AU	49

Human Rights

African Charter on Democracy, Elections and Governance (2007), AU	1
African Charter on Human and People's Rights (1981), OAU	187
African Charter on the Rights and Welfare of the Child (1990), OAU	195
Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (1984), UN	361
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949), UN	369
Convention Governing the Specific Aspects of Refugee Problems in Africa (1969), OAU	205
Convention on the Elimination of All Forms of Discrimination against Women (1979), UN	373
Convention on the Political Rights of Women (1952), UN	381
Convention on the Rights of the Child (1989), UN	383
Convention Relating to the Status of Refugees (1951), UN	393
Declaration and Plan of Action for the Promotion and Protection of Human Rights (1999), OAU.....	209
Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985), UN.....	401
Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (1986), UN	409
Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion and Belief (1981), UN.....	403
Declaration on the Elimination of Violence against Women (1993), UN.....	405
Declaration on the Protection of All Persons from being Subjected to Torture and other Cruel, Inhuman, and Degrading Treatment or Punishment (1975), UN	413
Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (1998), UN.....	415
Declaration on the Rights of Disabled Persons (1975), UN.....	419
Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992), UN.....	421
Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949), UN	427

International Convention on the Elimination of All Forms of Racial Discrimination (1965), UN	471
International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990), UN	479
International Covenant on Civil and Political Rights (1966), UN.....	455
International Covenant on Economic, Social and Cultural Rights (1976), UN.....	465
Optional Protocol to the Convention against Torture and other Cruel, Inhuman, and Degrading Treatment or Punishment (2002), UN.....	499
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000), UN	511
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (2000), UN	507
Optional Protocol to the International Covenant on Civil and Political Rights (1966), UN	505
Protocol Relating to the Status of Refugees (1967 entry into force), UN	517
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003), AU.....	41
Resolution on Women in Conflict (2000), UN Security Council	553
Solemn Declaration on Gender Equality in Africa (2004), AU	49
Universal Declaration of Human Rights (1948), UN.....	541

Labour Rights and Standards

Abolition of Forced Labour Convention (1957), ILO.....	125
Codes on Industrial and Environmental Safety and Hygiene, WHO	599
Discrimination (Employment and Occupation) Convention (1958), ILO	127
Equal Remuneration Convention (1951), ILO	129
Forced Labour Convention (1930), ILO	133
Freedom of Association and Protection of the Right to Organise Convention (1948), ILO	139
Minimum Age Convention (1973), ILO.....	143
Right to Organise and Collective Bargaining Convention (1949), ILO	147
Worst Forms of Child Labour Convention (1999), ILO.....	151

Money Laundering

Special Recommendations on Terrorist Financing (2004), FATF	105
The Forty Recommendations (2003), FATF	91

Public Participation

African Charter for Popular Participation in Development and Transformation (1990), International Conference on Popular Participation in the Recovery and Development Process in Africa.....	115

Socio-Economic Rights

African Charter on Human and People's Rights (1981), OAU	187
African Charter on the Rights and Welfare of the Child (1990), OAU	195
Declaration on the Right to Development (1986), UN	423

African Union (AU), African Charter on Democracy, Elections and Governance (Addis Ababa, Ethiopia, 2007)

PREAMBLE

We, the Member States of the African Union (AU);

INSPIRED by the objectives and principles enshrined in the Constitutive Act of the African Union, particularly Articles 3 and 4, which emphasise the significance of good governance, popular participation, the rule of law and human rights;

RECOGNISING the contributions of the African Union and Regional Economic Communities to the promotion, nurturing, strengthening and consolidation of democracy and governance;

REAFFIRMING our collective will to work relentlessly to deepen and consolidate the rule of law, peace, security and development in our countries;

GUIDED by our common mission to strengthen and consolidate institutions for good governance, continental unity and solidarity;

COMMITTED to promote the universal values and principles of democracy, good governance, human rights and the right to development;

COGNIZANT of the historical and cultural conditions in Africa;

SEEKING to entrench in the Continent a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies;

CONCERNED about the unconstitutional changes of governments that are one of the essential causes of insecurity, instability and violent conflict in Africa;

DETERMINED to promote and strengthen good governance through the institutionalization of transparency, accountability and participatory democracy;

CONVINCED of the need to enhance the election observation missions in the role they play, particularly as they are an important contributory factor to ensuring the regularity, transparency and credibility of elections;

DESIROUS TO ENHANCE the relevant Declarations and Decisions of the OAU/AU (including the 1990 Declaration on the political and socio-economic situation in Africa and the fundamental changes taking place in the world, the 1995 Cairo Agenda for the Re-launch of Africa's Economic and Social Development, the 1999 Algiers Declaration on Unconstitutional Changes of Government, the 2000 Lomé Declaration for an OAU Response to Unconstitutional Changes of Government, the 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa, the 2003 Protocol Relating to the Establishment of the Peace and Security Council of the African Union);

COMMITTED to implementing Decision EX.CL/Dec.31(III) adopted in Maputo, Mozambique, in July 2003 and Decision EX.CL/124(V) adopted in Addis Ababa, Ethiopia, in May 2004 respectively, by the adoption of an African Charter on Democracy, Elections and Governance;

HAVE AGREED AS FOLLOWS:

Chapter 1 Definitions

Article 1

In this Charter, unless otherwise stated, the following expressions shall have the following meaning:

"AU" means the African Union;

"African Human Rights Commission" means the African Commission on Human and Peoples' Rights;

"African Peer Review Mechanism" APRM means the African Peer Review Mechanism;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"Commission" means the Commission of the Union;

"Constitutive Act" means the Constitutive Act of the Union;

"Charter" means the African Charter on Democracy, Elections and Governance;

"Member States" means the Member States of the African Union;

"National Electoral Body" means a competent authority, established by the relevant legal instruments of a State Party, responsible for organizing and supervising elections;

"NEPAD" means the New Partnership for Africa's Development;

“Peace and Security Council” means the Peace and Security Council of the African Union;

“Regional Economic Communities” means the regional integration blocs of the African Union;

“State Party” means any Member State of the African Union which has ratified or acceded to this Charter and deposited the instruments for ratification or accession with the Chairperson of the African Union Commission;

“Union” means the African Union.

Chapter 2 Objectives

Article 2

The objectives of this Charter are to:

1. Promote adherence, by each State Party, to the universal values and principles of democracy and respect for human rights;
2. Promote and enhance adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the State Parties;
3. Promote the holding of regular free and fair elections to institutionalize legitimate authority of representative government as well as democratic change of governments;
4. Prohibit, reject and condemn unconstitutional change of government in any Member State as a serious threat to stability, peace, security and development;
5. Promote and protect the independence of the judiciary;
6. Nurture, support and consolidate good governance by promoting democratic culture and practice, building and strengthening governance institutions and inculcating political pluralism and tolerance;
7. Encourage effective coordination and harmonization of governance policies amongst State Parties with the aim of promoting regional and continental integration;
8. Promote State Parties' sustainable development and human security;
9. Promote the fight against corruption in conformity with the provisions of the AU Convention on Preventing and Combating Corruption adopted in Maputo, Mozambique in July 2003;
10. Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs;
11. Promote gender balance and equality in the governance and development processes;
12. Enhance cooperation between the Union, Regional Economic Communities and the International Community on democracy, elections and governance; and
13. Promote best practices in the management of elections for purposes of political stability and good governance.

Chapter 3 Principles

Article 3

State Parties shall implement this Charter in accordance with the following principles:

1. Respect for human rights and democratic principles;
2. Access to and exercise of state power in accordance with the constitution of the State Party and the principle of the rule of law;
3. Promotion of a system of government that is representative;
4. Holding of regular, transparent, free and fair elections;
5. Separation of powers;
6. Promotion of gender equality in public and private institutions;
7. Effective participation of citizens in democratic and development processes and in governance of public affairs;
8. Transparency and fairness in the management of public affairs;
9. Condemnation and rejection of acts of corruption, related offenses and impunity;
10. Condemnation and total rejection of unconstitutional changes of government;
11. Strengthening political pluralism and recognising the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.

Chapter 4 Democracy, Rule of Law and Human Rights

Article 4

1. State Parties shall commit themselves to promote democracy, the principle of the rule of law and human rights.
2. State Parties shall recognize popular participation through universal suffrage as the inalienable right of the people.

Article 5

State Parties shall take all appropriate measures to ensure constitutional rule, particularly constitutional transfer of power.

Article 6

State Parties shall ensure that citizens enjoy fundamental freedoms and human rights taking into account their universality, interdependence and indivisibility.

Article 7

State Parties shall take all necessary measures to strengthen the Organs of the Union that are mandated to promote and protect human rights and to fight impunity and endow them with the necessary resources.

Article 8

1. State Parties shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic, religious and racial grounds as well as any other form of intolerance.
2. State Parties shall adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalized and vulnerable social groups.
3. State Parties shall respect ethnic, cultural and religious diversity, which contributes to strengthening democracy and citizen participation.

Article 9

State Parties undertake to design and implement social and economic policies and programmes that promote sustainable development and human security.

Article 10

1. State Parties shall entrench the principle of the supremacy of the constitution in the political organization of the State.
2. State Parties shall ensure that the process of amendment or revision of their constitution reposes on national consensus, obtained if need be, through referendum.
3. State Parties shall protect the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society.

Chapter 5 The Culture of Democracy and Peace**Article 11**

The State Parties undertake to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace.

Article 12

State Parties undertake to implement programmes and carry out activities designed to promote democratic principles and practices as well as consolidate a culture of democracy and peace.

To this end, State Parties shall:

1. Promote good governance by ensuring transparent and accountable administration.
2. Strengthen political institutions to entrench a culture of democracy and peace.
3. Create conducive conditions for civil society organizations to exist and operate within the law.
4. Integrate civic education in their educational curricula and develop appropriate programmes and activities.

Article 13

State Parties shall take measures to ensure and maintain political and social dialogue, as well as public trust and transparency between political leaders and the people, in order to consolidate democracy and peace.

Chapter 6 Democratic Institutions**Article 14**

1. State Parties shall strengthen and institutionalize constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order.
2. State Parties shall take legislative and regulatory measures to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.
3. State Parties shall cooperate with each other to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.

Article 15

1. State Parties shall establish public institutions that promote and support democracy and constitutional order.
2. State Parties shall ensure that the independence or autonomy of the said institutions is guaranteed by the constitution.
3. State Parties shall ensure that these institutions are accountable to competent national organs.
4. State Parties shall provide the above-mentioned institutions with resources to perform their assigned missions efficiently and effectively.

Article 16

State Parties shall cooperate at regional and continental levels in building and consolidating democracy through exchange of experiences.

Chapter 7 Democratic Elections**Article 17**

State Parties re-affirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa:

To this end, State Parties shall:

1. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections.
2. Establish and strengthen national mechanisms that redress election-related disputes in a timely manner.
3. Ensure fair and equitable access by contesting parties and candidates to state controlled media during elections.
4. Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them in through exclusively legal channels.

Article 18

1. State Parties may request the Commission, through the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund, to provide advisory services or assistance for strengthening and developing their electoral institutions and processes.
2. The Commission may at any time, in consultation with the State Party concerned, send special advisory missions to provide assistance to that State Party for strengthening its electoral institutions and processes.

Article 19

1. Each State Party shall inform the Commission of scheduled elections and invite it to send an electoral observer mission.
2. Each State Party shall guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission.

Article 20

The Chairperson of the Commission shall first send an exploratory mission during the period prior to elections. This mission shall obtain any useful information and documentation, and brief the Chairperson, stating whether the necessary conditions have been established and if the environment is conducive to the holding of transparent, free and fair elections in conformity with the principles of the Union governing democratic elections.

Article 21

1. The Commission shall ensure that these missions are independent and shall provide them with the necessary resources for that purpose.
2. Electoral observer missions shall be conducted by appropriate and competent experts in the area of election monitoring, drawn from continental and national institutions such as, but not limited to, the Pan- African Parliament, national electoral bodies, national legislatures and eminent persons taking due cognizance of the principles of regional representation and gender equality.
3. Electoral observer missions shall be conducted in an objective, impartial and transparent manner.
4. All electoral observer missions shall present the report of their activities to the Chairperson of the Commission within a reasonable time.
5. A copy of the report shall be submitted to the State Party concerned within a reasonable time.

Article 22

State Parties shall create a conducive environment for independent and impartial national monitoring or observation mechanisms.

Chapter 8 Sanctions in Cases of Unconstitutional Changes of Government**Article 23**

State Parties agree that the use of, inter alia, the following illegal means of accessing or maintaining power constitute an unconstitutional change of government and shall draw appropriate sanctions by the Union:

1. Any putsch or coup d'Etat against a democratically elected government.
2. Any intervention by mercenaries to replace a democratically elected government.
3. Any replacement of a democratically elected government by armed dissidents or rebels.
4. Any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections; or
5. Any amendment or revision of the constitution or legal instruments, which is an infringement on the principles

of democratic change of government.

Article 24

When a situation arises in a State Party that may affect its democratic political institutional arrangements or the legitimate exercise of power, the Peace and Security Council shall exercise its responsibilities in order to maintain the constitutional order in accordance with relevant provisions of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, hereinafter referred to as the Protocol.

Article 25

1. When the Peace and Security Council observes that there has been an unconstitutional change of government in a State Party, and that diplomatic initiatives have failed, it shall suspend the said State Party from the exercise of its right to participate in the activities of the Union in accordance with the provisions of articles 30 of the Constitutive Act and 7 (g) of the Protocol. The suspension shall take effect immediately.
2. However, the suspended State Party shall continue to fulfill its obligations to the Union, in particular with regard to those relating to respect of human rights.
3. Notwithstanding the suspension of the State Party, the Union shall maintain diplomatic contacts and take any initiatives to restore democracy in that State Party.
4. The perpetrators of unconstitutional change of government shall not be allowed to participate in elections held to restore the democratic order or hold any position of responsibility in political institutions of their State.
5. Perpetrators of unconstitutional change of government may also be tried before the competent court of the Union.
6. The Assembly shall impose sanctions on any Member State that is proved to have instigated or supported unconstitutional change of government in another state in conformity with Article 23 of the Constitutive Act.
7. The Assembly may decide to apply other forms of sanctions on perpetrators of unconstitutional change of government including punitive economic measures.
8. State Parties shall not harbour or give sanctuary to perpetrators of unconstitutional changes of government.
9. State Parties shall bring to justice the perpetrators of unconstitutional changes of government or take necessary steps to effect their extradition.
10. State Parties shall encourage conclusion of bilateral extradition agreements as well as the adoption of legal instruments on extradition and mutual legal assistance.

Article 26

The Peace and Security Council shall lift sanctions once the situation that led to the suspension is resolved.

Chapter 9 Political, Economic and Social Governance

Article 27

In order to advance political, economic and social governance, State Parties shall commit themselves to:

1. Strengthening the capacity of parliaments and legally recognised political parties to perform their core functions;
2. Fostering popular participation and partnership with civil society organizations;
3. Undertaking regular reforms of the legal and justice systems;
4. Improving public sector management;
5. Improving efficiency and effectiveness of public services and combating corruption;
6. Promoting the development of the private sector through, inter alia, enabling legislative and regulatory framework;
7. Development and utilisation of information and communication technologies;
8. Promoting freedom of expression, in particular freedom of the press and fostering a professional media;
9. Harnessing the democratic values of the traditional institutions; and
10. Preventing the spread and combating the impact of diseases such as Malaria, Tuberculosis, HIV/AIDS, Ebola fever, and Avian Flu.

Article 28

State Parties shall ensure and promote strong partnerships and dialogue between government, civil society and private sector.

Article 29

1. State Parties shall recognize the crucial role of women in development and strengthening of democracy.
2. State Parties shall create the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a fundamental element in the promotion and exercise of a democratic culture.
3. State Parties shall take all possible measures to encourage the full and active participation of women in the

electoral process and ensure gender parity in representation at all levels, including legislatures.

Article 30

State Parties shall promote citizen participation in the development process through appropriate structures.

Article 31

1. State Parties shall promote participation of social groups with special needs, including the Youth and people with disabilities, in the governance process.
2. State Parties shall ensure systematic and comprehensive civic education in order to encourage full participation of social groups with special needs in democracy and development processes.

Article 32

State Parties shall strive to institutionalize good political governance through:

1. Accountable, efficient and effective public administration;
2. Strengthening the functioning and effectiveness of parliaments;
3. An independent judiciary;
4. Relevant reforms of public institutions including the security sector;
5. Harmonious relationships in society including civil-military relations;
6. Consolidating sustainable multiparty political systems;
7. Organising regular, free and fair elections; and
8. Entrenching and respecting the principle of the rule of law.

Article 33

State Parties shall institutionalize good economic and corporate governance through, inter alia:

1. Effective and efficient public sector management;
2. Promoting transparency in public finance management;
3. Preventing and combating corruption and related offences;
4. Efficient management of public debt;
5. Prudent and sustainable utilization of public resources;
6. Equitable allocation of the nation's wealth and natural resources;
7. Poverty alleviation;
8. Enabling legislative and regulatory framework for private sector development;
9. Providing a conducive environment for foreign capital inflows;
10. Developing tax policies that encourage investment;
11. Preventing and combating crime;
12. Elaborating and implementing economic development strategies including private-public sector partnerships;
13. An efficient and effective tax system premised upon transparency and accountability.

Article 34

State Parties shall decentralize power to democratically elected local authorities as provided in national laws.

Article 35

Given the enduring and vital role of traditional authorities, particularly in rural communities, the State Parties shall strive to find appropriate ways and means to increase their integration and effectiveness within the larger democratic system.

Article 36

State Parties shall promote and deepen democratic governance by implementing the principles and core values of the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance and, where applicable, the African Peer Review Mechanism (APRM).

Article 37

State Parties shall pursue sustainable development and human security through achievement of NEPAD objectives and the United Nations Millennium Development Goals (MDGs).

Article 38

1. State Parties shall promote peace, security and stability in their respective countries, regions and in the continent by fostering participatory political systems with well-functioning and, if need be, inclusive institutions;
2. State Parties shall promote solidarity amongst Member States and support the conflict prevention and resolution initiatives that the Union may undertake in conformity with the Protocol establishing the Peace and Security Council.

Article 39

State Parties shall promote a culture of respect, compromise, consensus and tolerance as a means to mitigate conflicts, promote political stability and security, and to harness the creative energies of the African peoples.

Article 40

State Parties shall adopt and implement policies, strategies and programmes required to generate productive employment, mitigate the impact of diseases and alleviate poverty and eradicate extreme poverty and illiteracy.

Article 41

State Parties shall undertake to provide and enable access to basic social services to the people.

Article 42

State Parties shall implement policies and strategies to protect the environment to achieve sustainable development for the benefit of the present and future generations. In this regard, State Parties are encouraged to accede to the relevant treaties and other international legal instruments.

Article 43

1. State Parties shall endeavour to provide free and compulsory basic education to all, especially girls, rural inhabitants, minorities, people with disabilities and other marginalized social groups.
2. In addition, State Parties shall ensure the literacy of citizens above compulsory school age, particularly women, rural inhabitants, minorities, people with disabilities, and other marginalized social groups.

Chapter 10 Mechanisms for Application**Article 44**

To give effect to the commitments contained in this Charter:

1. Individual State Party Level

State Parties commit themselves to implement the objectives, apply the principles and respect the commitments enshrined in this Charter as follows:

- a. State Parties shall initiate appropriate measures including legislative, executive and administrative actions to bring State Parties' national laws and regulations into conformity with this Charter;
- b. State Parties shall take all necessary measures in accordance with constitutional provisions and procedures to ensure the wider dissemination of the Charter and all relevant legislation as may be necessary for the implementation of its fundamental principles;
- c. State Parties shall promote political will as a necessary condition for the attainment of the goals set forth in this Charter;
- d. State Parties shall incorporate the commitments and principles of the Charter in their national policies and strategies.

2. Commission Level

- A. At Continental Level

- a. The Commission shall develop benchmarks for implementation of the commitments and principles of this Charter and evaluate compliance by State Parties;
- b. The Commission shall promote the creation of favourable conditions for democratic governance in the African Continent, in particular by facilitating the harmonization of policies and laws of State Parties;
- c. The Commission shall take the necessary measures to ensure that the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund provide the needed assistance and resources to State Parties in support of electoral processes;
- d. The Commission shall ensure that effect is given to the decisions of the Union in regard to unconstitutional change of government on the Continent.

- B. At Regional Level

The Commission shall establish a framework for cooperation with Regional Economic Communities on the implementation of the principles of the Charter. In this regard, it shall commit the Regional Economic Communities (RECs) to:

- a. Encourage Member States to ratify or adhere to this Charter.
- b. Designate focal points for coordination, evaluation and monitoring of the implementation of the commitments and principles enshrined in this Charter in order to ensure massive participation of stakeholders, particularly civil society organizations, in the process.

Article 45

The Commission shall:

- a. Act as the central coordinating structure for the implementation of this Charter;
- b. Assist State Parties in implementing the Charter;

- c. Coordinate evaluation on implementation of the Charter with other key organs of the Union including the Pan-African Parliament, the Peace and Security Council, the African Human Rights Commission, the African Court of Justice and Human Rights, the Economic, Social and Cultural Council, the Regional Economic Communities and appropriate national- level structures.

Chapter 11 Final Clauses

Article 46

In conformity with applicable provisions of the Constitutive Act and the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the Assembly and the Peace and Security Council shall determine the appropriate measures to be imposed on any State Party that violates this Charter.

Article 47

1. This Charter shall be open for signature, ratification and accession by Member States of the Union in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

Article 48

This Charter shall enter into force thirty (30) days after the deposit of fifteen (15) Instruments of Ratification.

Article 49

1. State Parties shall submit every two years, from the date the Charter comes into force, a report to the Commission on the legislative or other relevant measures taken with a view to giving effect to the principles and commitments of the Charter;
2. A copy of the report shall be submitted to the relevant organs of the Union for appropriate action within their respective mandates;
3. The Commission shall prepare and submit to the Assembly, through the Executive Council, a synthesized report on the implementation of the Charter;
4. The Assembly shall take appropriate measures aimed at addressing issues raised in the report.

Article 50

1. Any State Party may submit proposals for the amendment or revision of this Charter;
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit same to State Parties within thirty (30) days of receipt thereof;
3. The Assembly, upon the advice of the Executive Council, shall examine these proposals at its session following notification, provided all State Parties have been notified at least three (3) months before the beginning of the session;
4. The Assembly shall adopt amendments or revisions by consensus or failing which, by two-thirds majority;
5. The amendments or revisions shall enter into force when approved by two-thirds majority of State Parties.

Article 51

1. The Chairperson of the Commission shall be the depository of this Charter;
2. The Chairperson of the Commission shall inform all Member States of the signature, ratification, accession, entry into force, reservations, requests for amendments and approvals thereof;
3. Upon entry into force of this Charter, the Chairperson of the Commission shall register it with the Secretary General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 52

None of the provisions of the present Charter shall affect more favourable provisions relating to democracy, elections and governance contained in the national legislation of State Parties or in any other regional, continental or international conventions or agreements applicable in these State Parties.

Article 53

This Charter, drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified copies of same to all Member States and the United Nations General Secretariat.

African Union (AU), AU Constitutive Act

(2000, Lomé, Togo)

We, Heads of State and Government of the Member States of the Organization of African Unity (OAU):

1. The President of the People's Democratic Republic of Algeria
2. The President of the Republic of Angola
3. The President of the Republic of Benin
4. The President of the Republic of Botswana
5. The President of Burkina Faso
6. The President of the Republic of Burundi
7. The President of the Republic of Cameroon
8. The President of the Republic of Cape Verde
9. The President of the Central African Republic
10. The President of the Republic of Chad
11. The President of the Islamic Federal Republic of the Comoros
12. The President of the Republic of the Congo
13. The President of the Republic of Cote d'Ivoire
14. The President of the Democratic Republic of Congo
15. The President of the Republic of Djibouti
16. The President of the Arab Republic of Egypt
17. The President of the State of Eritrea
18. The Prime Minister of the Federal Democratic Republic of Ethiopia
19. The President of the Republic of Equatorial Guinea
20. The President of the Gabonese Republic
21. The President of the Republic of The Gambia
22. The President of the Republic of Ghana
23. The President of the Republic of Guinea
24. The President of the Republic of Guinea Bissau
25. The President of the Republic of Kenya
26. The Prime Minister of Lesotho
27. The President of the Republic of Liberia
28. The Leader of the 1st of September Revolution of the Great Socialist People's Libyan Arab Jamahiriya
29. The President of the Republic of Madagascar
30. The President of the Republic of Malawi
31. The President of the Republic of Mali
32. The President of the Islamic Republic of Mauritania
33. The Prime Minister of the Republic of Mauritius
34. The President of the Republic of Mozambique
35. The President of the Republic of Namibia
36. The President of the Republic of Niger
37. The President of the Federal Republic of Nigeria
38. The President of the Republic of Rwanda
39. The President of the Sahrawi Arab Democratic Republic
40. The President of the Republic of Sao Tome and Principe
41. The President of the Republic of Senegal
42. The President of the Republic of Seychelles
43. The President of the Republic of Sierra Leone
44. The President of the Republic of Somalia

45. The President of the Republic of South Africa
46. The President of the Republic of Sudan
47. The King of Swaziland
48. The President of the United Republic of Tanzania
49. The President of the Togolese Republic
50. The President of the Republic of Tunisia
51. The President of the Republic of Uganda
52. The President of the Republic of Zambia
53. The President of the Republic of Zimbabwe

INSPIRED by the noble ideals which guided the founding fathers of our Continental Organization and generations of Pan-Africanists in their determination to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States;

CONSIDERING the principles and objectives stated in the Charter of the Organization of African Unity and the Treaty establishing the African Economic Community;

RECALLING the heroic struggles waged by our peoples and our countries for political independence, human dignity and economic emancipation;

CONSIDERING that since its inception, the Organization of African Unity has played a determining and invaluable role in the liberation of the continent, the affirmation of a common identity and the process of attainment of the unity of our Continent and has provided a unique framework for our collective action in Africa and in our relations with the rest of the world;

DETERMINED to take up the multifaceted challenges that confront our continent and peoples in the light of the social, economic and political changes taking place in the world;

CONVINCED of the need to accelerate the process of implementing the Treaty establishing the African Economic Community in order to promote the socio-economic development of Africa and to face more effectively the challenges posed by globalization;

GUIDED by our common vision of a united and strong Africa and by the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector in order to strengthen solidarity and cohesion among our peoples;

CONSCIOUS of the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to promote peace, security and stability as a prerequisite for the implementation of our development and integration agenda;

DETERMINED to promote and protect human and peoples' rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law;

FURTHER DETERMINED to take all necessary measures to strengthen our common institutions and provide them with the necessary powers and resources to enable them discharge their respective mandates effectively;

RECALLING the Declaration which we adopted at the Fourth Extraordinary Session of our Assembly in Sirte, the Great Socialist People's Libyan Arab Jamahiriya, on 9.9. 99, in which we decided to establish an African Union, in conformity with the ultimate objectives of the Charter of our Continental Organization and the Treaty establishing the African Economic Community;

HAVE AGREED AS FOLLOWS:

Article 1 Definitions

In this Constitutive Act:

"Act" means the present Constitutive Act;

"AEC" means the African Economic Community;

"Assembly" means the Assembly of Heads of State and Government of the Union;

"Charter" means the Charter of the OAU;

"Committee" means a Specialized Technical Committee of the Union;

"Council" means the Economic, Social and Cultural Council of the Union;

"Court " means the Court of Justice of the Union;

"Executive Council" means the Executive Council of Ministers of the Union;

"Member State" means a Member State of the Union;

"OAU" means the Organization of African Unity;

"Parliament" means the Pan-African Parliament of the Union;

'Union" means the African Union established by the present Constitutive Act.

Article 2 Establishment

The African Union is hereby established in accordance with the provisions of this Act.

Article 3 Objectives

The objectives of the Union shall be to:

- a. Achieve greater unity and solidarity between the African countries and the peoples of Africa;
- b. Defend the sovereignty, territorial integrity and independence of its Member States;
- c. Accelerate the political and socio-economic integration of the continent;
- d. Promote and defend African common positions on issues of interest to the continent and its peoples;
- e. Encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights;
- f. Promote peace, security, and stability on the continent;
- g. Promote democratic principles and institutions, popular participation and good governance;
- h. Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;
- i. Establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;
- j. Promote sustainable development at the economic, social and cultural levels as well as the integration of African economies;
- k. Promote cooperation in all fields of human activity to raise the living standards of African peoples;
- l. Coordinate and harmonize policies between existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;
- m. Advance the development of the continent by promoting research in all fields, in particular in science and technology;
- n. Work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.

Article 4 Principles

The Union shall function in accordance with the following principles:

- a. Sovereign equality and interdependence among Member States of the Union;
- b. Respect of borders existing on achievement of independence;
- c. Participation of the African peoples in the activities of the Union;
- d. Establishment of a common defence policy for the African Continent;
- e. Peaceful resolution of conflicts among Member States of the Union through such appropriate means as may be decided upon by the Assembly;
- f. Prohibition of the use of force or threat to use force among Member States of the Union;
- g. Non-interference by any Member State in the internal affairs of another;
- h. The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity;
- i. Peaceful co-existence of Member States and their right to live in peace and security;
- j. The right of Member States to request intervention from the Union in order to restore peace and security;
- k. Promotion of self-reliance within the framework of the Union;
- l. Promotion of gender equality;
- m. Respect for democratic principles, human rights, the rule of law and good governance;
- n. Promotion of social justice to ensure balanced economic development;
- o. Respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;
- p. Condemnation and rejection of unconstitutional changes of governments.

Article 5 Organs of the Union

1. The organs of the Union shall be:

- a. The Assembly of the Union;
- b. The Executive Council;
- c. The Pan-African Parliament;
- d. The Court of Justice;
- e. The Commission;

- f. The Permanent Representatives Committee;
 - g. The Specialized Technical Committees;
 - h. The Economic, Social and Cultural Council;
 - i. The Financial Institutions;
2. Other organs that the Assembly may decide to establish.

Article 6 The Assembly

1. The Assembly shall be composed of Heads of States and Government or their duly accredited representatives.
2. The Assembly shall be the supreme organ of the Union.
3. The Assembly shall meet at least once a year in ordinary session. At the request of any Member State and on approval by a two-thirds majority of the Member States, the Assembly shall meet in extraordinary session.
4. The Office of the Chairman of the Assembly shall be held for a period of one year by a Head of State or Government elected after consultations among the Member States.

Article 7 Decisions of the Assembly

1. The Assembly shall take its decisions by consensus or, failing which, by a two thirds majority of the Member States of the Union. However, procedural matters, including the question of whether a matter is one of procedure or not, shall be decided by a simple majority.
2. Two-thirds of the total membership of the Union shall form a quorum at any meeting of the Assembly.

Article 8 Rules of Procedure of the Assembly

The Assembly shall adopt its own Rules of Procedure.

Article 9 Powers and Functions of the Assembly

1. The functions of the Assembly shall be to:
 - a. Determine the common policies of the Union;
 - b. Receive, consider and take decisions on reports and recommendations from the other organs of the Union;
 - c. Consider requests for Membership of the Union;
 - d. Establish any organ of the Union;
 - e. Monitor the implementation of policies and decisions of the Union as well as ensure compliance by all Member States;
 - f. Adopt the budget of the Union;
 - g. Give directives to the Executive Council on the management of conflicts, war and other emergency situations and the restoration of peace;
 - h. Appoint and terminate the appointment of the judges of the Court of Justice;
 - i. Appoint the Chairman of the Commission and his or her deputy ordeputies and Commissioners of the Commission and determine their functions and terms of office.
2. The Assembly may delegate any of its powers and functions to any organ of the Union.

Article 10 The Executive Council

1. The Executive Council shall be composed of the Ministers of Foreign Affairs or such other Ministers or Authorities as are designated by the Governments of Member States.
2. Council shall meet at least twice a year in ordinary session. It shall also meet in an extra-ordinary session at the request of any Member State and upon approval by twothirds of all Member States.

Article 11 Decisions of the Executive Council

1. The Executive Council shall take its decisions by consensus or, failing which, by a two-thirds majority of the Member States. However, procedural matters, including the question of whether a matter is one of procedure or not, shall be decided by a simple majority.
2. Two-thirds of the total membership of the Union shall form a quorum at any meeting of the Executive Council.

Article 12 Rules of Procedure of the Executive Council

The Executive Council shall adopt its own Rules of Procedure.

Article 13 Functions of the Executive Council

1. The Executive Council shall co-ordinate and take decisions on policies in areas of common interest to the Member States, including the following:
 - a. Foreign trade;
 - b. Energy, industry and mineral resources;
 - c. Food, agricultural and animal resources, livestock production and forestry;
 - d. Water resources and irrigation;

- e. Environmental protection, humanitarian action and disaster response and relief;
 - f. Transport and communications;
 - g. Insurance;
 - h. Education, culture, health and human resources development;
 - i. Science and technology;
 - j. Nationality, residency and immigration matters;
 - k. Social security, including the formulation of mother and child care policies, as well as policies relating to the disabled and the handicapped;
 - l. Establishment of a system of African awards, medals and prizes.
2. The Executive Council shall be responsible to the Assembly. It shall consider issues referred to it and monitor the implementation of policies formulated by the Assembly.
 3. The Executive Council may delegate any of its powers and functions mentioned in paragraph 1 of this Article to the Specialized Technical Committees established under Article 14 of this Act.

Article 14 The Specialized Technical Committees

Establishment and Composition

1. There is hereby established the following Specialized Technical Committees, which shall be responsible to the Executive Council:
 - a. The Committee on Rural Economy and Agricultural Matters;
 - b. The Committee on Monetary and Financial Affairs;
 - c. The Committee on Trade, Customs and Immigration Matters;
 - d. The Committee on Industry, Science and Technology, Energy, Natural Resources and Environment;
 - e. The Committee on Transport, Communications and Tourism;
 - f. The Committee on Health, Labour and Social Affairs; and
 - g. The Committee on Education, Culture and Human Resources.
2. The Assembly shall, whenever it deems appropriate, restructure the existing Committees or establish other Committees.
3. The Specialized Technical Committees shall be composed of Ministers or senior officials responsible for sectors falling within their respective areas of competence.

Article 15 Functions of the Specialized Technical Committees

Each Committee shall within its field of competence:

- a. Prepare projects and programmes of the Union and submit in to the Executive Council;
- b. Ensure the supervision, follow-up and the evaluation of the implementation of decisions taken by the organs of the Union;
- c. Ensure the coordination and harmonization of projects and programmes of the Union;
- d. Submit to the Executive Council either on its own initiative or at the request of the Executive Council, reports and recommendations on the implementation of the provision of this Act; and
- e. Carry out any other functions assigned to it for the purpose of ensuring the implementation of the provisions of this Act.

Article 16 Meetings

1. Subject to any directives given by the Executive Council, each Committee shall meet as often as necessary and shall prepare its rules of procedure and submit them to the Executive Council for approval.

Article 17 The Pan-African Parliament

1. In order to ensure the full participation of African peoples in the development and economic integration of the continent, a Pan-African Parliament shall be established.
2. The composition, powers, functions and organization of the Pan-African Parliament shall be defined in a protocol relating thereto.

Article 18 The Court of Justice

1. A Court of Justice of the Union shall be established;
2. The statute, composition and functions of the Court of Justice shall be defined in a protocol relating thereto.

Article 19 The Financial Institutions

The Union shall have the following financial institutions, whose rules and regulations shall be defined in protocols relating thereto:

- a. The African Central Bank;
- b. The African Monetary Fund;

- c. The African Investment Bank.

Article 20 The Commission

1. There shall be established a Commission of the Union, which shall be the Secretariat of the Union.
2. The Commission shall be composed of the Chairman, his or her deputy or deputies and the Commissioners. They shall be assisted by the necessary staff for the smooth functioning of the Commission.
3. The structure, functions and regulations of the Commission shall be determined by the Assembly.

Article 21 The Permanent Representatives Committee

1. There shall be established a Permanent Representatives Committee. It shall be composed of Permanent Representatives to the Union and other Plenipotentiaries of Member States.
2. The Permanent Representatives Committee shall be charged with the responsibility of preparing the work of the Executive Council and acting on the Executive Council's instructions. It may set up such sub-committees or working groups as it may deem necessary.

Article 22 The Economic, Social and Cultural Council

1. The Economic, Social and Cultural Council shall be an advisory organ composed of different social and professional groups of the Member States of the Union.
2. The functions, powers, composition and organization of the Economic, Social and Cultural Council shall be determined by the Assembly.

Article 23 Imposition of Sanctions

1. The Assembly shall determine the appropriate sanctions to be imposed on any Member State that defaults in the payment of its contributions to the budget of the Union in the following manner: denial of the right to speak at meetings, to vote, to present candidates for any position or post within the Union or to benefit from any activity or commitments therefrom.
2. Furthermore, any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of transport and communications links with other Member States, and other measures of a political and economic nature to be determined by the Assembly.

Article 24 The Headquarters of the Union

1. The Headquarters of the Union shall be in Addis Ababa in the Federal Democratic Republic of Ethiopia.
2. There may be established such other offices of the Union as the Assembly may, on the recommendation of the Executive Council, determine.

Article 25 Working Languages

The working languages of the Union and all its institutions shall be, if possible, African languages, Arabic, English, French and Portuguese.

Article 26 Interpretation

The Court shall be seized with matters of interpretation arising from the application or implementation of this Act. Pending its establishment, such matters shall be submitted to the Assembly of the Union, which shall decide by a two-thirds majority.

Article 27 Signature, Ratification and Accession

1. This Act shall be open to signature, ratification and accession by the Member States of the OAU in accordance with their respective constitutional procedures.
2. The instruments of ratification shall be deposited with the Secretary-General of the OAU.
3. Any Member State of the OAU acceding to this Act after its entry into force shall deposit the instrument of accession with the Chairman of the Commission.

Article 28 Entry into Force

This Act shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds of the Member States of the OAU.

Article 29 Admission to Membership

1. Any African State may, at any time after the entry into force of this Act, notify the Chairman of the Commission of its intention to accede to this Act and to be admitted as a member of the Union.
2. The Chairman of the Commission shall, upon receipt of such notification, transmit copies thereof to all Member States. Admission shall be decided by a simple majority of the Member States. The decision of each Member State shall be transmitted to the Chairman of the Commission who shall, upon receipt of the required number of votes, communicate the decision to the State concerned.

Article 30 Suspension

Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.

Article 31 Cessation of Membership

1. Any State which desires to renounce its membership shall forward a written notification to the Chairman of the Commission, who shall inform Member States thereof. At the end of one year from the date of such notification, if not withdrawn, the Act shall cease to apply with respect to the renouncing State, which shall thereby cease to belong to the Union.
2. During the period of one year referred to in paragraph 1 of this Article, any Member State wishing to withdraw from the Union shall comply with the provisions of this Act and shall be bound to discharge its obligations under this Act up to the date of its withdrawal.

Article 32 Amendment and Revision

1. Any Member State may submit proposals for the amendment or revision of this Act.
2. Proposals for amendment or revision shall be submitted to the Chairman of the Commission who shall transmit same to Member States within thirty (30) days of receipt thereof.
3. The Assembly, upon the advice of the Executive Council, shall examine these proposals within a period of one year following notification of Member States, in accordance with the provisions of paragraph 2 of this Article.
4. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority and submitted for ratification by all Member States in accordance with their respective constitutional procedures. They shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairman of the Commission by a two-thirds majority of the Member States.

Article 33 Transitional Arrangements and Final Provisions

1. This Act shall replace the Charter of the Organization of African Unity. However, the Charter shall remain operative for a transitional period of one year or such further period as may be determined by the Assembly, following the entry into force of the Act, for the purpose of enabling the OAU/AEC to undertake the necessary measures regarding the devolution of its assets and liabilities to the Union and all matters relating thereto.
2. The provisions of this Act shall take precedence over and supersede any inconsistent or contrary provisions of the Treaty establishing the African Economic Community.
3. Upon the entry into force of this Act, all necessary measures shall be undertaken to implement its provisions and to ensure the establishment of the organs provided for under the Act in accordance with any directives or decisions which may be adopted in this regard by the Parties thereto within the transitional period stipulated above.
4. Pending the establishment of the Commission, the OAU General Secretariat shall be the interim Secretariat of the Union.
5. This Act, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) being equally authentic, shall be deposited with the Secretary-General of the OAU and, after its entry into force, with the Chairman of the Commission who shall transmit a certified true copy of the Act to the Government of each signatory State. The Secretary-General of the OAU and the Chairman of the Commission shall notify all signatory States of the dates of the deposit of the instruments of ratification or accession and shall upon entry into force of this Act register the same with the Secretariat of the United Nations.

IN WITNESS WHEREOF, WE have adopted this Act.

Done at Lomé, Togo, this 11th day of July, 2000.

African Union (AU), Convention on Preventing and Combating Corruption (2003, Maputo, Mozambique)

PREAMBLE

The Member States of the African Union:

CONSIDERING that the Constitutive Act of the African Union recognizes that freedom, equality, justice, peace and dignity are essential objectives for the achievement of the legitimate aspiration of the African peoples;

FURTHER CONSIDERING that Article 3 of the said Constitutive Act enjoins Member States to coordinate and intensify their cooperation, unity, cohesion and efforts to achieve a better life for the peoples of Africa;

COGNIZANT of the fact that the Constitutive Act of the African Union, inter alia, calls for the need to promote and protect human and peoples' rights, consolidate democratic institutions and foster a culture of democracy and ensure good governance and the rule of law;

AWARE of the need to respect human dignity and to foster the promotion of economic, social, and political rights in conformity with the provisions of the African Charter on Human and People's Rights and other relevant human rights instruments;

BEARING IN MIND the 1990 Declaration on the Fundamental Changes Taking Place in the World and their Implications for Africa; the 1994 Cairo Agenda for Action Relaunching Africa's Socio-economic Transformation; and the Plan of Action Against Impunity adopted by the Nineteenth Ordinary Session of the African Commission on Human and Peoples Rights in 1996 as subsequently endorsed by the Sixty fourth Ordinary Session of the Council of Ministers held in Yaounde, Cameroon in 1996 which, among others, underlined the need to observe principles of good governance, the primacy of law, human rights, democratization and popular participation by the African peoples in the processes of governance.

CONCERNED about the negative effects of corruption and impunity on the political, economic, social and cultural stability of African States and its devastating effects on the economic and social development of the African peoples;

ACKNOWLEDGING that corruption undermines accountability and transparency in the management of public affairs as well as socio-economic development on the continent;

RECOGNIZING the need to address the root causes of corruption on the continent;

CONVINCED of the need to formulate and pursue, as a matter of priority, a common penal policy aimed at protecting the society against corruption, including the adoption of appropriate legislative and adequate preventive measures;

DETERMINED to build partnerships between governments and all segments of civil society, in particular, women, youth, media and the private sector in order to fight the scourge of corruption;

RECALLING resolution AHG-Dec 126(XXXIV) adopted by the Thirty-fourth Ordinary Session of the Assembly of Heads of State and Government in June 1998 in Ouagadougou, Burkina Faso, requesting the Secretary General to convene, in cooperation with the African Commission on Human and Peoples' Rights, a high level meeting of experts to consider ways and means of removing obstacles to the enjoyment of economic, social and cultural rights, including the fight against corruption and impunity and propose appropriate legislative and other measures;

FURTHER RECALLING the decision of the 37th ordinary session of the Assembly of Heads of State and Government of the OAU held in Lusaka, Zambia, in July 2001 as well as the Declaration adopted by the first session of the Assembly of the Union held in Durban, South Africa in July 2002, relating to the New Partnership for Africa's Development (NEPAD) which calls for the setting up of a coordinated mechanism to combat corruption effectively.

Have agreed as follows:

Article 1 Definitions

1. For the purposes of this Convention;

"Chairperson of the Commission" means Chairperson of the Commission of the African Union;

"Confiscation" means any penalty or measure resulting in a final deprivation of property, proceeds or instrumentalities ordered by a court of law following proceedings in relation to a criminal offence or offences connected with or related to corruption;

"Corruption" means the acts and practices including related offences proscribed in this Convention;

"Court of Law" means a court duly established by a domestic law;

"Executive Council" means the Executive Council of the African Union;

"Illicit enrichment" means the significant increase in the assets of a public official or any other person which he or she cannot reasonably explain in relation to his or her income.

"Private Sector" means the sector of a national economy under private ownership in which the allocation of productive resources is controlled by market forces, rather than public authorities and other sectors of the economy

not under the public sector or government;

“Proceeds of Corruption” means assets of any kind corporeal or incorporeal, movable or immovable, tangible or intangible and any document or legal instrument evidencing title to or interests in such assets acquired as a result of an act of corruption;

“Public official” means any official or employee of the State or its agencies including those who have been selected, appointed or elected to perform activities or functions in the name of the State or in the service of the State at any level of its hierarchy;

“Requested State Party” means a State Party requested to extradite or to provide assistance under this Convention;

“Requesting State Party” means a State Party making a request for extradition or assistance in terms of this Convention;

“State Party” means any Member State of the African Union which has ratified or acceded to this Convention and has deposited its instruments of ratification or accession with the Chairperson of the Commission of the African Union.

2. In this Convention, the singular shall include the plural and vice versa.

Article 2 Objectives

The objectives of this Convention are to:

1. Promote and strengthen the development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors.
2. Promote, facilitate and regulate cooperation among the State Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa.
3. Coordinate and harmonize the policies and legislation between State Parties for the purposes of prevention, detection, punishment and eradication of corruption on the continent.
4. Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights.
5. Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

Article 3 Principles

The State Parties to this Convention undertake to abide by the following principles:

1. Respect for democratic principles and institutions, popular participation, the rule of law and good governance.
2. Respect for human and peoples’ rights in accordance with the African Charter on Human and Peoples Rights and other relevant human rights instruments.
3. Transparency and accountability in the management of public affairs.
4. Promotion of social justice to ensure balanced socio-economic development.
5. Condemnation and rejection of acts of corruption, related offences and impunity.

Article 4 Scope of Application

1. This Convention is applicable to the following acts of corruption and related offences:
 - a. the solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
 - b. the offering or granting, directly or indirectly, to a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
 - c. any act or omission in the discharge of his or her duties by a public official or any other person for the purpose of illicitly obtaining benefits for himself or herself or for a third party;
 - d. the diversion by a public official or any other person, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any property belonging to the State or its agencies, to an independent agency, or to an individual, that such official has received by virtue of his or her position;
 - e. the offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for anyone else, for him or her to act, or refrain from acting, in breach of his or her duties;
 - f. the offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision making of any person performing functions in the public or private sector in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result;
 - g. illicit enrichment;

- h. the use or concealment of proceeds derived from any of the acts referred to in this Article; and
 - i. participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or on any other manner in the commission or attempted commission of, in any collaboration or conspiracy to commit, any of the acts referred to in this article.
2. This Convention shall also be applicable by mutual agreement between or among two or more State Parties with respect to any other act or practice of corruption and related offences not described in this Convention.

Article 5 Legislative and other Measures

For the purposes set-forth in Article 2 of this Convention, State Parties undertake to:

1. Adopt legislative and other measures that are required to establish as offences, the acts mentioned in Article 4 paragraph 1 of the present Convention.
2. Strengthen national control measures to ensure that the setting up and operations of foreign companies in the territory of a State Party shall be subject to the respect of the national legislation in force.
3. Establish, maintain and strengthen independent national anticorruption authorities or agencies.
4. Adopt legislative and other measures to create, maintain and strengthen internal accounting, auditing and follow-up systems, in particular, in the public income, custom and tax receipts, expenditures and procedures for hiring, procurement and management of public goods and services.
5. Adopt legislative and other measures to protect informants and witnesses in corruption and related offences, including protection of their identities.
6. Adopt measures that ensure citizens report instances of corruption without fear of consequent reprisals.
7. Adopt national legislative measures in order to punish those who make false and malicious reports against innocent persons in corruption and related offences.
8. Adopt and strengthen mechanisms for promoting the education of populations to respect the public good and public interest, and awareness in the fight against corruption and related offences, including school educational programmes and sensitization of the media, and the promotion of an enabling environment for the respect of ethics.

Article 6 Laundering of the Proceeds of Corruption

States Parties shall adopt such legislative and other measures as may be necessary to establish as criminal offences:

- a. The conversion, transfer or disposal of property, knowing that such property is the proceeds of corruption or related offences for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the offence to evade the legal consequences of his or her action.
- b. The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property which is the proceeds of corruption or related offences;
- c. The acquisition, possession or use of property with the knowledge at the time of receipt, that such property is the proceeds of corruption or related offences;

Article 7 Fight Against Corruption and Related Offences in the Public Service

In order to combat corruption and related offences in the public service, State Parties commit themselves to:

1. Require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service.
2. Create an internal committee or a similar body mandated to establish a code of conduct and to monitor its implementation, and sensitize and train public officials on matters of ethics.
3. Develop disciplinary measures and investigation procedures in corruption and related offences with a view to keeping up with technology and increase the efficiency of those responsible in this regard.
4. Ensure transparency, equity and efficiency in the management of tendering and hiring procedures in the public service.
5. Subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials.

Article 8 Illicit Enrichment

1. Subject to the provisions of their domestic law, State Parties undertake to adopt necessary measures to establish under their laws an offence of illicit enrichment.
2. For State Parties that have established illicit enrichment as an offence under their domestic law, such offence shall be considered an act of corruption or a related offence for the purposes of this Convention.
3. Any State Party that has not established illicit enrichment as an offence shall, in so far as its laws permit, provide assistance and cooperation to the requesting State with respect to the offence as provided in this Convention.

Article 9 Access to Information

Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences.

Article 10 Funding of Political Parties

Each State Party shall adopt legislative and other measures to:

- a. Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties; and
- b. Incorporate the principle of transparency into funding of political parties.

Article 11 Private Sector

State Parties undertake to:

1. Adopt legislative and other measures to prevent and combat acts of corruption and related offences committed in and by agents of the private sector.
2. Establish mechanisms to encourage participation by the private sector in the fight against unfair competition, respect of the tender procedures and property rights.
3. Adopt such other measures as may be necessary to prevent companies from paying bribes to win tenders.

Article 12 Civil Society and Media

State Parties undertake to:

1. Be fully engaged in the fight against corruption and related offences and the popularisation of this Convention with the full participation of the Media and Civil Society at large;
2. Create an enabling environment that will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs;
3. Ensure and provide for the participation of Civil Society in the monitoring process and consult Civil Society in the implementation of this Convention;
4. Ensure that the Media is given access to information in cases of corruption and related offences on condition that the dissemination of such information does not adversely affect the investigation process and the right to a fair trial.

Article 13 Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:
 - a. the breach is committed wholly or partially inside its territory;
 - b. the offence is committed by one of its nationals outside its territory or by a person who resides in its territory; and
 - c. the alleged criminal is present in its territory and it does not extradite such person to another country.
 - d. when the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.
2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its domestic law.
3. Notwithstanding the provision of paragraph 1 of this Article, a person shall not be tried twice for the same offence.

Article 14 Minimum Guarantees of a Fair Trial

Subject to domestic law, any person alleged to have committed acts of corruption and related offences shall receive a fair trial in criminal proceedings in accordance with the minimum guarantees contained in the African Charter on Human and Peoples' Rights and any other relevant international human rights instrument recognized by the concerned States Parties.

Article 15 Extradition

1. This Article shall apply to the offences established by the State Parties in accordance with this Convention.
2. Offences falling within the jurisdiction of this Convention shall be deemed to be included in the internal laws of State Parties as crimes requiring extradition. State Parties shall include such offences as extraditable offences in extradition treaties existing between or among them.
3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from a State Party with which it does not have such treaty, it shall consider this Convention as a legal basis for all offences covered by this Convention.
4. A State Party that does not make extradition conditional on the existence of a treaty shall recognize offences to which this Convention applies as extraditable offences among themselves.
5. Each State Party undertakes to extradite any person charged with or convicted of offences of corruption and related offences, carried out on the territory of another State Party and whose extradition is requested by that State Party, in conformity with their domestic law, any applicable extradition treaties, or extradition agreements or arrangements existing between or among the State Parties.
6. Where a State Party in whose territory any person charged with or convicted of offences is present and has refused to extradite that person on the basis that it has jurisdiction over offences, the Requested State Party shall be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution, unless otherwise agreed with the Requesting State Party, and shall report the final outcome to the Requesting State Party.

7. Subject to the provisions of its domestic law and any applicable extradition treaties, a Requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the Requesting State Party, take into custody a person whose extradition is sought and who is present in its territory, or take other appropriate measures to ensure that the person is present at the extradition proceedings.

Article 16 Confiscation and Seizure of the Proceeds and Instrumentalities of Corruption

1. Each State Party shall adopt such legislative measures as may be necessary to enable:
 - a. its competent authorities to search, identify, trace, administer and freeze or seize the instrumentalities and proceeds of corruption pending a final judgement;
 - b. confiscation of proceeds or property, the value of which corresponds to that of such proceeds, derived, from offences established in accordance with this convention;
 - c. repatriation of proceeds of corruption.
2. The Requested State Party shall, in so far as its law permits and at the request of the Requesting State Party, seize and remit any object:
 - a. which may be required as evidence of the offence in question; or
 - b. which has been acquired as a result of the offence for which extradition is requested and which, at the time of arrest is found in possession of the persons claimed or is discovered subsequently.
3. The objects referred to in clause 2 of this Article may, if the Requesting State so requests, be handed over to that State even if the extradition is refused or cannot be carried out due to death, disappearance or escape of the person sought.
4. When the said object is liable for seizure or confiscation in the territory of the Requested State Party the latter may, in connection with pending or ongoing criminal proceedings, temporarily retain it or hand it over to the Requesting State Party, on condition that it is returned to the Requested State Party.

Article 17 Bank Secrecy

1. Each State Party shall adopt such measures necessary to empower its courts or other competent authorities to order the confiscation or seizure of banking, financial or commercial documents with a view to implementing this Convention.
2. The Requesting State shall not use any information received that is protected by bank secrecy for any purpose other than the proceedings for which that information was requested, unless with the consent of the Requested State Party.
3. State Parties shall not invoke banking secrecy to justify their refusal to cooperate with regard to acts of corruption and related offences by virtue of this Convention.
4. State Parties commit themselves to enter into bilateral agreements to waive banking secrecy on doubtful accounts and allow competent authorities the right to obtain from banks and financial institutions, under judicial cover, any evidence in their possession.

Article 18 Cooperation and Mutual Legal Assistance

1. In accordance with their domestic laws and applicable treaties, State Parties shall provide each other with the greatest possible technical cooperation and assistance in dealing immediately with requests from authorities that are empowered by virtue of their national laws to prevent, detect, investigate and punish acts of corruption and related offences.
2. If two or several State Parties have established relations on the basis of uniform legislation or a particular regime, they may have the option to regulate such mutual relations without prejudice to the provisions of this Convention.
3. State Parties shall co-operate among themselves in conducting and exchanging studies and researches on how to combat corruption and related offences and to exchange expertise relating to preventing and combating corruption and related offences.
4. State Parties shall co-operate among themselves, where possible, in providing any available technical assistance in drawing up programmes, codes of ethics or organizing, where necessary and for the benefit of their personnel, joint training courses involving one or several states in the area of combating corruption and related offences.
5. The provisions of this Article shall not affect the obligations under any other bilateral or multilateral treaty which governs, in whole or in part, mutual legal assistance in criminal matters.
6. Nothing in this Article shall prevent State Parties from according one another more favourable forms of mutual legal assistance allowed under their respective domestic law.

Article 19 International Cooperation

In the spirit of international cooperation, State Parties shall:

1. Collaborate with countries of origin of multi-nationals to criminalise and punish the practice of secret commissions and other forms of corrupt practices during international trade transactions.
2. Foster regional, continental and international cooperation to prevent corrupt practices in international trade transactions.

3. Encourage all countries to take legislative measures to prevent corrupt public officials from enjoying ill-acquired assets by freezing their foreign accounts and facilitating the repatriation of stolen or illegally acquired monies to the countries of origin.
4. Work closely with international, regional and sub regional financial organizations to eradicate corruption in development aid and cooperation programmes by defining strict regulations for eligibility and good governance of candidates within the general framework of their development policy.
5. Cooperate in conformity with relevant international instruments on international cooperation on criminal matters for purposes of investigations and procedures in offences within the jurisdiction of this Convention.

Article 20 National Authorities

1. For the purposes of cooperation and mutual legal assistance provided under this Convention, each State Party shall communicate to the Chairperson of the Commission at the time of signing or depositing its instrument of ratification, the designation of a national authority or agency in application of offences established under Article 4 (1) of this Convention.
2. The national authorities or agencies shall be responsible for making and receiving the requests for assistance and cooperation referred to in this Convention.
3. The national authorities or agencies shall communicate with each other directly for the purposes of this Convention.
4. The national authorities or agencies shall be allowed the necessary independence and autonomy, to be able to carry out their duties effectively.
5. State Parties undertake to adopt necessary measures to ensure that national authorities or agencies are specialized in combating corruption and related offences by, among others, ensuring that the staff are trained and motivated to effectively carry out their duties.

Article 21 Relationship with other Agreements

Subject to the provisions of Article 4 paragraph 2, this Convention shall in respect to those State Parties to which it applies, supersede the provisions of any treaty or bilateral agreement governing corruption and related offences between any two or more State Parties.

Article 22 Follow up Mechanism

1. There shall be an Advisory Board on Corruption within the African Union.
2. The Board shall comprise 11 members elected by the Executive Council from among a list of experts of the highest integrity, impartiality, and recognized competence in matters relating to preventing and combating corruption and related offences, proposed by the State Parties. In the election of the members of the board, the Executive Council shall ensure adequate gender representation, and equitable geographical representation.
3. The members of the Board shall serve in their personal capacity.
4. Members of the Board shall be appointed for a period of two years, renewable once.
5. The functions of the Board shall be to:
 - a. promote and encourage adoption and application of anticorruption measures on the continent;
 - b. collect and document information on the nature and scope of corruption and related offences in Africa;
 - c. develop methodologies for analyzing the nature and extent of corruption in Africa, and disseminate information and sensitize the public on the negative effects of corruption and related offences;
 - d. advise governments on how to deal with the scourge of corruption and related offences in their domestic jurisdictions;
 - e. collect information and analyze the conduct and behaviour of multi-national corporations operating in Africa and disseminate such information to national authorities designated under Article 18 (1) hereof;
 - f. develop and promote the adoption of harmonized codes of conduct of public officials;
 - g. build partnerships with the African Commission on Human and Peoples' Rights, African civil society, governmental, Intergovernmental and non-governmental organizations to facilitate dialogue in the fight against corruption and related offences;
 - h. submit a report to the Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of this Convention;
 - i. perform any other task relating to corruption and related offences that may be assigned to it by the policy organs of the African Union.
6. The Board shall adopt its own rules of procedure.
7. States Parties shall communicate to the Board within a year after the coming into force of the instrument, on the progress made in the implementation of this Convention. Thereafter, each State Party, through their relevant procedures, shall ensure that the national anticorruption authorities or agencies report to the Board at least once a year before the ordinary sessions of the policy organs of the AU.

FINAL CLAUSES**Article 23 Signature, ratification, accession and Entry into Force**

1. The present Convention shall be open for signature, ratification or accession by the Member States of the African Union.
2. The Convention shall enter into force thirty (30) days after the date of the deposit of the fifteenth instrument of ratification or accession.
3. For each State Party ratifying or acceding to the Convention after the date of the deposit of the fifteenth Instrument of Ratification, the Convention shall enter into force thirty (30) days after the date of the deposit by that State of its instrument of ratification or accession.

Article 24 Reservations

1. Any State Party may, at the time of adoption, signature, ratification or accession, make reservation to this Convention provided that each reservation concerns one or more specific provisions and is not incompatible with the object and purposes of this Convention.
2. Any State Party which has made any reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Chairperson of the Commission.

Article 25 Amendment

1. This Convention may be amended if any State Party makes a written request to the Chairperson of the Commission.
2. The Chairperson of the Commission shall circulate the proposed amendments to all State Parties. The proposed amendments shall not be considered by the State Parties until a period of six (6) months from the date of circulation of the amendment has elapsed.
3. The amendments shall enter into force when approved by a two-thirds majority of the Member States of the AU.

Article 26 Denunciation

1. Any state Party may denounce the present Convention by sending notification to the Chairperson of the Commission. This denunciation shall take effect six (6) months following the date of receipt of notification by the Chairperson of the Commission.
2. After denunciation, cooperation shall continue between State Parties and the State Party that has withdrawn on all requests for assistance or extradition made before the effective date of withdrawal.

Article 27 Depository

1. The Chairperson of the Commission shall be the depository of this Convention and the amendments thereto.
2. The Chairperson of the Commission shall inform all State Parties of the signatures, ratifications, accessions, entry into force, requests for amendments submitted by States and approvals thereof and denunciations.
3. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretary General of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 28 Authentic Texts

The original of this Convention, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Chairperson of the Commission.

IN WITNESS WHEREOF WE, the Heads of State and Government of the African Union, or our duly authorized representatives have adopted this Convention.

Done at this day of July 2003.

AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

1. People's Democratic Republic of Algeria
2. Republic of Angola
3. Republic of Benin
4. Republic of Botswana
5. Burkina Faso
6. Republic of Burundi
7. Republic of Cameroon
8. Republic of Cape Verde
9. Central African Republic
10. Republic of Chad
11. Union of the Comoros
12. Republic of the Congo
13. Republic of Côte d'Ivoire
14. Democratic Republic of Congo

15. Republic of Djibouti
16. Arab Republic of Egypt
17. State of Eritrea
18. Federal Democratic Republic of Ethiopia
19. Republic of Equatorial Guinea
20. Republic of Gabon
21. Republic of The Gambia
22. Republic of Ghana
23. Republic of Guinea
24. Republic of Guinea Bissau
25. Republic of Kenya
26. Kingdom of Lesotho
27. Republic of Liberia
28. Great Socialist People's Libyan Arab Jamahiriya
29. Republic of Madagascar
30. Republic of Malawi
31. Republic of Mali
32. Islamic Republic of Mauritania
33. Republic of Mauritius
34. Republic of Mozambique
35. Republic of Namibia
36. Republic of Niger
37. Federal Republic of Nigeria
38. Republic of Rwanda
39. Sahrawi Arab Democratic Republic
40. Republic of Sao Tome and Principe
41. Republic of Senegal
42. Republic of Seychelles
43. Republic of Sierra Leone
44. Republic of Somalia
45. Republic of South Africa
46. Republic of Sudan
47. Kingdom of Swaziland
48. United Republic of Tanzania
49. Republic of Togo
50. Republic of Tunisia
51. Republic of Uganda
52. Republic of Zambia
53. Republic of Zimbabwe

African Union (AU), NEPAD Declaration on Democracy, Political, Economic and Corporate Governance (2002, Durban, South Africa)

Preamble

1. We, the participating Heads of State and Government of the member states of the African Union (AU), met in Durban, South Africa, at the inaugural Assembly of the African Union and considered the report of the New Partnership for Africa's Development (NEPAD) Heads of State and Government Implementation Committee established at the Organization of African Unity (OAU) Summit in Lusaka, Zambia, in July 2001.
2. In the general context of our meeting, we recalled our shared commitment underlying the establishment of NEPAD to eradicate poverty and to place our countries, individually and collectively, on a path of sustainable growth and development and, at the same time, to participate actively in the world economy and body politic on equal footing. We reaffirm this pledge as our most pressing duty.
3. In reviewing the report of the NEPAD Heads of State and Government Implementation Committee and considering the way forward, we were also mindful of the fact that, over the years, successive OAU Summits have taken decisions aimed at ensuring stability, peace and security, promoting closer economic integration, ending unconstitutional changes of government, supporting human rights and upholding the rule of law and good governance. Among these decisions are:
 - a. the Lagos Plan of Action, and the Final Act of Lagos (1980);
 - b. the African (Banjul) Charter on Human and Peoples' Rights (1981);
 - c. the African Charter for Popular Participation in Development (1990);
 - d. the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World (1990); and
 - e. the African Charter on the Rights and Welfare of the Child (1990).
 - f. the Abuja Treaty establishing the African Economic Community (1991);
 - g. the 1993 Cairo Declaration Establishing the Mechanism for Conflict Prevention, Management and Resolution;
 - h. the Protocol on the Establishment of an African Court on Human and Peoples' Rights (1998);
 - i. the 1999 Grand Bay (Mauritius) Declaration and Plan of Action for the Promotion and Protection of Human Rights;
 - j. the Framework for an OAU Response to Unconstitutional Changes of Government (adopted at the 2000 OAU Summit in Lome, Togo, and based on the earlier decision of the 1999 Algiers OAU Summit); and
 - k. the Conference on Security, Stability, Development and Cooperation (CSSDCA) Solemn Declaration (2000); and
 - l. the Constitutive Act of the African Union (2000)
4. We, member states parties to the aforementioned instruments, reaffirm our full and continuing commitment to these and other decisions of our continental organization, as well as the other international obligations and undertakings into which we have entered in the context of the United Nations. Of particular significance in this context are the Charter of the United Nations and the United Nations Universal Declaration on Human Rights and all conventions relating thereto, especially the Convention on the Elimination of All Forms of Discrimination against Women and the Beijing Declaration.
5. Africa faces grave challenges and the most urgent of these are the eradication of poverty and the fostering of socio-economic development, in particular, through democracy and good governance. It is to the achievement of these twin objectives that the NEPAD process is principally directed.
6. Accordingly, we the participating Heads of State and Government of the member states of the African Union have agreed to work together in policy and action in pursuit of the following objectives:-
 - Democracy and Good Political Governance
 - Economic and Corporate Governance
 - Socio-Economic Development
 - African Peer Review Mechanism

Democracy and Good Political Governance

7. At the beginning of the new century and millennium, we reaffirm our commitment to the promotion of democracy and its core values in our respective countries. In particular, we undertake to work with renewed determination to enforce

- the rule of law;
 - the equality of all citizens before the law and the liberty of the individual;
 - individual and collective freedoms, including the right to form and join political parties and trade unions, in conformity with the constitution;
 - equality of opportunity for all;
 - the inalienable right of the individual to participate by means of free, credible and democratic political processes in periodically electing their leaders for a fixed term of office; and
 - adherence to the separation of powers, including the protection of the independence of the judiciary and of effective parliaments.
8. We believe in just, honest, transparent, accountable and participatory government and probity in public life. We therefore undertake to combat and eradicate corruption, which both retards economic development and undermines the moral fabric of society.
 9. We are determined to increase our efforts in restoring stability, peace and security in the African continent, as these are essential conditions for sustainable development, alongside democracy, good governance, human rights, social development, protection of environment and sound economic management. Our efforts and initiatives will also be directed at seeking speedy peaceful solutions to current conflicts and at building Africa's capacity to prevent, manage and resolve all conflicts on the continent.
 10. In the light of Africa's recent history, respect for human rights has to be accorded an importance and urgency all of its own. One of the tests by which the quality of a democracy is judged is the protection it provides for each individual citizen and for the vulnerable and disadvantaged groups. Ethnic minorities, women and children have borne the brunt of the conflicts raging on the continent today. We undertake to do more to advance the cause of human rights in Africa generally and, specifically, to end the moral shame exemplified by the plight of women, children, the disabled and ethnic minorities in conflict situations in Africa.
 11. In Africa's efforts at democracy, good governance and economic reconstruction, women have a central role to play. We accept it as a binding obligation to ensure that women have every opportunity to contribute on terms of full equality to political and socio-economic development in all our countries.
 12. To fulfil these commitments we have agreed to adopt the following action plan:
 13. In support of democracy and the democratic process
We will:
 - ensure that our respective national constitutions reflect the democratic ethos and provide for demonstrably accountable governance;
 - promote political representation, thus providing for all citizens to participate in the political process in a free and fair political environment;
 - enforce strict adherence to the position of the African Union (AU) on unconstitutional changes of government and other decisions of our continental organization aimed at promoting democracy, good governance, peace and security;
 - strengthen and, where necessary, establish an appropriate electoral administration and oversight bodies, in our respective countries and provide the necessary resources and capacity to conduct elections which are free, fair and credible;
 - reassess and where necessary strengthen the AU and sub-regional election monitoring mechanisms and procedures; and
 - heighten public awareness of the African Charter on Human and Peoples' Rights, especially in our educational institutions.
 14. In support of Good Governance
We have agreed to:
 - adopt clear codes, standards and indicators of good governance at the national, sub-regional and continental levels;
 - accountable, efficient and effective civil service;
 - ensure the effective functioning of parliaments and other accountability institutions in our respective countries, including parliamentary committees and anti-corruption bodies; and
 - ensure the independence of the judicial system that will be able to prevent abuse of power and corruption.
 15. To promote and protect human rights
We have agreed to:
 - facilitate the development of vibrant civil society organizations, including strengthening human rights institutions at the national, sub-regional and regional levels;
 - support the Charter, African Commission and Court on Human and People's Rights as important instruments for ensuring the promotion, protection and observance of Human Rights;

- strengthen co-operation with the UN High Commission for Human Rights; and
- ensure responsible free expression, inclusive of the freedom of the press.

Economic and Corporate Governance

16. Good economic and corporate governance including transparency in financial management are essential pre-requisites for promoting economic growth and reducing poverty. Mindful of this, we have approved eight prioritized codes and standards for achieving good economic and corporate governance.
17. These prioritized codes and standards represent those “fundamental” internationally, regionally, and domestically accepted codes and standards that all African countries should strive to observe within their capacity capabilities. In other words, they are the codes and standards that need to be complied with as a minimum requirement, given a country’s capacity to do so.
18. We believe the eight prioritized and approved codes and standards set out below have the potential to promote market efficiency, to control wasteful spending, to consolidate democracy, and to encourage private financial flows - all of which are critical aspects of the quest to reduce poverty and enhance sustainable development. These codes and standards have been developed by a number of international organizations through consultative processes that involved the active participation of and endorsement by African countries. Thus, the codes and standards are genuinely global as they were agreed by experts from a vast spectrum of economies with different structural characteristics. They are the following:
 - a. Code of Good Practices on Transparency in Monetary and Financial Policies;
 - b. Code of Good Practices on Fiscal Transparency;
 - c. Best Practices for Budget Transparency;
 - d. Guidelines for Public Debt Management;
 - e. Principles of Corporate Governance;
 - f. International Accounting Standards;
 - g. International Standards on Auditing; and the
 - h. Core Principles for Effective Banking Supervision.
19. We have also approved other key codes and standards in transparency and financial Management. These include:
 - a. Principles for Payment Systems;
 - b. Recommendations on Anti-money laundering; and
 - c. Core principles for securities and insurance supervision and regulation

Socio-Economic Development

20. We believe that poverty can only be effectively tackled through the promotion of:
 - democracy, good governance, peace and security;
 - the development of human and physical resources;
 - gender equality;
 - openness to international trade and investment;
 - allocation of appropriate funds to social sector; and
 - new partnerships between governments and the private sector, and with civil society.
21. We reaffirm our conviction that the development of Africa is ultimately the responsibility of Africans themselves. Africa’s development begins with the quality of its human resources. We, therefore, undertake to work towards the enhancement of our human resources through the provision of more and better education and training, especially in Information and Communications Technology (ICT) and other skills central to a globalising world; and better health care, with priority attention to addressing HIV/AIDS and other pandemic diseases.
22. The marginalisation of women remains real despite the progress of recent years. We will, therefore, work with renewed vigour to ensure gender equality and ensure their full and effective integration of women in political and socioeconomic development.
23. Globalisation and liberalisation does not mean that there should be no role for government in socio-economic development. It only means a different type of government. We, therefore, undertake to foster new partnerships between government and the private sector; a new division of labour in which the private sector will be the veritable engine of economic growth, while governments concentrate on the development of infrastructure and the creation of a macroeconomic environment. This includes expanding and enhancing the quality of human resources and providing the appropriate institutional framework to guide the formulation and execution of economic policy.
24. The regional economic communities remain the building blocks for Africa’s economic integration. We will, therefore, continue to strengthen them in every way practicable and to relate their evolution more closely to the development of the African Union.

25. We welcome the strong international interest in and support for NEPAD. It is our intention to build on this promising foundation, working with our development partners and the wider international community to:
- forge new forms of international co-operation in which the benefits of globalisation are more evenly shared;
 - create a stable international economic environment in which African countries can achieve growth through greater market access for their exports; the removal of trade barriers, especially non-tariff barriers and other forms of protectionism; increased flows of direct foreign investment; debt cancellation; a meaningful increase in ODA; and the diversification of their economies. Africa's prosperity will be a multiplier in world prosperity.
26. NEPAD is founded on a hardheaded assessment of the political and socioeconomic realities in Africa today. We do not, therefore, underestimate the challenges involved in achieving NEPAD's objectives, but we share a common resolution to work together even more closely in order to end poverty on the continent and to restore Africa to a place of dignity in the family of nations.
27. No African country is a replica of another and no African society is a mirror image of another. However, we believe that the variety within our oneness can be enriching. It is part of the purpose of this Declaration to mobilise all those enriching qualities to build African unity, in respect of the specific of our countries.

African Peer Review Mechanism

28. We have separately agreed to establish an African Peer Review Mechanism (APRM) on the basis of voluntary accession. The APRM seeks to promote adherence to and fulfilment of the commitments contained in this Declaration. The Mechanism spells out the institutions and processes that will guide future peer reviews, based on mutually agreed codes and standards of democracy, political, economic and corporate governance.

African Union (AU), Protocol Relating to the Establishment of the Peace and Security Council of the African Union (2002, Durban, South Africa)

WE, the Heads of State and Government of the Member States of the African Union;

CONSIDERING the Constitutive Act of the African Union and the Treaty establishing the African Economic Community, as well as the Charter of the United Nations;

RECALLING the Declaration on the establishment, within the Organization of African Unity (OAU), of a Mechanism for Conflict Prevention, Management and Resolution, adopted by the 29th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Cairo, Egypt, from 28 to 30 June 1993;

RECALLING also Decision AHG/Dec.160 (XXXVII) adopted by the 37th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lusaka, Zambia, from 9 to 11 July 2001, by which the Assembly decided to incorporate the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution as one of the organs of the Union, in accordance with Article 5(2) of the Constitutive Act of the African Union, and, in the regard, requested the Secretary-General to undertake a review of the structures, procedures and working methods of the Central Organ, including the possibility of changing its name;

MINDFUL of the provisions of the Charter of the United Nations, conferring on the Security Council primary responsibility for the maintenance of international peace and security, as well as the provisions of the Charter on the role of regional arrangements or agencies in the maintenance of international peace and security, and the need to forge closer cooperation and partnership between the United Nations, other international organizations and the African Union, in the promotion and maintenance of peace, security and stability in Africa;

ACKNOWLEDGING the contribution of African Regional Mechanisms for Conflict Prevention, Management and Resolution in the maintenance and promotion of peace, security and stability on the Continent and the need to develop formal coordination and cooperation arrangements between these Regional Mechanisms and the African Union;

RECALLING Decisions AHG/Dec.141 (XXXV) and AHG/Dec.142 (XXXV) on Unconstitutional Changes of Government, adopted by the 35th Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Algiers, Algeria, from 12 to 14 July 1999, and Declaration AHG/Decl.5 (XXXVI) on the Framework for an OAU Response to Unconstitutional Changes of Government, adopted by the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lomé, Togo, from 10 to 12 July 2000;

REAFFIRMING our commitment to Solemn Declaration AHG/Decl.4 (XXXVI) on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), adopted by the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lomé, Togo, from 10 to 12 July 2000, as well as Declaration AHG/Decl.1 (XXXVII) on the New Partnership for Africa's Development (NEPAD), which was adopted by the 37th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lusaka, Zambia, from 9 to 11 July 2001;

AFFIRMING our further commitment to Declaration AHG/Decl.2 (XXX) on the Code of Conduct for Inter-African Relations, adopted by the 30th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Tunis, Tunisia, from 13 to 15 June 1994, as well as the Convention on the Prevention and Combating of Terrorism, adopted by the 35th Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Algiers, Algeria, from 12 to 14 July 1999;

CONCERNED about the continued prevalence of armed conflicts in Africa and the fact that no single internal factor has contributed more to socioeconomic decline on the Continent and the suffering of the civilian population than the scourge of conflicts within and between our States;

CONCERNED ALSO by the fact that conflicts have forced millions of our people, including women and children, into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope;

CONCERNED FURTHER about the scourge of landmines in the Continent and RECALLING, in this respect, the Plan of Action on a Landmine Free Africa, adopted by the 1st Continental Conference of African Experts on Anti-Personnel Mines, held in Kempton Park, South Africa, from 17 to 19 May 1997, and endorsed by the 66th Ordinary Session of the OAU Council of Ministers, held in Harare, Zimbabwe, from 26 to 30 May 1997, as well as subsequent decisions adopted by the OAU on this issue;

CONCERNED ALSO about the impact of the illicit proliferation, circulation and trafficking of small arms and light weapons in threatening peace and security in Africa and undermining efforts to improve the living standards of African peoples and RECALLING, in this respect, the Declaration on the Common African Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, adopted by the OAU Ministerial

Conference held in Bamako, Mali, from 30 November to 1 December 2000, as well as all subsequent OAU decisions on this issue;

AWARE that the problems caused by landmines and the illicit proliferation, circulation and trafficking of small arms and light weapons constitute a serious impediment to Africa's social and economic development, and that they can only be resolved within the framework of increased and well coordinated continental cooperation;

AWARE ALSO of the fact that the development of strong democratic institutions and culture, observance of human rights and the rule of law, as well as the implementation of post-conflict recovery programmes and sustainable development policies, are essential for the promotion of collective security, durable peace and stability, as well as for the prevention of conflicts;

DETERMINED to enhance our capacity to address the scourge of conflicts on the Continent and to ensure that Africa, through the African Union, plays a central role in bringing about peace, security and stability on the Continent;

DESIROUS of establishing an operational structure for the effective implementation of the decisions taken in the areas of conflict prevention, peace-making, peace support operations and intervention, as well as peace-building and post-conflict reconstruction, in accordance with the authority conferred in that regard by Article 5(2) of the Constitutive Act of the African Union;

HEREBY AGREE ON THE FOLLOWING:

Article 1 DEFINITIONS

For the purpose of this Protocol:

- a. "Protocol" shall mean the present Protocol;
- b. "Cairo Declaration" shall mean the Declaration on the Establishment, within the OAU, of the Mechanism for Conflict Prevention, Management and Resolution;
- c. "Lomé Declaration" shall mean the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government;
- d. "Constitutive Act" shall mean the Constitutive Act of the African Union;
- e. "Union" shall mean the African Union;
- f. "Assembly" shall mean the Assembly of Heads of State and Government of the African Union;
- g. "Commission" shall mean the Commission of the African Union;
- h. "Regional Mechanisms" shall mean the African Regional Mechanisms for Conflict Prevention, Management and Resolution;
- i. "Member States" shall mean Member States of the African Union.

Article 2 ESTABLISHMENT, NATURE AND STRUCTURE

1. There is hereby established, pursuant to Article 5(2) of the Constitutive Act, a Peace and Security Council within the Union, as a standing decision-making organ for the prevention, management and resolution of conflicts. The Peace and Security Council shall be a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.
2. The Peace and Security Council shall be supported by the Commission, a Panel of the Wise, a Continental Early Warning System, an African Standby Force and a Special Fund.

Article 3 OBJECTIVES

The objectives for which the Peace and Security Council is established shall be to:

- a. promote peace, security and stability in Africa, in order to guarantee the protection and preservation of life and property, the well-being of the African people and their environment, as well as the creation of conditions conducive to sustainable development;
- b. anticipate and prevent conflicts. In circumstances where conflicts have occurred, the Peace and Security Council shall have the responsibility to undertake peace-making and peacebuilding functions for the resolution of these conflicts;
- c. promote and implement peace-building and post-conflict reconstruction activities to consolidate peace and prevent the resurgence of violence;
- d. co-ordinate and harmonize continental efforts in the prevention and combating of international terrorism in all its aspects;
- e. develop a common defence policy for the Union, in accordance with article 4(d) of the Constitutive Act;
- f. promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of efforts for preventing conflicts.

Article 4 PRINCIPLES

The Peace and Security Council shall be guided by the principles enshrined in the Constitutive Act, the Charter of the United Nations and the Universal

Declaration of Human Rights. It shall, in particular, be guided by the following principles:

- a. peaceful settlement of disputes and conflicts;
- b. early responses to contain crisis situations so as to prevent them from developing into full-blown conflicts;
- c. respect for the rule of law, fundamental human rights and freedoms, the sanctity of human life and international humanitarian law;
- d. interdependence between socio-economic development and the security of peoples and States;
- e. respect for the sovereignty and territorial integrity of Member States;
- f. non interference by any Member State in the internal affairs of another;
- g. sovereign equality and interdependence of Member States;
- h. inalienable right to independent existence;
- i. respect of borders inherited on achievement of independence;
- j. the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, in accordance with Article 4(h) of the Constitutive Act;
- k. the right of Member States to request intervention from the Union in order to restore peace and security, in accordance with Article 4(j) of the Constitutive Act.

Article 5 COMPOSITION

1. The Peace and Security Council shall be composed of fifteen Members elected on the basis of equal rights, in the following manner:
 - a. ten Members elected for a term of two years; and
 - b. five Members elected for a term of three years in order to ensure continuity.
2. In electing the Members of the Peace and Security Council, the Assembly shall apply the principle of equitable regional representation and rotation, and the following criteria with regard to each prospective Member State:
 - a. commitment to uphold the principles of the Union;
 - b. contribution to the promotion and maintenance of peace and security in Africa – in this respect, experience in peace support operations would be an added advantage;
 - c. capacity and commitment to shoulder the responsibilities entailed in membership;
 - d. participation in conflict resolution, peace-making and peacebuilding at regional and continental levels;
 - e. willingness and ability to take up responsibility for regional and continental conflict resolution initiatives;
 - f. contribution to the Peace Fund and/or Special Fund created for specific purpose;
 - g. respect for constitutional governance, in accordance with the Lomé Declaration, as well as the rule of law and human rights;
 - h. having sufficiently staffed and equipped Permanent Missions at the Headquarters of the Union and the United Nations, to be able to shoulder the responsibilities which go with the membership; and
 - j. commitment to honor financial obligations to the Union.
3. A retiring Member of the Peace and Security Council shall be eligible for immediate re-election.
4. There shall be a periodic review by the Assembly to assess the extent to which the Members of the Peace and Security Council continue to meet the requirements spelt out in article 5 (2) and to take action as appropriate.

Article 6 FUNCTIONS

The Peace and Security Council shall perform functions in the following areas:

- a. promotion of peace, security and stability in Africa ;
- b. early warning and preventive diplomacy;
- c. peace-making, including the use of good offices, mediation, conciliation and enquiry;
- d. peace support operations and intervention, pursuant to article 4 (h) and (j) of the Constitutive Act;
- e. peace-building and post-conflict reconstruction;
- f. humanitarian action and disaster management;
- g. any other function as may be decided by the Assembly.

Article 7 POWERS

1. In conjunction with the Chairperson of the Commission, the Peace and Security Council shall:
 - a. anticipate and prevent disputes and conflicts, as well as policies that may lead to genocide and crimes against humanity;
 - b. undertake peace-making and peace-building functions to resolve conflicts where they have occurred;
 - c. authorize the mounting and deployment of peace support missions;

- d. lay down general guidelines for the conduct of such missions, including the mandate thereof, and undertake periodic reviews of these guidelines;
 - e. recommend to the Assembly, pursuant to Article 4(h) of the Constitutive Act, intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments;
 - f. approve the modalities for intervention by the Union in a Member State, following a decision by the Assembly, pursuant to article 4(j) of the Constitutive Act;
 - g. institute sanctions whenever an unconstitutional change of Government takes place in a Member State, as provided for in the Lomé Declaration;
 - h. implement the common defense policy of the Union;
 - i. ensure the implementation of the OAU Convention on the Prevention and Combating of Terrorism and other relevant international, continental and regional conventions and instruments and harmonize and coordinate efforts at regional and continental levels to combat international terrorism;
 - j. promote close harmonization, co-ordination and co-operation between Regional Mechanisms and the Union in the promotion and maintenance of peace, security and stability in Africa;
 - k. promote and develop a strong “partnership for peace and security” between the Union and the United Nations and its agencies, as well as with other relevant international organizations;
 - l. develop policies and action required to ensure that any external initiative in the field of peace and security on the continent takes place within the framework of the Union’s objectives and priorities;
 - m. follow-up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by Member States;
 - n. promote and encourage the implementation of OAU/AU, UN and other relevant international Conventions and Treaties on arms control and disarmament;
 - o. examine and take such appropriate action within its mandate in situations where the national independence and sovereignty of a Member State is threatened by acts of aggression, including by mercenaries;
 - p. support and facilitate humanitarian action in situations of armed conflicts or major natural disasters;
 - q. submit, through its Chairperson, regular reports to the Assembly on its activities and the state of peace and security in Africa; and
 - r. decide on any other issue having implications for the maintenance of peace, security and stability on the Continent and exercise powers that may be delegated to it by the Assembly, in accordance with Article 9 (2) of the Constitutive Act.
2. The Member States agree that in carrying out its duties under the present Protocol, the Peace and Security Council acts on their behalf.
 3. The Member States agree to accept and implement the decisions of the Peace and Security Council, in accordance with the Constitutive Act.
 4. The Member States shall extend full cooperation to, and facilitate action by the Peace and Security Council for the prevention, management and resolution of crises and conflicts, pursuant to the duties entrusted to it under the present Protocol.

Article 8 PROCEDURE

Organization and Meetings

1. The Peace and Security Council shall be so organized as to be able to function continuously. For this purpose, each Member of the Peace and Security Council shall, at all times, be represented at the Headquarters of the Union.
2. The Peace and Security Council shall meet at the level of Permanent Representatives, Ministers or Heads of State and Government. It shall convene as often as required at the level of Permanent Representatives, but at least twice a month. The Ministers and the Heads of State and Government shall meet at least once a year, respectively.
3. The meetings of the Peace and Security Council shall be held at the Headquarters of the Union.
4. In the event a Member State invites the Peace and Security Council to meet in its country, provided that two-thirds of the Peace and Security Council members agree, that Member State shall defray the additional expenses incurred by the Commission as a result of the meeting being held outside the Headquarters of the Union.

Subsidiary Bodies and Sub-Committees

5. The Peace and Security Council may establish such subsidiary bodies as it deems necessary for the performance of its functions. Such subsidiary bodies may include ad hoc committees for mediation, conciliation or enquiry, consisting of an individual State or group of States. The Peace and Security Council shall also seek such military, legal and other forms of expertise as it may require for the performance of its functions.

Chairmanship

6. The chair of the Peace and Security Council shall be held in turn by the Members of the Peace and Security Council in the alphabetical order of their names. Each Chairperson shall hold office for one calendar month.

Agenda

7. The provisional agenda of the Peace and Security Council shall be determined by the Chairperson of the Peace and Security Council on the basis of proposals submitted by the Chairperson of the Commission and Member States. The inclusion of any item in the provisional agenda may not be opposed by a Member State.

Quorum

8. The number of Members required to constitute a quorum shall be two-thirds of the total membership of the Peace and Security Council.

Conduct of Business

9. The Peace and Security Council shall hold closed meetings. Any Member of the Peace and Security Council which is party to a conflict or a situation under consideration by the Peace and Security Council shall not participate either in the discussion or in the decision making process relating to that conflict or situation. Such Member shall be invited to present its case to the Peace and Security Council as appropriate, and shall, thereafter, withdraw from the proceedings.
10. The Peace and Security Council may decide to hold open meetings.
In this regard:
 - a. any Member State which is not a Member of the Peace and Security Council, if it is party to a conflict or a situation under consideration by the Peace and Security Council, shall be invited to present its case as appropriate and shall participate, without the right to vote, in the discussion;
 - b. any Member State which is not a Member of the Peace and Security Council may be invited to participate, without the right to vote, in the discussion of any question brought before the Peace and Security Council whenever that Member State considers that its interests are especially affected;
 - c. any Regional Mechanism, international organization or civil society organization involved and/or interested in a conflict or a situation under consideration by the Peace and Security Council may be invited to participate, without the right to vote, in the discussion relating to that conflict or situation.
11. The Peace and Security Council may hold informal consultations with parties concerned by or interested in a conflict or a situation under its consideration, as well as with Regional Mechanisms, international organizations and civil society organizations as may be needed for the discharge of its responsibilities.

Voting

12. Each Member of the Peace and Security Council shall have one vote.
13. Decisions of the Peace and Security Council shall generally be guided by the principle of consensus. In cases where consensus cannot be reached, the Peace and Security Council shall adopt its decisions on procedural matters by a simple majority, while decisions on all other matters shall be made by a two-thirds majority vote of its Members voting.

Rules of Procedure

14. The Peace and Security Council shall submit its own rules of procedure, including on the convening of its meetings, the conduct of business, the publicity and records of meetings and any other relevant aspect of its work, for consideration and approval by the Assembly.

Article 9 ENTRY POINTS AND MODALITIES FOR ACTION

1. The Peace and Security Council shall take initiatives and action it deems appropriate with regard to situations of potential conflict, as well as to those that have already developed into full-blown conflicts. The Peace and Security Council shall also take all measures that are required in order to prevent a conflict for which a settlement has already been reached from escalating.
2. To that end, the Peace and Security Council shall use its discretion to effect entry, whether through the collective intervention of the Council itself, or through its Chairperson and/or the Chairperson of the Commission, the Panel of the Wise, and/or in collaboration with the Regional Mechanisms.

Article 10 THE ROLE OF THE CHAIRPERSON OF THE COMMISSION

1. The Chairperson of the Commission shall, under the authority of the Peace and Security Council, and in consultation with all parties involved in a conflict, deploy efforts and take all initiatives deemed appropriate to prevent, manage and resolve conflicts.
2. To this end, the Chairperson of the Commission:
 - a. shall bring to the attention of the Peace and Security Council any matter, which, in his/her opinion, may threaten peace, security and stability in the Continent;
 - b. may bring to the attention of the Panel of the Wise any matter which, in his/her opinion, deserves their attention;

- c. may, at his/her own initiative or when so requested by the Peace and Security Council, use his/her good offices, either personally or through special envoys, special representatives, the Panel of the Wise or the Regional Mechanisms, to prevent potential conflicts, resolve actual conflicts and promote peacebuilding and post-conflict reconstruction.
- 3. The Chairperson of the Commission shall also:
 - a. ensure the implementation and follow-up of the decisions of the Peace and Security Council, including mounting and deploying peace support missions authorized by the Peace and Security Council. In this respect, the Chairperson of the Commission shall keep the Peace and Security Council informed of developments relating to the functioning of such missions. All problems likely to affect the continued and effective functioning of these missions shall be referred to the Peace and Security Council, for its consideration and appropriate action;
 - b. ensure the implementation and follow-up of the decisions taken by the Assembly in conformity with Article 4 (h) and (j) of the Constitutive Act;
 - c. prepare comprehensive and periodic reports and documents, as required, to enable the Peace Security Council and its subsidiary bodies to perform their functions effectively.
- 4. In the exercise of his/her functions and powers, the Chairperson of the Commission shall be assisted by the Commissioner in charge of Peace and Security, who shall be responsible for the affairs of the Peace and Security Council. The Chairperson of the Commission shall rely on human and material resources available at the Commission, for servicing and providing support to the Peace and Security Council. In this regard, a Peace and Security Council Secretariat shall be established within the Directorate dealing with conflict prevention, management and resolution.

Article 11 PANEL OF THE WISE

- 1. In order to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission, particularly in the area of conflict prevention, a Panel of the Wise shall be established.
- 2. The Panel of the Wise shall be composed of five highly respected African personalities from various segments of society who have made outstanding contribution to the cause of peace, security and development on the continent. They shall be selected by the Chairperson of the Commission after consultation with the Member States concerned, on the basis of regional representation and appointed by the Assembly to serve for a period of three years.
- 3. The Panel of the Wise shall advise the Peace and Security Council and the Chairperson of the Commission on all issues pertaining to the promotion, and maintenance of peace, security and stability in Africa.
- 4. At the request of the Peace and Security Council or the Chairperson of the Commission, or at its own initiative, the Panel of the Wise shall undertake such action deemed appropriate to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission for the prevention of conflicts, and to pronounce itself on issues relating to the promotion and maintenance of peace, security and stability in Africa.
- 5. The Panel of the Wise shall report to the Peace and Security Council and, through the Peace and Security Council, to the Assembly.
- 6. The Panel of the Wise shall meet as may be required for the performance of its mandate. The Panel of the Wise shall normally hold its meetings at the Headquarters of the Union. In consultation with the Chairperson of the Commission, the Panel of the Wise may hold meetings at such places other than the Headquarters of the Union.
- 7. The modalities for the functioning of the Panel of the Wise shall be worked out by the Chairperson of the Commission and approved by the Peace and Security Council.
- 8. The allowances of members of the Panel of the Wise shall be determined by the Chairperson of the Commission in accordance with the Financial Rules and Regulations of the Union.

Article 12 CONTINENTAL EARLY WARNING SYSTEM

- 1. In order to facilitate the anticipation and prevention of conflicts, a Continental Early Warning System to be known as the Early Warning System shall be established.
- 2. The Early Warning System shall consist of:
 - a. an observation and monitoring centre, to be known as "The Situation Room", located at the Conflict Management Directorate of the Union, and responsible for data collection and analysis on the basis of an appropriate early warning indicators module; and
 - b. observation and monitoring units of the Regional Mechanisms to be linked directly through appropriate means of communications to the Situation Room, and which shall collect and process data at their level and transmit the same to the Situation Room.
- 3. The Commission shall also collaborate with the United Nations, its agencies, other relevant international organizations, research centers, academic institutions and NGOs, to facilitate the effective functioning of the Early Warning System.
- 4. The Early Warning System shall develop an early warning module based on clearly defined and accepted political, economic, social, military and humanitarian indicators, which shall be used to analyze developments

within the continent and to recommend the best course of action.

5. The Chairperson of the Commission shall use the information gathered through the Early Warning System timeously to advise the Peace and Security Council on potential conflicts and threats to peace and security in Africa and recommend the best course of action. The Chairperson of the Commission shall also use this information for the execution of the responsibilities and functions entrusted to him/her under the present Protocol.
6. The Member States shall commit themselves to facilitate early action by the Peace and Security Council and or the Chairperson of the Commission based on early warning information.
7. The Chairperson of the Commission shall, in consultation with Member States, the Regional Mechanisms, the United Nations and other relevant institutions, work out the practical details for the establishment of the Early Warning System and take all the steps required for its effective functioning.

Article 13 AFRICAN STANDBY FORCE

Composition

1. In order to enable the Peace and Security Council perform its responsibilities with respect to the deployment of peace support missions and intervention pursuant to article 4 (h) and (j) of the Constitutive Act, an African Standby Force shall be established. Such Force shall be composed of standby multidisciplinary contingents, with civilian and military components in their countries of origin and ready for rapid deployment at appropriate notice.
2. For that purpose, the Member States shall take steps to establish standby contingents for participation in peace support missions decided on by the Peace and Security Council or intervention authorized by the Assembly. The strength and types of such contingents, their degree of readiness and general location shall be determined in accordance with established African Union Peace Support Standard Operating Procedures (SOPs), and shall be subject to periodic reviews depending on prevailing crisis and conflict situations.

Mandate

3. The African Standby Force shall, inter alia, perform functions in the following areas:
 - a. observation and monitoring missions;
 - b. other types of peace support missions;
 - c. intervention in a Member State in respect of grave circumstances or at the request of a Member State in order to restore peace and security, in accordance with Article 4(h) and (j) of the Constitutive Act;
 - d. preventive deployment in order to prevent (i) a dispute or a conflict from escalating, (ii) an ongoing violent conflict from spreading to neighboring areas or States, and (iii) the resurgence of violence after parties to a conflict have reached an agreement;
 - e. peace-building, including post-conflict disarmament and demobilization;
 - f. humanitarian assistance to alleviate the suffering of civilian population in conflict areas and support efforts to address major natural disasters; and
 - g. any other functions as may be mandated by the Peace and Security Council or the Assembly.
4. In undertaking these functions, the African Standby Force shall, where appropriate, cooperate with the United Nations and its Agencies, other relevant international organizations and regional organizations, as well as with national authorities and NGOs.
5. The detailed tasks of the African Standby Force and its modus operandi for each authorized mission shall be considered and approved by the Peace and Security Council upon recommendation of the Commission.

Chain of Command

6. For each operation undertaken by the African Standby Force, the Chairperson of the Commission shall appoint a Special Representative and a Force Commander, whose detailed roles and functions shall be spelt out in appropriate directives, in accordance with the Peace Support Standing Operating Procedures.
7. The Special Representative shall, through appropriate channels, report to the Chairperson of the Commission. The Force Commander shall report to the Special Representative. Contingent Commanders shall report to the Force Commander, while the civilian components shall report to the Special Representative.

Military Staff Committee

8. There shall be established a Military Staff Committee to advise and assist the Peace and Security Council in all questions relating to military and security requirements for the promotion and maintenance of peace and security in Africa.
9. The Military Staff Committee shall be composed of Senior Military Officers of the Members of the Peace and Security Council. Any Member State not represented on the Military Staff Committee may be invited by the Committee to participate in its deliberations when it is so required for the efficient discharge of the Committee's responsibilities.
10. The Military Staff Committee shall meet as often as required to deliberate on matters referred to it by the Peace and Security Council.

11. The Military Staff Committee may also meet at the level of the Chief of Defence Staff of the Members of the Peace and Security Council to discuss questions relating to the military and security requirements for the promotion and maintenance of peace and security in Africa. The Chiefs of Defence Staff shall submit to the Chairperson of the Commission recommendations on how to enhance Africa's peace support capacities.
12. The Chairperson of the Commission shall take all appropriate steps for the convening of and follow-up of the meetings of the Chiefs of Defence Staff of Members of the Peace and Security Council.

Training

13. The Commission shall provide guidelines for the training of the civilian and military personnel of national standby contingents at both operational and tactical levels. Training on International Humanitarian Law and International Human Rights Law, with particular emphasis on the rights of women and children, shall be an integral part of the training of such personnel.
14. To that end, the Commission shall expedite the development and circulation of appropriate Standing Operating Procedures to inter-alia :
 - a. support standardization of training doctrines, manuals and programmes for national and regional schools of excellence;
 - b. co-ordinate the African Standby Force training courses, command and staff exercises, as well as field training exercises.
15. The Commission shall, in collaboration with the United Nations, undertake periodic assessment of African peace support capacities.
16. The Commission shall, in consultation with the United Nations Secretariat, assist in the co-ordination of external initiatives in support of the African Standby Force capacity -building in training, logistics, equipment, communications and funding.

Role of Member States

17. In addition to their responsibilities as stipulated under the present Protocol:
 - a. troop contributing countries States shall immediately, upon request by the Commission, following an authorization by the Peace and Security Council or the Assembly, release the standby contingents with the necessary equipment for the operations envisaged under Article 13(3) of the present Protocol;
 - b. Member States shall commit themselves to make available to the Union all forms of assistance and support required for the promotion and maintenance of peace, security and stability on the Continent, including rights of passage through their territories.

Article 14 PEACE BUILDING

Institutional Capacity for Peace-building

1. In post-conflict situations, the Peace and Security Council shall assist in the restoration of the rule of law, establishment and development of democratic institutions and the preparation, organization and supervision of elections in the concerned Member State.

Peace-building during Hostilities

2. In areas of relative peace, priority shall be accorded to the implementation of policy designed to reduce degradation of social and economic conditions arising from conflicts.

Peace-building at the End of Hostilities

3. To assist Member States that have been adversely affected by violent conflicts, the Peace and Security Council shall undertake the following activities:
 - a. consolidation of the peace agreements that have been negotiated;
 - b. establishment of conditions of political, social and economic reconstruction of the society and Government institutions;
 - c. implementation of disarmament, demobilization and reintegration programmes, including those for child soldiers;
 - d. resettlement and reintegration of refugees and internally displaced persons;
 - e. assistance to vulnerable persons, including children, the elderly, women and other traumatized groups in the society.

Article 15 HUMANITARIAN ACTION

1. The Peace and Security Council shall take active part in coordinating and conducting humanitarian action in order to restore life to normalcy in the event of conflicts or natural disasters.
2. In this regard, the Peace and Security Council shall develop its own capacity to efficiently undertake humanitarian action.
3. The African Standby Force shall be adequately equipped to undertake humanitarian activities in their mission areas under the control of the Chairperson of the Commission.

4. The African Standby Force shall facilitate the activities of the humanitarian agencies in the mission areas.

Article 16 RELATIONSHIP WITH REGIONAL MECHANISMS FOR CONFLICT PREVENTION, MANAGEMENT AND RESOLUTION

1. The Regional Mechanisms are part of the overall security architecture of the Union, which has the primary responsibility for promoting peace, security and stability in Africa. In this respect, the Peace and Security Council and the Chairperson of the Commission, shall:
 - a. harmonize and coordinate the activities of Regional Mechanisms in the field of peace, security and stability to ensure that these activities are consistent with the objectives and principles of the Union;
 - b. work closely with Regional Mechanisms, to ensure effective partnership between them and the Peace and Security Council in the promotion and maintenance of peace, security and stability . The modalities of such partnership shall be determined by the comparative advantage of each and the prevailing circumstances.
2. The Peace and Security Council shall, in consultation with Regional Mechanisms, promote initiatives aimed at anticipating and preventing conflicts and, in circumstances where conflicts have occurred, peacemaking and peace-building functions.
3. In undertaking these efforts, Regional Mechanisms concerned shall, through the Chairperson of the Commission, keep the Peace and Security Council fully and continuously informed of their activities and ensure that these activities are closely harmonized and coordinated with the activities of Peace and Security Council. The Peace and Security Council shall, through the Chairperson of the Commission, also keep the Regional Mechanisms fully and continuously informed of its activities.
4. In order to ensure close harmonization and coordination and facilitate regular exchange of information, the Chairperson of the Commission shall convene periodic meetings, but at least once a year, with the Chief Executives and/or the officials in charge of peace and security within the Regional Mechanisms.
5. The Chairperson of the Commission shall take the necessary measures, where appropriate, to ensure the full involvement of Regional Mechanisms in the establishment and effective functioning of the Early Warning System and the African Standby Force.
6. Regional Mechanisms shall be invited to participate in the discussion of any question brought before the Peace and Security Council whenever that question is being addressed by a Regional Mechanism is of special interest to that Organization.
7. The Chairperson of the Commission shall be invited to participate in meetings and deliberations of Regional Mechanisms.
8. In order to strengthen coordination and cooperation, the Commission shall establish liaison offices to the Regional Mechanisms. The Regional Mechanisms shall be encouraged to establish liaison offices to the Commission.
9. On the basis of the above provisions, a Memorandum of Understanding on Cooperation shall be concluded between the Commission and the Regional Mechanisms.

Article 17 RELATIONSHIP WITH THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS

1. In the fulfillment of its mandate in the promotion and maintenance of peace, security and stability in Africa, the Peace and Security Council shall cooperate and work closely with the United Nations Security Council, which has the primary responsibility for the maintenance of international peace and security. The Peace and Security Council shall also cooperate and work closely with other relevant UN Agencies in the promotion of peace, security and stability in Africa.
2. Where necessary, recourse will be made to the United Nations to provide the necessary financial, logistical and military support for the African Unions' activities in the promotion and maintenance of peace, security and stability in Africa, in keeping with the provisions of Chapter VIII of the UN Charter on the role of Regional Organizations in the maintenance of international peace and security.
3. The Peace and Security Council and the Chairperson of the Commission shall maintain close and continued interaction with the United Nations Security Council, its African members, as well as with the Secretary-General, including holding periodic meetings and regular consultations on questions of peace, security and stability in Africa.
4. The Peace and Security Council shall also cooperate and work closely with other relevant international organizations on issues of peace, security and stability in Africa. Such organizations may be invited to address the Peace and Security Council on issues of common interest, if the latter considers that the efficient discharge of its responsibilities does so require.

Article 18 RELATIONSHIP WITH THE PAN AFRICAN PARLIAMENT

1. The Mechanism shall maintain close working relations with the Pan-African Parliament in furtherance of peace, security and stability in Africa.
2. The Peace and Security Council shall, whenever so requested by the Pan African Parliament, submit, through the Chairperson of the Commission, reports to the Pan-African Parliament, in order to facilitate the discharge by the latter of its responsibilities relating to the maintenance of peace, security and stability in Africa.

3. The Chairperson of the Commission shall present to the Pan-African Parliament an annual report on the state of peace and security in the continent. The Chairperson of the Commission shall also take all steps required to facilitate the exercise by the Pan-African Parliament of its powers, as stipulated in Article 11 (5) of the Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament, as well as in Article 11 (9) in so far as it relates to the objective of promoting peace, security and stability as spelt out in Article 3 (5) of the said Protocol.

Article 19 RELATIONSHIP WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

The Peace and Security Council shall seek close cooperation with the African Commission on Human and Peoples' Rights in all matters relevant to its objectives and mandate. The Commission on Human and Peoples' Rights shall bring to the attention of the Peace and Security Council any information relevant to the objectives and mandate of the Peace and Security Council.

Article 20 RELATIONS WITH CIVIL SOCIETY ORGANIZATIONS

The Peace and Security Council shall encourage non-governmental organizations, community-based and other civil society organizations, particularly women's organizations, to participate actively in the efforts aimed at promoting peace, security and stability in Africa. When required, such organizations may be invited to address the Peace and Security Council.

Article 21 FUNDING

Peace Fund

1. In order to provide the necessary financial resources for peace support missions and other operational activities related to peace and security, a Special Fund, to be known as the Peace Fund, shall be established. The operations of the Peace Fund shall be governed by the relevant Financial Rules and Regulations of the Union.
2. The Peace Fund shall be made up of financial appropriations from the regular budget of Union, including arrears of contributions, voluntary contributions from Member States and from other sources within Africa, including the private sector, civil society and individuals, as well as through appropriate fund raising activities.
3. The Chairperson of the Commission shall raise and accept voluntary contributions from sources outside Africa, in conformity with the objectives and principles of the Union.
4. There shall also be established, within the Peace Fund, a revolving Trust Fund. The appropriate amount of the revolving Trust Fund shall be determined by the relevant Policy Organs of the Union upon recommendation by the Peace and Security Council.

Assessment of Cost of Operations and Pre -financing

5. When required, and following a decision by the relevant Policy Organs of the Union, the cost of the operations envisaged under Article 13 (3) of the present Protocol shall be assessed to Member States based on the scale of their contributions to the regular budget of the Union.
6. The States contributing contingents may be invited to bear the cost of their participation during the first three (3) months.
7. The Union shall refund the expenses incurred by the concerned contributing States within a maximum period of six (6) months and then proceed to finance the operations.

Article 22 FINAL PROVISIONS

Status of the Protocol in relation to the Cairo Declaration

1. The present Protocol shall replace the Cairo Declaration.
2. The provisions of this Protocol shall supercede the resolutions and decisions of the OAU relating to the Mechanism for Conflict Prevention, Management and Resolution in Africa, which are in conflict with the present Protocol.

Signature, Ratification and Accession

3. The present Protocol shall be open for signature, ratification or accession by the Member States of the Union in accordance with their respective constitutional procedures.
4. The instruments of ratification shall be deposited with the Chairperson Commission Entry into Force
5. The present Protocol shall enter into force upon the deposit of the instruments of ratification by a simple majority of the Member States of the Union.

Amendments

6. Any amendment or revision of the present Protocol shall be in accordance with the provisions of Article 32 of the Constitutive Act.

Depository Authority

7. This Protocol and all instruments of ratification shall be deposited with the Chairperson of the Commission, who shall transmit certified true copies to all Member States and notify them of the dates of deposit of the instruments of ratification by the Member States and shall register it with the United Nations and any other Organization as may be decided by the Union.

Adopted by the 1st Ordinary Session of the Assembly of the African Union Durban, 9 July 2002

1. People's Democratic Republic of Algeria
2. Republic of Angola
3. Republic of Benin
4. Republic of Botswana
5. Burkina Faso
6. Republic of Burundi
7. Republic of Cameroon
8. Republic of Cape Verde
9. Central African Republic
10. Republic of Chad
11. Union of the Comoros
12. Republic of the Congo
13. Republic of Côte d'Ivoire
14. Democratic Republic of Congo
15. Republic of Djibouti
16. Arab Republic of Egypt
17. State of Eritrea
18. Federal Democratic Republic of Ethiopia
19. Republic of Equatorial Guinea
20. Republic of Gabon
21. Republic of The Gambia
22. Republic of Ghana
23. Republic of Guinea
24. Republic of Guinea Bissau
25. Republic of Kenya
26. Kingdom of Lesotho
27. Republic of Liberia
28. Great Socialist People's Libyan Arab Jamahiriya
29. Republic of Madagascar
30. Republic of Malawi
31. Republic of Mali
32. Islamic Republic of Mauritania
33. Republic of Mauritius
34. Republic of Mozambique
35. Republic of Namibia
36. Republic of Niger
37. Federal Republic of Nigeria
38. Republic of Rwanda
39. Sahrawi Arab Democratic Republic
40. Republic of Sao Tome and Principe
41. Republic of Senegal
42. Republic of Seychelles
43. Republic of Sierra Leone
44. Republic of Somalia
45. Republic of South Africa
46. Republic of Sudan
47. Kingdom of Swaziland
48. United Republic of Tanzania
49. Republic of Togo
50. Republic of Tunisia
51. Republic of Uganda
52. Republic of Zambia
53. Republic of Zimbabwe

African Union (AU), Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003, Maputo, Mozambique)

The States Parties to this Protocol,

CONSIDERING that Article 66 of the African Charter on Human and Peoples' Rights provides for special protocols or agreements, if necessary, to supplement the provisions of the African Charter, and that the Assembly of Heads of State and Government of the Organization of African Unity meeting in its Thirty-first Ordinary Session in Addis Ababa, Ethiopia, in June 1995, endorsed by resolution AHG/Res.240 (XXXI) the recommendation of the African Commission on Human and Peoples' Rights to elaborate a Protocol on the Rights of Women in Africa;

CONSIDERING that Article 2 of the African Charter on Human and Peoples' Rights enshrines the principle of non-discrimination on the grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;

FURTHER CONSIDERING that Article 18 of the African Charter on Human and Peoples' Rights calls on all States Parties to eliminate every discrimination against women and to ensure the protection of the rights of women as stipulated in international declarations and conventions;

NOTING that Articles 60 and 61 of the African Charter on Human and Peoples' Rights recognise regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for the application and interpretation of the African Charter;

RECALLING that women's rights have been recognised and guaranteed in all international human rights instruments, notably the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the African Charter on the Rights and Welfare of the Child, and all other international and regional conventions and covenants relating to the rights of women as being inalienable, interdependent and indivisible human rights;

NOTING that women's rights and women's essential role in development, have been reaffirmed in the United Nations Plans of Action on the Environment and Development in 1992, on Human Rights in 1993, on Population and Development in 1994 and on Social Development in 1995;

RECALLING ALSO United Nations Security Council's Resolution 1325 (2000) on the role of Women in promoting peace and security;

REAFFIRMING the principle of promoting gender equality as enshrined in the Constitutive Act of the African Union as well as the New Partnership for Africa's Development, relevant Declarations, Resolutions and Decisions, which underline the commitment of the African States to ensure the full participation of African women as equal partners in Africa's development;

FURTHER NOTING that the African Platform for Action and the Dakar Declaration of 1994 and the Beijing Platform for Action of 1995 call on all Member States of the United Nations, which have made a solemn commitment to implement them, to take concrete steps to give greater attention to the human rights of women in order to eliminate all forms of discrimination and of gender-based violence against women;

RECOGNISING the crucial role of women in the preservation of African values based on the principles of equality, peace, freedom, dignity, justice, solidarity and democracy;

BEARING IN MIND related Resolutions, Declarations, Recommendations, Decisions, Conventions and other Regional and Sub-Regional Instruments aimed at eliminating all forms of discrimination and at promoting equality between women and men;

CONCERNED that despite the ratification of the African Charter on Human and Peoples' Rights and other international human rights instruments by the majority of States Parties, and their solemn commitment to eliminate all forms of discrimination and harmful practices against women, women in Africa still continue to be victims of discrimination and harmful practices;

FIRMLY CONVINCED that any practice that hinders or endangers the normal growth and affects the physical and psychological development of women and girls should be condemned and eliminated;

DETERMINED to ensure that the rights of women are promoted, realised and protected in order to enable them to enjoy fully all their human rights;

HAVE AGREED AS FOLLOWS:

Article 1 Definitions

For the purpose of the present Protocol:

- a. "African Charter" means the African Charter on Human and Peoples' Rights;
- b. "African Commission" means the African Commission on Human and Peoples' Rights;
- c. "Assembly" means the Assembly of Heads of State and Government of the African Union;
- d. "AU" means the African Union ;
- e. "Constitutive Act" means the Constitutive Act of the African Union;
- f. "Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life;
- g. "Harmful Practices" means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity;
- h. "NEPAD" means the New Partnership for Africa's Development established by the Assembly;
- i. "States Parties" means the States Parties to this Protocol;
- j. "Violence against women" means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peace time and during situations of armed conflicts or of war;
- k. "Women" means persons of female gender, including girls.

Article 2 Elimination of Discrimination Against Women

1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:
 - a. include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;
 - b. enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
 - c. integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
 - d. take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
 - e. support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.
2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.

Article 3 Right to Dignity

1. Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights;
2. Every woman shall have the right to respect as a person and to the free development of her personality;
3. States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women;
4. States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

Article 4 The Rights to Life, Integrity and Security of the Person

1. Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.
2. States Parties shall take appropriate and effective measures to:
 - a. enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
 - b. adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
 - c. identify the causes and consequences of violence against women and take appropriate measures to prevent

and eliminate such violence;

- d. actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimise and exacerbate the persistence and tolerance of violence against women;
- e. punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;
- f. establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;
- g. prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk;
- h. prohibit all medical or scientific experiments on women without their informed consent;
- i. provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating violence against women;
- j. ensure that, in those countries where the death penalty still exists, not to carry out death sentences on pregnant or nursing women;
- k. ensure that women and men enjoy equal rights in terms of access to refugee status, determination procedures and that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity and other documents.

Article 5 Elimination of Harmful Practices

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognised international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:

- a. creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes;
- b. prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalisation and Para-medicalisation of female genital mutilation and all other practices in order to eradicate them;
- c. provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self supporting;
- d. protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

Article 6 Marriage

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:

- a. no marriage shall take place without the free and full consent of both parties;
- b. the minimum age of marriage for women shall be 18 years;
- c. monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected;
- d. every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognised;
- e. the husband and wife shall, by mutual agreement, choose their matrimonial regime and place of residence;
- f. a married woman shall have the right to retain her maiden name, to use it as she pleases, jointly or separately with her husband's surname;
- g. a woman shall have the right to retain her nationality or to acquire the nationality of her husband;
- h. a woman and a man shall have equal rights, with respect to the nationality of their children except where this is contrary to a provision in national legislation or is contrary to national security interests;
- i. a woman and a man shall jointly contribute to safeguarding the interests of the family, protecting and educating their children;
- j. during her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

Article 7 Separation, Divorce and Annulment of Marriage

States Parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. In this regard, they shall ensure that:

- a. separation, divorce or annulment of a marriage shall be effected by judicial order;
- b. women and men shall have the same rights to seek separation, divorce or annulment of a marriage;

- c. in case of separation, divorce or annulment of marriage, women and men shall have reciprocal rights and responsibilities towards their children. In any case, the interests of the children shall be given paramount importance;
- d. in case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage.

Article 8 Access to Justice and Equal Protection before the Law

Women and men are equal before the law and shall have the right to equal protection and benefit of the law. States Parties shall take all appropriate measures to ensure:

- a. effective access by women to judicial and legal services, including legal aid;
- b. support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid;
- c. the establishment of adequate educational and other appropriate structures with particular attention to women and to sensitise everyone to the rights of women;
- d. that law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights;
- e. that women are represented equally in the judiciary and law enforcement organs;
- f. reform of existing discriminatory laws and practices in order to promote and protect the rights of women.

Article 9 Right to Participation in the Political and Decision-Making Process

1. States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that:
 - a. women participate without any discrimination in all elections;
 - b. women are represented equally at all levels with men in all electoral processes;
 - c. women are equal partners with men at all levels of development and implementation of State policies and development programmes.
2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

Article 10 Right to Peace

1. Women have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace.
2. States Parties shall take all appropriate measures to ensure the increased participation of women:
 - a. in programmes of education for peace and a culture of peace;
 - b. in the structures and processes for conflict prevention, management and resolution at local, national, regional, continental and international levels;
 - c. in the local, national, regional, continental and international decision making structures to ensure physical, psychological, social and legal protection of asylum seekers, refugees, returnees and displaced persons, in particular women;
 - d. in all levels of the structures established for the management of camps and settlements for asylum seekers, refugees, returnees and displaced persons, in particular, women;
 - e. in all aspects of planning, formulation and implementation of post conflict reconstruction and rehabilitation.
3. States Parties shall take the necessary measures to reduce military expenditure significantly in favour of spending on social development in general, and the promotion of women in particular.

Article 11 Protection of Women in Armed Conflicts

1. States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations which affect the population, particularly women.
2. States Parties shall, in accordance with the obligations incumbent upon them under the international humanitarian law, protect civilians including women, irrespective of the population to which they belong, in the event of armed conflict.
3. States Parties undertake to protect asylum seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.
4. States Parties shall take all necessary measures to ensure that no child, especially girls under 18 years of age, take a direct part in hostilities and that no child is recruited as a soldier.

Article 12 Right to Education and Training

1. States Parties shall take all appropriate measures to:

- a. eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training;
 - b. eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination;
 - c. protect women, especially the girl-child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;
 - d. provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;
 - e. integrate gender sensitisation and human rights education at all levels of education curricula including teacher training.
2. States Parties shall take specific positive action to:
- a. promote literacy among women;
 - b. promote education and training for women at all levels and in all disciplines, particularly in the fields of science and technology;
 - c. promote the enrolment and retention of girls in schools and other training institutions and the organisation of programmes for women who leave school prematurely.

Article 13 Economic and Social Welfare Rights

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall:

- a. promote equality of access to employment;
- b. promote the right to equal remuneration for jobs of equal value for women and men;
- c. ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace;
- d. guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognised and guaranteed by conventions, laws and regulations in force;
- e. create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector;
- f. establish a system of protection and social insurance for women working in the informal sector and sensitise them to adhere to it;
- g. introduce a minimum age for work and prohibit the employment of children below that age, and prohibit, combat and punish all forms of exploitation of children, especially the girl-child;
- h. take the necessary measures to recognise the economic value of the work of women in the home;
- i. guarantee adequate and paid pre and post-natal maternity leave in both the private and public sectors;
- j. ensure the equal application of taxation laws to women and men;
- k. recognise and enforce the right of salaried women to the same allowances and entitlements as those granted to salaried men for their spouses and children;
- l. recognise that both parents bear the primary responsibility for the upbringing and development of children and that this is a social function for which the State and the private sector have secondary responsibility;
- m. take effective legislative and administrative measures to prevent the exploitation and abuse of women in advertising and pornography.

Article 14 Health and Reproductive Rights

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes:
 - a. the right to control their fertility;
 - b. the right to decide whether to have children, the number of children and the spacing of children;
 - c. the right to choose any method of contraception;
 - d. the right to self protection and to be protected against sexually transmitted infections, including HIV/AIDS;
 - e. the right to be informed on one's health status and on the health status of one's partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognised standards and best practices;
 - g. the right to have family planning education.
2. States Parties shall take all appropriate measures to:
 - a. provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas;
 - b. establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services for women during pregnancy and while they are breastfeeding;

- c. protect the reproductive rights of women by authorising medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the foetus.

Article 15 Right to Food Security

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to:

- a. provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food;
- b. establish adequate systems of supply and storage to ensure food security.

Article 16 Right to Adequate Housing

Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.

Article 17 Right to Positive Cultural Context

1. Women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies.
2. States Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels.

Article 18 Right to a Healthy and Sustainable Environment

1. Women shall have the right to live in a healthy and sustainable environment.
2. States Parties shall take all appropriate measures to:
 - a. ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;
 - b. promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies and facilitate women's access to, and participation in their control;
 - c. protect and enable the development of women's indigenous knowledge systems;
 - c. regulate the management, processing, storage and disposal of domestic waste;
 - d. ensure that proper standards are followed for the storage, transportation and disposal of toxic waste.

Article 19 Right to Sustainable Development

Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to:

- a. introduce the gender perspective in the national development planning procedures;
- b. ensure participation of women at all levels in the conceptualisation, decisionmaking, implementation and evaluation of development policies and programmes;
- c. promote women's access to and control over productive resources such as land and guarantee their right to property;
- d. promote women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women;
- e. take into account indicators of human development specifically relating to women in the elaboration of development policies and programmes; and
- f. ensure that the negative effects of globalisation and any adverse effects of the implementation of trade and economic policies and programmes are reduced to the minimum for women.

Article 20 Widows' Rights

States Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions:

- a. that widows are not subjected to inhuman, humiliating or degrading treatment;
- b. a widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;
- c. a widow shall have the right to remarry, and in that event, to marry the person of her choice.

Article 21 Right to Inheritance

1. A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.
2. Women and men shall have the right to inherit, in equitable shares, their parents' properties.

Article 22 Special Protection of Elderly Women

The States Parties undertake to:

- a. provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training;
- b. ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age and the right to be treated with dignity.

Article 23 Special Protection of Women with Disabilities

The States Parties undertake to:

- a. ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision-making;
- b. ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.

Article 24 Special Protection of Women in Distress

The States Parties undertake to:

- a. ensure the protection of poor women and women heads of families including women from marginalized population groups and provide them an environment suitable to their condition and their special physical, economic and social needs;
- b. ensure the right of pregnant or nursing women or women in detention by providing them with an environment which is suitable to their condition and the right to be treated with dignity.

Article 25 Remedies

States Parties shall undertake to:

- a. provide for appropriate remedies to any woman whose rights or freedoms, as herein recognised, have been violated ;
- b. ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

Article 26 Implementation and Monitoring

1. States Parties shall ensure the implementation of this Protocol at national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realisation of the rights herein recognised.
2. States Parties undertake to adopt all necessary measures and in particular shall provide budgetary and other resources for the full and effective implementation of the rights herein recognised.

Article 27 Interpretation

The African Court on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application or implementation of this Protocol.

Article 28 Signature, Ratification and Accession

1. This Protocol shall be open for signature, ratification and accession by the States Parties, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the AU.

Article 29 Entry into Force

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15) instrument of ratification.
2. For each State Party that accedes to this Protocol after its coming into force, the Protocol shall come into force on the date of deposit of the instrument of accession.
3. The Chairperson of the Commission of the AU shall notify all Member States of the coming into force of this Protocol.

Article 30 Amendment and Revision

1. Any State Party may submit proposals for the amendment or revision of this Protocol.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission of the AU who shall transmit the same to the States Parties within thirty (30) days of receipt thereof.
3. The Assembly, upon advice of the African Commission, shall examine these proposals within a period of one (1) year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Assembly by a simple majority.
5. The amendment shall come into force for each State Party, which has accepted it thirty (30) days after the Chairperson of the Commission of the AU has received notice of the acceptance.

Article 31 Status of the Present Protocol

None of the provisions of the present Protocol shall affect more favourable provisions for the realisation of the rights

of women contained in the national legislation of States Parties or in any other regional, continental or international conventions, treaties or agreements applicable in these States Parties.

Article 32 Transitional Provisions

Pending the establishment of the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application and implementation of this Protocol.

Adopted by the 2nd Ordinary Session
of the Assembly of the Union
Maputo, 11 July 2003

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

1. People's Democratic Republic of Algeria	28. Great Socialist People's Libyan Arab Jamahiriya
2. Republic of Angola	29. Republic of Madagascar
3. Republic of Benin	30. Republic of Malawi
4. Republic of Botswana	31. Republic of Mali
5. Burkina Faso	32. Islamic Republic of Mauritania
6. Republic of Burundi	33. Republic of Mauritius
7. Republic of Cameroon	34. Republic of Mozambique
8. Republic of Cape Verde	35. Republic of Namibia
9. Central African Republic	36. Republic of Niger
10. Republic of Chad	37. Federal Republic of Nigeria
11. Union of the Comoros	38. Republic of Rwanda
12. Republic of the Congo	39. Sahrawi Arab Democratic Republic
13. Republic of Côte d'Ivoire	40. Republic of Sao Tome and Principe
14. Democratic Republic of Congo	41. Republic of Senegal
15. Republic of Djibouti	42. Republic of Seychelles
16. Arab Republic of Egypt	43. Republic of Sierra Leone
17. State of Eritrea	44. Republic of Somalia
18. Federal Democratic Republic of Ethiopia	45. Republic of South Africa
19. Republic of Equatorial Guinea	46. Republic of Sudan
20. Republic of Gabon	47. Kingdom of Swaziland
21. Republic of The Gambia	48. United Republic of Tanzania
22. Republic of Ghana	49. Republic of Togo
23. Republic of Guinea	50. Republic of Tunisia
24. Republic of Guinea Bissau	51. Republic of Uganda
25. Republic of Kenya	52. Republic of Zambia
26. Kingdom of Lesotho	53. Republic of Zimbabwe
27. Republic of Liberia	

African Union (AU), Solemn Declaration on Gender Equality in Africa (2004, Addis Ababa, Ethiopia)

We, the Heads of State and Government of Member States of the African Union, meeting in the Third Ordinary Session of our Assembly in Addis Ababa, Ethiopia, from 6-8 July 2004:

REAFFIRMING our commitment to the principle of gender equality as enshrined in Article 4 (I) of the Constitutive Act of the African Union, as well as other existing commitments, principles, goals and actions set out in the various regional, continental and international instruments on human and women's rights, including the Dakar Platform for Action (1994), the Beijing Platform for Action (1995), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW - 1979), the African Plan of Action to Accelerate the Implementation of the Dakar and Beijing Platforms for Action for the Advancement of Women (1999); the Outcome Document of the Twenty-third Special Session of the United Nations General Assembly Special Session on the Implementation of the Beijing Platform for Action (2000); UN Resolution 1325 (2000) on Women, Peace and Security; and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003);

STANDING BY OUR DECISION on gender parity taken at the Inaugural Session of the AU Assembly of Heads of State and Government in July 2002 in Durban, South Africa implemented during the Second Ordinary Session of the Assembly in Maputo, Mozambique, 2003 through the election of five female and five male Commissioners;

NOTING with satisfaction that our Decision on gender parity is a historic achievement that does not yet exist in any other continent or regional organizations;

RE-AFFIRMING our commitment to continue, expand and accelerate efforts to promote gender equality at all levels; DETERMINED to build on the progress that we have achieved in addressing issues of major concern to the women of Africa;

TAKING COGNIZANCE of the landmark decision to adopt the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa during the Second Ordinary Session of the Assembly in Maputo, Mozambique, 2003;

NOTING the decision of the Chairperson of the African Union Commission to transform the African Women's Committee on Peace and Development (AWCPD) into the African Union Women's Committee (AUWC), which will be located in the Gender Directorate and serve as an Advisory Body to the Chairperson on Gender and Development;

RECOGNIZING that major challenges and obstacles to gender equality still remain and require concerted and collective leadership and efforts from all of us including networks working on gender and development;

DEEPLY CONCERNED about the status of women and the negative impacts on women of issues such the high incidence of HIV/AIDS among girls and women, conflict, poverty, harmful traditional practices, high population of refugee women and internally displaced women, violence against women, women's exclusion from politics and decision-making, and illiteracy, limited access of girls to education;

AWARE of the policies and programmes we have put in place to curb the spread of HIV/AIDS pandemic as well as the current challenges in this campaign;

CONCERNED that, while women and children bear the brunt of conflicts and internal displacement, including rapes and killings, they are largely excluded from conflict prevention, peace-negotiation, and peace-building processes in spite of African women's experience in peace-building;

AWARE of the fact that low levels of women's representation in social, economic and political decision-making structures and feminisation of poverty impact negatively on women's ability to derive full benefit from the economies of their countries and the democratization process;

AWARE of the digital divide between the North and the South, men and women and the role of information telecommunication technologies (ICTS) in the advancement of the gender issue as stated in the e-gender Forum Declaration of Tunis, May 2004 in preparation for the World Summit on Information Society (WSIS) 2005;

HEREBY AGREE TO:

1. Accelerate the implementation of gender specific economic, social, and legal measures aimed at combating the HIV/AIDS pandemic and effectively implement both Abuja and Maputo Declarations on Malaria, HIV/AIDS, Tuberculosis and Other Related Infectious Disease. More specifically we will ensure that treatment and social services are available to women at the local level making it more responsive to the needs of families that are providing care; enact legislation to end discrimination against women living with HIV/AIDS and for the protection and care for people living with HIV/AIDS, particularly women; increase budgetary allocations in these sectors so as to alleviate women's burden of care;

2. Ensure the full and effective participation and representation of women in peace process including the prevention, resolution, management of conflicts and post-conflict reconstruction in Africa as stipulated in UN Resolution 1325 (2000) and to also appoint women as Special Envoys and Special Representatives of the African Union;
3. Launch, within the next one year, a campaign for systematic prohibition of the recruitment of child soldiers and abuse of girl children as wives and sex slaves in violation of their Rights as enshrined in the African Charter on Rights of the Child;
4. Initiate, launch and engage within two years sustained public campaigns against gender based violence as well as the problem of trafficking in women and girls; Reinforce legal mechanisms that will protect women at the national level and end impunity of crimes committed against women in a manner that will change and positively alter the attitude and behaviour of the African society;
5. Expand and Promote the gender parity principle that we have adopted regarding the Commission of the African Union to all the other organs of the African Union, including its NEPAD programme, to the Regional Economic Communities, and to the national and local levels in collaboration with political parties and the National parliaments in our countries;
6. Ensure the active promotion and protection of all human rights for women and girls including the right to development by raising awareness or by legislation where necessary;
7. Actively promote the implementation of legislation to guarantee women's land, property and inheritance rights including their rights to housing;
8. Take specific measures to ensure the education of girls and literacy of women, especially in the rural areas, to achieve the goal of "Education for All" (EFA);
9. Undertake to Sign and ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa by the end of 2004 and to support the launching of public campaigns aimed at ensuring its entry into force by 2005 and usher in an era of domesticating and implementing the Protocol as well as other national, regional and international instruments on gender equality by all States Parties;
10. Establish AIDS Watch Africa as a unit within the Office of the Chairperson of the Commission who should render annual report on HIV/AIDS situation in the continent during annual Summits; and promote the local production of anti-retroviral drugs in our countries;
11. Accept to establish an African Trust Fund for Women for the purpose of building the capacity of African women and further request the African Union Commission to work out the modalities for the operationalisation of the Fund with special focus on women in both urban and rural areas;
12. Commit ourselves to report annually on progress made in terms of gender mainstreaming and to support and champion all issues raised in this Declaration, both at the national and regional levels, and regularly provide each other with updates on progress made during our Ordinary Sessions;
13. We request the chairperson of the African Union Commission to submit, for our consideration, an annual report, during our ordinary sessions, on measures taken to implement the principle of gender equality and gender mainstreaming, and all issues raised in this Declaration both at the national and regional levels.

Bank for International Settlements, Committee on Payment and Settlement Systems, Core Principles for Systemically Important Payment Systems (January 2001, Basle, Switzerland)

Part 1 The Core Principles

Section 1: Introduction

- 1.1 Safe and efficient payment systems are critical to the effective functioning of the financial system. Payment systems are the means by which funds are transferred among banks, and the most significant payment systems, which this report refers to as systemically important payment systems,¹ are a major channel by which shocks can be transmitted across domestic and international financial systems and markets. Robust payment systems are, therefore, a key requirement in maintaining and promoting financial stability. Over the past few years, a broad international consensus has developed on the need to strengthen payment systems by promoting internationally accepted standards and practices for their design and operation.
- 1.2 The Core Principles in this report are intended for use as universal guidelines to encourage the design and operation of safer and more efficient systemically important payment systems worldwide. In emerging market economies they are likely to be of particular relevance, because of the efforts in train in these countries to improve systems or to build new ones in order to handle better the growing payment flows from national and international financial markets.
- 1.3 The report is addressed to all central banks and other interested public sector agencies, as well as to all private sector owners and operators of payment systems. The Core Principles may also be of use to advisers providing international technical assistance on how to achieve safety and efficiency in payment systems in the specific circumstances of individual countries.
- 1.4 These Core Principles for payment systems are intended to be sufficiently broad in scope to apply to a wide range of circumstances and to be useful over time. All systemically important payment systems should comply with all 10 Core Principles. Core Principles IV and V include specific minima, but in most cases systems should aim for standards higher than these minima. The report also explains the key role of central banks and sets out their responsibilities in applying the Core Principles. These responsibilities include assessing existing payment systems against the Core Principles and initiating or promoting action to ensure that they are implemented.
- 1.5 This report draws extensively on previous work of the CPSS and related groups,² most importantly on the Report to G10 Governors of the Committee on Interbank Netting Schemes ("the Lamfalussy Report"). That report, published in 1990,³ analysed issues affecting cross-border and multicurrency netting schemes and established minimum standards and more general goals for the design and operation of such schemes as well as principles for their cooperative oversight by central banks. The "Lamfalussy Standards" have been accepted and applied increasingly widely, not only in the specific field for which they were developed, but also to payment, clearing and settlement systems of many other types. The Core Principles in this report extend the Lamfalussy Standards by adding several new core principles and apply more broadly to systemically important payment systems of all types. This report's discussion of central banks' responsibilities in applying the Core Principles similarly adds to the principles for cooperative central bank oversight contained in the Lamfalussy Report and extends them to domestic systems. The Lamfalussy Standards were instrumental in encouraging designers, operators and overseers of netting systems to consider and address risks and to achieve certain minimum standards. Best practice, however, is more demanding and an increasing number of systems have recognised the benefits of, for example, being able to withstand the failure of more than the single largest net debtor to the system.
- 1.6 At the same time there has been extensive progress in payment system design in the course of the past 10 years, notably in the development and widespread adoption of systems involving realtime gross settlement (RTGS), which can very effectively address the financial risks highlighted by the Core Principles.⁴ Technology is evolving all the time, offering new possibilities for achieving safety and efficiency. This has enabled some recent innovations in system design to offer additional techniques for addressing financial risks and reducing liquidity costs for participants.

¹ For a fuller definition of systemically important payment systems, see Paragraph 3.0.2.

² The past work of the CPSS and related groups has included detailed analysis of payment and settlement system infrastructure in both developed and emerging economies. Although most of the earlier work has been analytical rather than prescriptive, in some areas - notably the work on cross-border and multicurrency netting and on foreign exchange settlement risk - more specific guidelines and strategies have been developed to reduce risk, particularly systemic risk.

³ Report of the Committee on Interbank Netting Schemes of the Central Banks of the Group of Ten Countries, BIS, November 1990. Copies can be obtained from the CPSS Secretariat, Bank for International Settlements; the report is also available on the BIS website (www.bis.org).

⁴ There are a number of variants in the design and operation of RTGS systems, notably in respect of operating arrangements and the use of intraday credit to provide liquidity, and these and other issues are discussed in the 1997 CPSS report on Real-Time Gross Settlement Systems, BIS, March 1997. Copies can be obtained from the CPSS Secretariat, Bank for International Settlements; the report is also available on the BIS website (www.bis.org).

- 1.7 The focus of this report is on payment systems, that is systems that comprise a set of instruments, procedures and rules for the transfer of funds among system participants. The most direct application is for systems which involve only funds transfers, but the Core Principles can also apply to the payments aspects of systemically important systems in which transfers of other financial assets, such as securities, and related transfers of funds are both settled. Such systems can raise financial stability issues in their own right, so it is important too that their overall design and operation should be safe and efficient. The Core Principles in this report may also provide some help in evaluating the arrangements for settling other types of financial assets, but a full consideration lies outside the scope of this report. A separate task force, established by the CPSS and IOSCO, has been examining the specific issues involved in securities settlement.⁵
- 1.8 The Core Principles apply to systemically important payment systems, whether they involve credit or debit transfers, whether they involve electronic or manual processing, and whether they process electronic or paper-based instruments. In practice, however, for a system that uses paper-based debit instruments (eg cheques), there are particular difficulties involved in satisfying some of the Core Principles. Such systems are very common in many parts of the world. In countries where an existing systemically important payment system uses cheques, it may be necessary to give careful consideration to the other options available. The report suggests ways in which these systems can be made safer and discusses the role they might play within the national payments infrastructure as a whole.
- 1.9 A summary of the 10 Core Principles and the four responsibilities of central banks in applying them follows this introduction. After that there is a more detailed description of the public policy objectives of safety and efficiency (Section 2), the Core Principles (Section 3) and the responsibilities of central banks in applying the Core Principles (Section 4). Section 5 introduces Part 2 of the report, which begins with an explanation of the scope of application of the Core Principles and guidance on how to identify systemically important payment systems (Section 6). The report then discusses the interpretation and implementation of each of the Core Principles (Section 7) and central bank responsibilities (Section 8) in a variety of economic and institutional circumstances. Two special situations - the use of paper-based debit instruments such as cheques, and payment systems with cross-border aspects - are discussed in Section 9. The final section discusses some general issues that arise in using the Core Principles, including, in particular, possible ways of conducting major programmes of reform or development of a country's systemically important payment systems.

The Core Principles and central bank responsibilities

Public policy objectives: safety and efficiency in systemically important payment systems

Core Principles for systemically important payment systems

- I. The system should have a wellfounded legal basis under all relevant jurisdictions.
- II. The system's rules and procedures should enable participants to have a clear understanding of the system's impact on each of the financial risks they incur through participation in it.
- III. The system should have clearly defined procedures for the management of credit risks and liquidity risks, which specify the respective responsibilities of the system operator and the participants and which provide appropriate incentives to manage and contain those risks.
- IV.* The system should provide prompt final settlement on the day of value, preferably during the day and at a minimum at the end of the day.
- V.* A system in which multilateral netting takes place should, at a minimum, be capable of ensuring the timely completion of daily settlements in the event of an inability to settle by the participant with the largest single settlement obligation.
- VI. Assets used for settlement should preferably be a claim on the central bank; where other assets are used, they should carry little or no credit risk and little or no liquidity risk.
- VII. The system should ensure a high degree of security and operational reliability and should have contingency arrangements for timely completion of daily processing.
- VIII. The system should provide a means of making payments which is practical for its users and efficient for the economy.
- IX. The system should have objective and publicly disclosed criteria for participation, which permit fair and open access.
- X. The system's governance arrangements should be effective, accountable and transparent.

Responsibilities of the central bank in applying the Core Principles

- A. The central bank should define clearly its payment system objectives and should disclose publicly its role and major policies with respect to systemically important payment systems.
- B. The central bank should ensure that the systems it operates comply with the Core Principles.
- C. The central bank should oversee compliance with the Core Principles by systems it does not operate and it

⁵ That task force was established in December 1999. A consultative report is available on the BIS website (www.bis.org).

* Systems should seek to exceed the minima included in these two Core Principles.

should have the ability to carry out this oversight.

- D. The central bank, in promoting payment system safety and efficiency through the Core Principles, should cooperate with other central banks and with any other relevant domestic or foreign authorities.

Section 2: The public policy objectives

- 2.1 Systemically important payment systems are an essential mechanism supporting the effectiveness of financial markets. They can also transmit financial shocks. Poorly designed systems can contribute to systemic crises if risks are not adequately contained, with the result that financial shocks are passed from one participant to another. The effects of such disruption could extend beyond the system and its participants, threatening the stability of money markets and of other domestic and international financial markets. Systemically important payment systems are therefore crucial for the economy, and their safety and efficiency should be objectives of public policy.
- 2.2 Market forces alone, however, will not necessarily achieve the objectives of safety and efficiency sufficiently, since operators and participants do not necessarily bear all the risks and costs. They may not have adequate incentives to minimise the risk of their own failure or the failure of a participant or the costs they impose on other participants. In addition, the institutional structure of the payment system may not provide strong incentives or mechanisms for efficient design and operation. Economic factors such as economies of scale and barriers to entry may limit competition in the provision of payment systems and services. In practice, in many countries there is a very limited number of payment system providers or a single provider, usually the central bank.
- 2.3 To pursue the objective of safety in a payment system, it is necessary first to identify and understand how risks of various types may arise or be transmitted within the system and to determine where they are borne. Once these risks are properly analysed and assessed, appropriate and effective mechanisms must be devised to monitor, manage and control them.
- 2.4 Payment systems consume substantial resources. Accordingly, it is important that the designers and operators of payment systems are conscious of the resource costs of their systems and the charges they will need to pass on to users if resources are to be used efficiently. Cost constraints are likely to require choices to be made about a system's design which will have an impact on the system's functionality and safety. The functionality required will vary from one system to another according to the demands of participants and their customers. Systemically important payment systems must always achieve a high level of safety appropriate to their potential for triggering or transmitting systemic risk. Little, however, would be gained if a payment system were designed with such extensive safety features that it became so difficult, slow or costly to use that no one would be prepared to do so. System operators should keep their choices under review, as financial markets and the local economy develop and as technological and economic advances improve the range of solutions available.
- 2.5 Safety and efficiency are not the only public policy objectives for payment system design and operation. Other objectives, however, such as crime prevention, competition policy and consumer protection, can play a role in the design of systemically important payment systems, but these issues are beyond the scope of this report.
- 2.6 Different aspects of the safety and efficiency objectives may be pursued by a variety of different public sector agencies. Central banks have a leading role, particularly because of their strong interest in financial stability, their role in providing settlement accounts for payment system participants, and their concerns with the functioning of money markets for the implementation of monetary policy and with maintaining confidence in the domestic currency both in normal circumstances and in a crisis. The expertise they have developed through carrying out these functions means that central banks have a leading role to play in respect of systemically important payment systems; in many cases they have been given explicit responsibilities in this area.

Section 3: Core Principles for systemically important payment systems

- 3.0.1 A range of risks can arise in payment systems, taking the following forms in that context:
- credit risk:** the risk that a party within the system will be unable fully to meet its financial obligations within the system either when due or at any time in the future;
 - liquidity risk:** the risk that a party within the system will have insufficient funds to meet financial obligations within the system as and when expected, although it may be able to do so at some time in the future;
 - legal risk:** the risk that a poor legal framework or legal uncertainties will cause or exacerbate credit or liquidity risks;
 - operational risk:** the risk that operational factors such as technical malfunctions or operational mistakes will cause or exacerbate credit or liquidity risks; and
 - systemic risk:** the risk that the inability of one of the participants to meet its obligations, or a disruption in the system itself, could result in the inability of other system participants or of financial institutions in other parts of the financial system to meet their obligations as they become due. Such a failure could cause widespread liquidity or credit problems and, as a result, could threaten the stability of the system or of financial markets.
- 3.0.2 The Core Principles apply to systemically important payment systems. A payment system is systemically important where, if the system were insufficiently protected against risk, disruption within it could trigger or transmit further disruptions amongst participants or systemic disruptions in the financial area more widely.

The initial disruption might, for example, be caused by the insolvency of a participant. Systemic importance is determined mainly by the size or nature of the individual payments or their aggregate value. Systems handling specifically large-value payments would normally be considered systemically important. A systemically important system does not necessarily handle only high-value payments; the term can include a system which handles payments of various values, but which has the capacity to trigger or transmit systemic disruption by virtue of certain segments of its traffic. In practice the boundary between payment systems which are systemically important and those which are not is not always clear cut and the central bank needs to consider carefully where that boundary should be drawn.

The Core Principles may also be useful in assessing and understanding the characteristics of systems which pose relatively little systemic risk and it may be desirable for such systems to comply with some or all of the Core Principles.

- 3.0.3 Systemically important payment systems may be owned and operated by central banks or by private sector institutions. There are also cases where they are owned and operated jointly by public and private agencies. The Core Principles are intended to be relevant to all institutional and ownership structures. They address primarily the design and operation of payment systems, but are intended also to influence the actions of participants and of agencies that supervise participants. The role and responsibilities of the operator and the participants should be clearly defined and understood. The central bank has key responsibilities in applying the Core Principles, which are described more fully in Section 4.
- 3.0.4 Although the Core Principles are expressed in terms of payment systems in a single country, they are equally applicable where the payment system arrangements extend over a broader economic area, such as where a single payment system or a collection of interconnected payment systems cover a region broader than a country. The Core Principles also apply to multicurrency payment systems and to payment systems with cross-border aspects.

Core Principles

I. The system should have a well founded legal basis under all relevant jurisdictions.

- 3.1.1 The rules and procedures of a system should be enforceable and their consequences predictable. A system which is not legally robust or in which the legal issues are poorly understood could endanger its participants. Poor understanding can give participants a false sense of security, leading them, for example, to underestimate their credit or liquidity exposures.
- 3.1.2 The legal environment relevant to Core Principle I includes the general legal infrastructure in the relevant jurisdictions (such as the law relating to contracts, payments, securities, banking, debtor/creditor relationships, and insolvency) as well as specific statutes, case law, contracts (for example, payment system rules) or other relevant material.
- 3.1.3 The jurisdiction under whose law the system's rules and procedures are to be interpreted should be specified clearly. In most cases, the most important legal environment will be the domestic one, although, in particular where the system involves cross-border elements such as foreign bank participation or the use of multiple currencies, it will also be necessary to consider whether there are any material legal risks stemming from other relevant jurisdictions.

II. The system's rules and procedures should enable participants to have a clear understanding of the system's impact on each of the financial risks they incur through participation in it.

- 3.2.1 Participants, the system operator, and other involved parties - in some cases including customers - should understand clearly the financial risks in the system and where they are borne. An important determinant of where the risks are borne will be the rules and procedures of the system. These should define clearly the rights and obligations of all the parties involved and all such parties should be provided with up-to-date explanatory material. In particular, the relationship between the system rules and the other components of the legal environment should be clearly understood and explained. In addition, key rules relating to financial risks should be publicly disclosed.

III. The system should have clearly defined procedures for the management of credit risks and liquidity risks, which specify the respective responsibilities of the system operator and the participants and which provide appropriate incentives to manage and contain those risks.

- 3.3.1 The rules and procedures of a systemically important payment system are not only the basis for establishing where credit and liquidity risks are borne within the system, but also for allocating responsibilities for risk management and risk containment. They are, therefore, an important mechanism for addressing the financial risks which can arise in payment systems. A system's rules and procedures should therefore ensure that all parties have both the incentives and the capabilities to manage and contain each of the risks they bear and that limits are placed on the maximum level of credit exposure that can be produced by each participant. Limits on credit exposure are likely to be particularly relevant in systems involving netting mechanisms.
- 3.3.2 There are a variety of ways in which risks can be managed and contained using both analytical and operational procedures. Analytical procedures include ongoing monitoring and analysis of the credit and

liquidity risks participants pose to the system. Operational procedures include the implementation of risk management decisions through limits on exposures, by prefunding or collateralising obligations, through the design and management of transaction queues or through other mechanisms. For many systems, the use of risk management processes that operate in real time will be a key element in satisfying Core Principle III.

IV. The system should provide prompt final settlement on the day of value, preferably during the day and at a minimum at the end of the day.

- 3.4.1 Core Principle IV relates to daily settlement in normal circumstances. Between the time when payments are accepted for settlement by the payment system (including satisfaction of any relevant risk management tests, such as the application of limits on exposures or availability of liquidity) and the time when final settlement actually occurs, participants may still face credit and liquidity risks. These risks are exacerbated if they extend overnight, in part because a likely time for the relevant authorities to close insolvent institutions is between business days. Prompt final settlement helps to reduce these risks. As a minimum standard, final settlement should occur at the end of the day of value.
- 3.4.2 In most countries it should be a goal for at least one payment system to exceed this minimum standard by providing real-time final settlement during the day. This is particularly desirable in countries with large volumes of high-value payments and sophisticated financial markets. An effective intraday liquidity mechanism is necessary for this development in order to ensure that prompt final settlement is not only available, but is achieved in practice.
- 3.4.3 Core Principle IV relates to the promptness of settlement on the intended day of value. Nothing in it prevents a system from offering a facility for entering payment details in advance of that day.

V. A system in which multilateral netting takes place should, at a minimum, be capable of ensuring the timely completion of daily settlements in the event of an inability to settle by the participant with the largest single settlement obligation.

- 3.5.1 Most multilateral netting systems defer settlement of participants' obligations. Multilateral netting can create the risk that, if a participant is unable to meet its settlement obligations, other participants will face unexpected credit and liquidity risks at the time of settlement. The amount at risk can be much greater than the net amounts due. The risk is exacerbated the longer settlement is deferred. This combination of multilateral netting and deferred settlement was the focus of Lamfalussy Standard IV, which specified that, at a minimum, such netting systems must be able to withstand the failure of the largest single net debtor to the system. Such systems therefore need strong controls to address this settlement risk, and many payment systems that settle on a net basis have introduced arrangements to limit credit and liquidity risk and to ensure access to liquidity in adverse circumstances.
- 3.5.2 Systems which satisfy only this minimum standard are still exposed to the financial risks of the failure of more than one institution during the same business day. The circumstances in which one large net debtor is unable to meet its settlement obligations to the system may well be those in which other institutions are also under liquidity pressure. Best international practice now is, therefore, for such systems to be able to withstand the inability to settle of more than the one participant with the largest single settlement obligation. Careful consideration should be given to this approach and its implications should be evaluated taking into account the benefits of reduced settlement risk and any other consequences such as for the management of liquidity. In addition, alternative system designs (such as real-time gross settlement systems or hybrid systems) are increasingly being adopted to reduce or eliminate settlement risk.
- 3.5.3 Core Principle V adopts the wording of Lamfalussy Standard IV almost unchanged, and it remains a universal minimum standard for multilateral netting systems, which should be exceeded wherever possible. It is not relevant for real-time gross settlement systems. If systems of other types, such as hybrid systems, involve multilateral netting or the deferral of settlement, the central bank may need to consider whether the risks are similar. If they are, a similar approach of applying at least the minimum standard, and preferably a higher standard, should be followed.

VI. Assets used for settlement should preferably be a claim on the central bank; where other assets are used, they should carry little or no credit risk and little or no liquidity risk.

- 3.6.1 Most systems involve the transfer of an asset among system participants to settle payment obligations. The most common form of such an asset, which is also the preferable form, is an account balance at the central bank, representing a claim on the central bank. There are, however, examples of other forms of settlement asset, representing a claim on a supervised institution.
- 3.6.2 The settlement asset must be accepted by all participants in the system. Where an asset other than a claim on a central bank is used, the system's safety depends in part on whether the asset leaves the holder with significant credit risk or liquidity risk. This form of credit risk arises if there is more than a negligible risk that the issuer of the asset could fail. Liquidity risk arises in this context if the asset might not be readily transferable, for example into claims on a central bank or other liquid assets. In either case, the system could face a crisis of confidence, which would create systemic risk. Balances at the central bank are generally the most satisfactory asset used for settlement, because of the lack of credit or liquidity risk for the holder, and they are typically used in systemically important payment systems. If settlement is completed using other

assets, such as claims on a commercial bank, those assets must carry little or no financial risk.

- 3.6.3 In some payment systems minimal use is made of a settlement asset. For example, they may settle by offsetting one claim against another. This can be consistent with Core Principle VI provided that there is no inconsistency with other Core Principles, particularly with Core Principle I, which requires the legal basis for the offset process to be sound.

VII. The system should ensure a high degree of security and operational reliability and should have contingency arrangements for timely completion of daily processing.

- 3.7.1 Market participants rely on payment systems for settling their financial market transactions. To ensure the accuracy and integrity of these transactions, the system should incorporate commercially reasonable standards of security appropriate to the transaction values involved. These standards rise over time with advances in technology. To ensure completion of daily processing, the system should maintain a high degree of operational resilience. This is not just a matter of having reliable technology and adequate backup of all hardware, software and network facilities. It is also necessary to have effective business procedures and well trained and competent personnel who can operate the system safely and efficiently and ensure that the correct procedures are followed. This, together with good technology, will, for example, help to ensure that payments are correctly and quickly processed and that risk management procedures, such as limits, are observed.
- 3.7.2 The degree of security and reliability required to provide adequate safety and efficiency depends on the importance of the system, as well as any other relevant factors. The degree of reliability required may, for example, depend on the availability of alternative arrangements for making payments in contingency situations.

VIII. The system should provide a means of making payments which is practical for its users and efficient for the economy.

- 3.8.1 Operators, users (that is participants, such as banks and their customers) and overseers of systems all have an interest in the efficiency of a system. They want to avoid wasting resources and, other things being equal, would wish to use fewer resources. There will typically be a trade-off between minimising resource costs and other objectives, such as maximising safety. Within the need to meet these other objectives, the design of the system, including the technological choices made, should seek to economise on relevant resource costs by being practical in the specific circumstances of the system, and by taking account of its effects on the economy as a whole.
- 3.8.2 The costs of providing payment services will depend on the quality of service and the features demanded by users, and on the need for the system to meet the Core Principles limiting risk in the system. A system which is consistent with the demands of the markets it serves is likely to be more heavily used; if it also satisfies the Core Principles, it spreads more widely the risk-reducing benefits as well as the costs of providing the services.
- 3.8.3 Designers and operators of payment systems need to consider how to provide a given quality of service, in terms of functionality, safety and efficiency, at minimum resource cost. The relevant costs are not just those passed on to users through system charges, but those of the total resources used by the system and its users in providing the payment services. They will need, for example, to take into account any indirect costs to users, such as the costs of liquidity and collateral.
- 3.8.4 The availability of liquidity in a system can be an important element in its smooth operation. Recipients like to be paid in funds which are immediately reusable and so value the advantages of systems with intraday settlement. Senders, however, may face costs in raising liquidity to enable them to pay early in a system. Where systems have inadequate intraday liquidity mechanisms, they can face a risk of slow turnover or even gridlock (where participants are each waiting for the others to pay first). In the interests of efficiency, systems should provide participants with adequate incentives to pay promptly. The supply of intraday liquidity is particularly important for systems with real-time settlement. Factors relevant to supply include the depth of interbank money markets and the availability of any relevant collateral. With the benefits of smooth payment flows in mind, the central bank should consider whether and how to provide intraday liquidity to support a system's daily functioning.
- 3.8.5 The technology and operating procedures used to provide payment services should be consistent with the types of services demanded by users, reflecting the stage of economic development of the markets served. The design of the payment system should therefore be appropriate for the country's geography, its population distribution and its infrastructure (such as telecommunications, transportation and banking structure). A particular design or technological solution which is right for one country may not be right for another.
- 3.8.6 Systems should be designed and operated so that they can adapt to the development of the market for payment services both domestically and internationally. Their technical, business and governance arrangements should be sufficiently flexible to respond to changing demands, for example in adopting new technologies and procedures.

IX. The system should have objective and publicly disclosed criteria for participation, which permit fair and open access.

- 3.9.1 Access criteria that encourage competition amongst participants promote efficient and lowcost payment services. This advantage, however, may need to be weighed against the need to protect systems and their participants from participation in the system by institutions that would expose them to excessive legal, financial or operational risks. Any restrictions on access should be objective and based on appropriate risk criteria. All access criteria should be stated explicitly and disclosed to interested parties.
- 3.9.2 The rules of the system should provide for clearly specified procedures for orderly withdrawal of a participant from the system, either at the participant's request, or following a decision by the system operator that the participant should withdraw. A central bank's actions in withdrawing access to payment system facilities, or to settlement account services, may also lead to the withdrawal of a participant from a payment system, but it may not be possible for a central bank to specify explicitly in advance all the circumstances in which it might act in this way.

X. The system's governance arrangements should be effective, accountable and transparent.

- 3.10.1 Payment system governance arrangements encompass the set of relationships between the payment system's management and its governing body (such as a board of directors), its owners and its other stakeholders. These arrangements provide the structure through which the system's overall objectives are set, how they are attained and how performance is monitored. Because systemically important payment systems have the potential to affect the wider financial and economic community, there is a particular need for effective, accountable and transparent governance, whether the system is owned and operated by the central bank or by the private sector.
- 3.10.2 Effective governance provides proper incentives for management to pursue objectives that are in the interests of the system, its participants and the public more generally. It also ensures that management has the appropriate tools and abilities to achieve the system's objectives. Governance arrangements should provide accountability to owners (for example, to the shareholders of a private sector system) and, because of the system's systemic importance, to the wider financial community, so that those served by the payment system can influence its overall objectives and performance. An essential aspect of achieving accountability is to ensure that governance arrangements are transparent, so that all affected parties have access to information about decisions affecting the system and how they are taken. The combination of effective, accountable and transparent governance provides a foundation for compliance with the Core Principles as a whole.

Section 4: Responsibilities of the central bank in applying the Core Principles

A. The central bank should define clearly its payment system objectives and should disclose publicly its role and major policies with respect to systemically important payment systems.

- 4.1.1 Designers and operators of private sector payment systems, and participants and other users of all systems, as well as other interested parties, need to have a clear understanding of the central bank's role, responsibilities and objectives in relation to payment systems. They need also to understand how the central bank intends to achieve those objectives, whether by formal powers or other means. This will enable those parties to operate in a predictable environment and to act in a manner that is consistent with those objectives and policies.
- 4.1.2 The central bank should therefore have clear payment system objectives. It should also define clearly and disclose major policies that will affect the operators and users of systems to ensure that they are well understood and to build support for them.

B. The central bank should ensure that the systems it operates comply with the Core Principles.

- 4.2.1 The central bank is often the operator of one or more systemically important payment systems. It therefore can and should ensure that they comply with the Core Principles.

C. The central bank should oversee compliance with the Core Principles by systems it does not operate and it should have the ability to carry out this oversight.

- 4.3.1 Where systemically important payment systems are not operated by the central bank, it should oversee their compliance with the Core Principles. The central bank's oversight of systems should have a sound basis. There may be a wide variety of means by which this can be achieved, depending on the country's legal and institutional framework. Some countries have a statute-based system of oversight with specific tasks, responsibilities and powers assigned to the central bank and sometimes also to other agencies. Others have regimes based on custom and practice, which rely on non-statutory approaches. Either approach can work in its own setting - depending on the legal and institutional framework of the country concerned and the acceptance of the approach by the institutions overseen. The potential benefits of a statute-based approach to oversight, however, deserve serious consideration in countries newly establishing or significantly revising the oversight role and related policies.
- 4.3.2 The central bank should ensure that it has the expertise and resources to carry out its oversight functions effectively. It should not use its oversight role to disadvantage private sector systems relative to those which it owns and operates itself, but to ensure that the combination of public and private sector provision meets

the public policy objectives.

D. The central bank, in promoting payment system safety and efficiency through the Core Principles, should cooperate with other central banks and with any other relevant domestic or foreign authorities.

- 4.4.1 A number of different authorities can have an interest in the safe and efficient functioning of payment systems. In addition to central banks, in their capacities as operators or overseers, they can include legislative authorities, ministries of finance, supervisors and competition authorities. In particular, oversight of a country's payment systems, surveillance of its financial markets and supervision of financial institutions are complementary activities, which may be carried out by different agencies. A cooperative approach is likely to assist the fulfilment of all the relevant public policy goals.
- 4.4.2 Payment system oversight concentrates on the stability of a payment system as a whole, while the supervisors of individual banks and other financial institutions focus on the risks to specific participants. In particular, in assessing payment system risks, overseers may need to take into account the ability of individual participants to fulfil their responsibilities in the system. In monitoring the financial risks for an individual institution, the supervisors may need to take into account risks to which participants can be exposed as a result of participation in the systems and which could affect the viability of the institution. Regular exchanges of views and information between supervisors and overseers, including, where relevant, about key individual participants, can assist these complementary objectives. These exchanges can often benefit from agreements on the sharing of information.
- 4.4.3 Cooperation is particularly important for systems with cross-border or multicurrency characteristics. The principles for cooperative central bank oversight set out in Part D of the Lamfalussy Report provide a framework for such cooperation.

Basle Committee on Banking Supervision, Core Principles for Effective Banking Supervision (1997, Basle, Switzerland)

CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

(Basle Core Principles)

1. Weaknesses in the banking system of a country, whether developing or developed, can threaten financial stability both within that country and internationally. The need to improve the strength of financial systems has attracted growing international concern. The Communiqué issued at the close of the Lyon G-7 Summit in June 1996 called for action in this domain. Several official bodies, including the Basle Committee on Banking Supervision, the Bank for International Settlements, the International Monetary Fund and the World Bank, have recently been examining ways to strengthen financial stability throughout the world.
2. The Basle Committee on Banking Supervision* has been working in this field for many years, both directly and through its many contacts with banking supervisors in every part of the world. In the last year and a half, it has been examining how best to expand its efforts aimed at strengthening prudential supervision in all countries by building on its relationships with countries outside the G-10 as well as on its earlier work to enhance prudential supervision in its member countries. In particular, the Committee has prepared two documents for release:
 - a comprehensive set of **Core Principles** for effective banking supervision (The Basle Core Principles) (attached); and,
 - a **Compendium** (to be updated periodically) of the existing Basle Committee recommendations, guidelines and standards most of which are cross-referenced in the Core Principles document.

Both documents have been endorsed by the G-10 central bank Governors. They were submitted to the G-7 and G-10 Finance Ministers in preparation for the June 1997 Denver Summit in the hope that they would provide a useful mechanism for strengthening financial stability in all countries.

3. In developing the Principles, the Basle Committee has worked closely with non-G-10 supervisory authorities. The document has been prepared in a group containing representatives from the Basle Committee and from Chile, China, the Czech Republic, Hong Kong, Mexico, Russia and Thailand. Nine other countries (Argentina, Brazil, Hungary, India, Indonesia, Korea, Malaysia, Poland and Singapore) were also closely associated with the work. The drafting of the Principles benefited moreover from broad consultation with a larger group of individual supervisors, both directly and through the regional supervisory groups.
4. The Basle Core Principles comprise **twenty-five basic Principles** that need to be in place for a supervisory system to be effective. The Principles relate to:
 - Preconditions for effective banking supervision - Principle 1
 - Licensing and structure - Principles 2 to 5
 - Prudential regulations and requirements - Principles 6 to 15
 - Methods of ongoing banking supervision - Principles 16 to 20
 - Information requirements - Principle 21
 - Formal powers of supervisors - Principle 22, and
 - Cross-border banking - Principles 23 to 25.

In addition to the Principles themselves, the document contains explanations of the various methods supervisors can use to implement them.
5. National agencies should apply the Principles in the supervision of all banking organisations within their jurisdictions." The Principles are **minimum requirements** and in many cases may need to be supplemented by other measures designed to address particular conditions and risks in the financial systems of individual countries.
6. The Basle Core Principles are intended to serve as a basic reference for **supervisory and other public authorities in all countries and internationally**. It will be for national supervisory authorities, many of which are actively seeking to strengthen their current supervisory regime, to use the attached document to review their existing supervisory arrangements and to initiate a programme designed to address any deficiencies as quickly as is practical within their legal authority. The Principles have been designed to be verifiable by supervisors, regional supervisory groups, and the market at large. The Basle Committee will play a role, together with other interested

* The Basle Committee on Banking Supervision is a Committee of banking supervisory authorities which was established by the central bank Governors of the Group of Ten countries in 1975. It consists of senior representatives of banking supervisory authorities and central banks from Belgium, Canada, France, Germany, Italy, Japan, Luxembourg, Netherlands, Sweden, Switzerland, United Kingdom and the United States. It usually meets at the Bank for International Settlements in Basle, where its permanent Secretariat is located.

** In countries where non-bank financial institutions provide financial services similar to those of banks, many of the Principles set out in this document are also capable of application to such non-bank financial institutions.

organisations, in monitoring the progress made by individual countries in implementing the Principles. It is suggested that the IMF, the World Bank and other interested organisations use the Principles in assisting individual countries to strengthen their supervisory arrangements in connection with work aimed at promoting overall macroeconomic and financial stability. Implementation of the Principles will be reviewed at the International Conference of Banking Supervisors in October 1998 and biennially thereafter.

7. Supervisory authorities throughout the world are encouraged to **endorse** the Basle Core Principles. The members of the Basle Committee and the sixteen other supervisory agencies that have participated in their drafting all agree with the content of the document.
8. The chairpersons of the **regional supervisory groups**^{*} are supportive of the Basle Committee's efforts and are ready to promote the endorsement of the Core Principles among their membership. Discussions are in progress to define the role the regional groups can play in securing the endorsement of the Principles and in monitoring implementation by their members.
9. The Basle Committee believes that achieving consistency with the Core Principles by every country will be a significant step in the process of improving financial stability domestically and internationally. The speed with which this objective will be achieved will vary. In many countries, substantive **changes in the legislative framework** and in the powers of supervisors will be necessary because many supervisory authorities do not at present have the statutory authority to implement all of the Principles. In such cases, the Basle Committee believes it is essential that national legislators give urgent consideration to the changes necessary to ensure that the Principles can be applied in all material respects.
10. **The Basle Committee** will continue to pursue its standard-setting activities in key risk areas and in key elements of banking supervision as it has done in documents such as those reproduced in the Compendium. The Basle Core Principles will serve as a reference point for future work to be done by the Committee and, where appropriate, in cooperation with non-G-10 supervisors and their regional groups. The Committee stands ready to encourage work at the national level to implement the Principles in conjunction with other supervisory bodies and interested parties. Finally, the Committee is committed to strengthening its interaction with supervisors from non-G-10 countries and intensifying its considerable investment in technical assistance and training.

LIST OF CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

Preconditions for Effective Banking Supervision

1. An effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banking organisations. Each such agency should possess operational independence and adequate resources. A suitable legal framework for banking supervision is also necessary, including provisions relating to authorisation of banking organisations and their ongoing supervision; powers to address compliance with laws as well as safety and soundness concerns; and legal protection for supervisors. Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.

Licensing and Structure

2. The permissible activities of institutions that are licensed and subject to supervision as banks must be clearly defined, and the use of the word "bank" in names should be controlled as far as possible.
3. The licensing authority must have the right to set criteria and reject applications for establishments that do not meet the standards set. The licensing process, at a minimum, should consist of an assessment of the banking organisation's ownership structure, directors and senior management, its operating plan and internal controls, and its projected financial condition, including its capital base; where the proposed owner or parent organisation is a foreign bank, the prior consent of its home country supervisor should be obtained.
4. Banking supervisors must have the authority to review and reject any proposals to transfer significant ownership or controlling interests in existing banks to other parties.
5. Banking supervisors must have the authority to establish criteria for reviewing major acquisitions or investments by a bank and ensuring that corporate affiliations or structures do not expose the bank to undue risks or hinder effective supervision.

Prudential Regulations and Requirements

6. Banking supervisors must set prudent and appropriate minimum capital adequacy requirements for all banks. Such requirements should reflect the risks that the banks undertake, and must define the components of capital, bearing in mind their ability to absorb losses. At least for internationally active banks, these requirements must not be less than those established in the Basle Capital Accord and its amendments.
7. An essential part of any supervisory system is the evaluation of a bank's policies, practices and procedures related to the granting of loans and making of investments and the ongoing management of the loan and investment portfolios.

^{*} Arab Committee on Banking Supervision, Caribbean Banking Supervisors Group, Association of Banking Supervisory Authorities of Latin America and the Caribbean, Eastern and Southern Africa Banking Supervisors Group, EMEAP Study Group on Banking Supervision, Group of Banking Supervisors from Central and Eastern European Countries, Gulf Cooperation Council Banking Supervisors' Committee, Offshore Group of Banking Supervisors, Regional Supervisory Group of Central Asia and Transcaucasia, SEANZA Forum of Banking Supervisors, Committee of Banking Supervisors in West and Central Africa.

8. Banking supervisors must be satisfied that banks establish and adhere to adequate policies, practices and procedures for evaluating the quality of assets and the adequacy of loan loss provisions and loan loss reserves.
9. Banking supervisors must be satisfied that banks have management information systems that enable management to identify concentrations within the portfolio and supervisors must set prudential limits to restrict bank exposures to single borrowers or groups of related borrowers.
10. In order to prevent abuses arising from connected lending, banking supervisors must have in place requirements that banks lend to related companies and individuals on an arm's-length basis, that such extensions of credit are effectively monitored, and that other appropriate steps are taken to control or mitigate the risks.
11. Banking supervisors must be satisfied that banks have adequate policies and procedures for identifying, monitoring and controlling country risk and transfer risk in their international lending and investment activities, and for maintaining appropriate reserves against such risks.
12. Banking supervisors must be satisfied that banks have in place systems that accurately measure, monitor and adequately control market risks; supervisors should have powers to impose specific limits and/or a specific capital charge on market risk exposures, if warranted.
13. Banking supervisors must be satisfied that banks have in place a comprehensive risk management process (including appropriate board and senior management oversight) to identify, measure, monitor and control all other material risks and, where appropriate, to hold capital against these risks.
14. Banking supervisors must determine that banks have in place internal controls that are adequate for the nature and scale of their business. These should include clear arrangements for delegating authority and responsibility; separation of the functions that involve committing the bank, paying away its funds, and accounting for its assets and liabilities; reconciliation of these processes; safeguarding its assets; and appropriate independent internal or external audit and compliance functions to test adherence to these controls as well as applicable laws and regulations.
15. Banking supervisors must determine that banks have adequate policies, practices and procedures in place, including strict "know-your-customer" rules, that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements.

Methods of Ongoing Banking Supervision

16. An effective banking supervisory system should consist of some form of both on-site and off-site supervision.
17. Banking supervisors must have regular contact with bank management and thorough understanding of the institution's operations.
18. Banking supervisors must have a means of collecting, reviewing and analysing prudential reports and statistical returns from banks on a solo and consolidated basis.
19. Banking supervisors must have a means of independent validation of supervisory information either through on-site examinations or use of external auditors.
20. An essential element of banking supervision is the ability of the supervisors to supervise the banking group on a consolidated basis.

Information Requirements

21. Banking supervisors must be satisfied that each bank maintains adequate records drawn up in accordance with consistent accounting policies and practices that enable the supervisor to obtain a true and fair view of the financial condition of the bank and the profitability of its business, and that the bank publishes on a regular basis financial statements that fairly reflect its condition.

Formal Powers of Supervisors

22. Banking supervisors must have at their disposal adequate supervisory measures to bring about timely corrective action when banks fail to meet prudential requirements (such as minimum capital adequacy ratios), when there are regulatory violations, or where depositors are threatened in any other way. In extreme circumstances, this should include the ability to revoke the banking licence or recommend its revocation.

Cross-border Banking

23. Banking supervisors must practise global consolidated supervision over their internationally-active banking organisations, adequately monitoring and applying appropriate prudential norms to all aspects of the business conducted by these banking organisations worldwide, primarily at their foreign branches, joint ventures and subsidiaries.
24. A key component of consolidated supervision is establishing contact and information exchange with the various other supervisors involved, primarily host country supervisory authorities.
25. Banking supervisors must require the local operations of foreign banks to be conducted to the same high standards as are required of domestic institutions and must have powers to share information needed by the home country supervisors of those banks for the purpose of carrying out consolidated supervision.

SECTION I: INTRODUCTION

Effective supervision of banking organisations is an essential component of a strong economic environment in that the banking system plays a central role in making payments and mobilising and distributing savings. The task of supervision is to ensure that banks operate in a safe and sound manner and that they hold capital and reserves sufficient to support the risks that arise in their business. Strong and effective banking supervision provides a public good that may not be fully provided in the marketplace and, along with effective macroeconomic policy, is critical to financial stability in any country. While the cost of banking supervision is indeed high, the cost of poor supervision has proved to be even higher.

In drawing up these core principles for effective banking supervision the following precepts are fundamental:

- the key objective of supervision is to maintain stability and confidence in the financial system, thereby reducing the risk of loss to depositors and other creditors;
- supervisors should encourage and pursue market discipline by encouraging good corporate governance (through an appropriate structure and set of responsibilities for a bank's board of directors and senior management)* and enhancing market transparency and surveillance;
- in order to carry out its tasks effectively, a supervisor must have operational independence, the means and powers to gather information both on and off site, and the authority to enforce its decisions;
- supervisors must understand the nature of the business undertaken by banks and ensure to the extent possible that the risks incurred by banks are being adequately managed;
- effective banking supervision requires that the risk profile of individual banks be assessed and supervisory resources allocated accordingly;
- supervisors must ensure that banks have resources appropriate to undertake risks, including adequate capital, sound management, and effective control systems and accounting records; and
- close cooperation with other supervisors is essential, particularly where the operations of banking organisations cross national boundaries.

Banking supervision should foster an efficient and competitive banking system that is responsive to the public's need for good quality financial services at a reasonable cost. Generally, it should be recognised that there is a trade-off between the level of protection that supervision provides and the cost of financial intermediation. The lower the tolerance of risk to banks and the financial system, the more intrusive and costly supervision is likely to be, eventually having an adverse effect on innovation and resource allocation.

Supervision cannot, and should not, provide an assurance that banks will not fail. In a market economy, failures are a part of risk-taking. The way in which failures are handled, and their costs borne, is in large part a political matter involving decisions on whether, and the extent to which, public funds should be committed to supporting the banking system. Such matters cannot therefore always be entirely the responsibility of banking supervisors; however, supervisors should have in place adequate arrangements for resolving problem bank situations. There are certain infrastructure elements that are required to support effective supervision. Where such elements do not exist, supervisors should seek to persuade government to put them in place (and may have a role in designing and developing them). These elements are discussed in Section II.

In some countries responsibility for licensing banks is separate from the process of ongoing supervision. It is clearly essential that, wherever the responsibility lies, the licensing process establishes the same high standards as the process of ongoing supervision which is the main focus of this paper. Section III therefore discusses some principles and issues that should be addressed in the licensing process.

The core principles of banking supervision set out above and expanded in Sections III-VI of this document will provide the foundation necessary to achieve a sound supervisory system. Local characteristics will need to be taken into account in the specific way in which these standards are implemented. These standards are necessary but may not be sufficient, on their own, in all situations. Supervisory systems should take into account the nature of and risks involved in the local banking market as well as more generally the local infrastructure. Each country should therefore consider to what extent it needs to supplement these standards with additional requirements to address particular risks and general conditions prevailing in its own market. Furthermore, banking supervision is a dynamic function that needs to respond to changes in the marketplace. Consequently supervisors must be prepared to reassess periodically their supervisory policies and practices in the light of new trends or developments. A sufficiently flexible legislative framework is necessary to enable them to do this.

* This document refers to a management structure composed of a board of directors and senior management. The Committee is aware that there are significant differences in legislative and regulatory frameworks across countries as regards the functions of the board of directors and senior management. In some countries, the board has the main, if not exclusive, function of supervising the executive body senior management, general management) so as to ensure that the latter fulfils its tasks. For this reason, in some cases, it is known as a supervisory board. This means that the board has no executive functions. In other countries, by contrast, the board has a broader competence in that it lays down the general framework for the management of the bank. Owing to these differences, the notions of the board of directors and the senior management are used in this document not to identify legal constructs but rather to label two decision-making functions within a bank.

SECTION II: RECONDITIONS FOR EFFECTIVE BANKING SUPERVISION

Banking supervision is only part of wider arrangements that are needed to promote stability in financial markets. These arrangements include:

1. sound and sustainable macro-economic policies;
 2. a well developed public infrastructure;
 3. effective market discipline;
 4. procedures for efficient resolution of problems in banks; and
 5. mechanisms for providing an appropriate level of systemic protection (or public safety net).
1. *Providing sound and sustainable macro-economic policies* are not within the competence of banking supervisors. Supervisors, however, will need to react if they perceive that existing policies are undermining the safety and soundness of the banking system. In the absence of sound macro-economic policies, banking supervisors will be faced with a virtually impossible task. Therefore, sound macro-economic policies must be the foundation of a stable financial system.
 2. *A well developed public infrastructure* needs to cover the following facilities, which, if not adequately provided, can significantly contribute to the destabilisation of financial systems:
 - a system of business laws including corporate, bankruptcy, contract, consumer protection and private property laws, that is consistently enforced and provides a mechanism for fair resolution of disputes;
 - comprehensive and well-defined accounting principles and rules that command wide international acceptance;
 - a system of independent audits for companies of significant size so that users of financial statements, including banks, have independent assurance that the accounts provide a true and fair view of the financial position of the company and are prepared according to established accounting principles, with auditors held accountable for their work;
 - effective banking supervision (as outlined in this document);
 - well-defined rules governing, and adequate supervision of, other financial markets and, where appropriate, their participants; and,
 - a secure and efficient payment and clearing system for the settlement of financial transactions where counter-party risks are controlled.
 3. *Effective market discipline* depends on an adequate flow of information to market participants, appropriate financial incentives to reward well managed institutions and arrangements that ensure that investors are not insulated from the consequences of their decisions. Among the issues to be addressed are corporate governance and ensuring that accurate, meaningful, transparent and timely information is provided by borrowers to investors and creditors.

Market signals can be distorted and discipline undermined if governments seek to influence or override commercial decisions, particularly lending decisions, to achieve public policy objectives. In these circumstances, it is important that if guarantees are provided for such lending, they are disclosed and arrangements are made to compensate financial institutions when policy loans cease to perform.

4. Sufficiently flexible powers are necessary in order to effect an *efficient resolution of problems in banks*. Where problems are remediable, supervisors will normally seek to identify and implement solutions that fully address their concerns; where they are not, the prompt and orderly exit of institutions that are no longer able to meet supervisory requirements is a necessary part of an efficient financial system. Forebearance, whether or not the result of political pressure, normally leads to worsening problems and higher resolution costs. The supervisory agency should be responsible for, or assist in, the orderly exit of problem banks in order to ensure that depositors are repaid to the fullest extent possible from the resources of the bank (supplemented by any applicable deposit insurance) and ahead of shareholders, subordinated debt holders and other connected parties.
In some cases, the best interests of depositors may be served by some form of restructuring, possibly takeover by a stronger institution or injection of new capital or shareholders. Supervisors may be able to facilitate such outcomes. It is essential that the end result fully meets all supervisory requirements, that it is realistically achievable in a short and determinate time frame, and that, in the interim, depositors are protected.
5. Deciding on the *appropriate level of systemic protection* is by and large a policy question to be taken by the relevant authorities (including the central bank), particularly where it may result in a commitment of public funds. Supervisors will also normally have a role to play because of their in-depth knowledge of the institutions involved. In order to preserve the operational independence of supervisors, it is important to draw a clear distinction between this systemic protection (or safety net) role and day-to-day supervision of solvent institutions. In handling systemic issues, it will be necessary to address, on the one hand, risks to confidence in the financial system and contagion to otherwise sound institutions, and, on the other hand, the need to minimise the distortion to market signals and discipline. Deposit insurance arrangements, where they exist, may also be triggered.

Principle 1: An effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banking organisations. Each such agency should possess operational independence and adequate resources. A suitable legal framework for banking supervision is also necessary, including provisions relating to authorisation of banking organisations and their ongoing supervision; powers to address compliance with laws as well as safety and soundness concerns; and legal protection for supervisors. Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.

This standard requires the following components to be in place:

- a clear, achievable and consistent framework of responsibilities and objectives set by legislation for (each of) the supervisor(s) involved, but with operational independence to pursue them free from political pressure and with accountability for achieving them;
- adequate resources (including staffing, funding and technology) to meet the objectives set, provided on terms that do not undermine the autonomy, integrity and independence of the supervisory agency;
- a framework of banking law that sets out minimum standards that banks must meet; allows supervisors sufficient flexibility to set prudential rules administratively, where necessary, to achieve the objectives set as well as to utilise qualitative judgement; provides powers to gather and independently verify information; and, gives supervisors power to enforce a range of penalties that may be applied when prudential requirements are not being met (including powers to remove individuals, invoke sanctions and revoke licences);
- protection (normally in law) from personal and institutional liability for supervisory actions taken in good faith in the course of performing supervisory duties; and,
- a system of interagency cooperation and sharing of relevant information among the various official agencies, both domestic and foreign, responsible for the safety and soundness of the financial system; this cooperation should be supported by arrangements for protecting the confidentiality of supervisory information and ensuring that it is used only for purposes related to the effective supervision of the institutions concerned.

SECTION III LICENSING PROCESS AND APPROVAL FOR CHANGES IN STRUCTURE

Principle 2. The permissible activities of institutions that are licensed and subject to supervision as banks must be clearly defined, and the use of the word “bank” in names should be controlled as far as possible.

Principle 3. The licensing authority must have the right to set criteria and reject applications for establishments that do not meet the standards set. The licensing process, at a minimum, should consist of an assessment of the banking organisation’s ownership structure, directors and senior management, its operating plan and internal controls, and its projected financial condition, including its capital base; where the proposed owner or parent organisation is a foreign bank, the prior consent of its home country supervisor should be obtained.

In order to facilitate a healthy financial system, and to define precisely the population of institutions to be supervised, the arrangements for licensing banking organisations and the scope of activities governed by licences should be clearly defined. In particular, at a minimum, the activity of taking a proper bank deposit from the public would typically be reserved for institutions that are licensed and subject to supervision as banks. The term “bank” should be clearly defined and the use of the word “bank” in names should be controlled to the extent possible in those circumstances where the general public might be misled by unlicensed, unsupervised institutions implying otherwise by the use of “bank” in their titles.

By basing banking supervision on a system of licensing (or chartering) deposit-taking institutions (and, where appropriate, other types of financial institutions), the supervisors will have a means of identifying the population to be supervised and entry to the banking system will be controlled. The licensing authority should determine that new banking organisations have suitable shareholders, adequate financial strength, a legal structure in line with its operational structure, and management with sufficient expertise and integrity to operate the bank in a sound and prudent manner. It is important that the criteria for issuing licences are consistent with those applied in ongoing supervision so that they can provide one of the bases for withdrawing authorisation when an established institution no longer meets the criteria. Where the licensing and supervisory authorities are different, it is essential that they cooperate closely in the licensing process and that the supervisory authority has a legal right to have its views considered by the licensing authority. Clear and objective criteria also reduce the potential for political interference in the licensing process. Although the licensing process cannot guarantee that a bank will be well run after it opens, it can be an effective method for reducing the number of unstable institutions that enter the banking system.

Licensing regulations, as well as supervisory tools, should be designed to limit the number of bank failures and the amount of depositor losses without inhibiting the efficiency and competitiveness of the banking industry by blocking entry to it. Both elements are necessary to maintain public confidence in the banking system.

Having established strict criteria for reviewing a banking licence application, the licensing authority must have the right to reject applications if it cannot be satisfied that the criteria set are met. The licensing process, at a minimum, should consist of an assessment of the banking organisation’s ownership structure, directors and senior management, its operating plan and internal controls, and its projected financial condition, including its capital adequacy; when the

* This includes any derivations of the word “bank”, including “banking”.

proposed owner is a foreign bank, prior consent of its home country supervisor should be obtained.

A. Ownership Structure

Supervisors must be able to assess the ownership structure of banking organisations. This assessment should include the bank's direct and indirect controlling and major* direct or indirect shareholders. This assessment should review the controlling shareholders' past banking and non-banking business ventures and their integrity and standing in the business community, as well as the financial strength of all major shareholders and their ability to provide further financial support should it be needed. As part of the process of checking integrity and standing, the supervisor should determine the source of the initial capital to be invested.

Where a bank will be part of a larger organisation, licensing and supervisory authorities should determine that the ownership and organisational structure will not be a source of weakness and will minimise the risk to depositors of contagion from the activities conducted by other entities within the larger organisation. The other interests of the bank's major shareholders should be reviewed and the financial condition of these related entities assessed. The bank should not be used as a captive source of finance for its owners. When evaluating the corporate affiliations and structure of the proposed bank within a conglomerate, the licensing and supervisory authorities should determine that there will be sufficient transparency to permit them to identify the individuals responsible for the sound operations of the bank and to ensure that these individuals have the autonomy within the conglomerate structure to respond quickly to supervisory recommendations and requirements. Finally, the licensing and supervisory authorities must have the authority to prevent corporate affiliations or structures that hinder the effective supervision of banks. These can include structures where material parts are in jurisdictions where secrecy laws or inadequate financial supervision are significant obstacles and structures where the same owners control banks with parallel structures which cannot be subjected to consolidated supervision because there is no common corporate link.

B. Operating Plan, Systems of Control and Internal Organisation

Another element to review during the licensing process is the operations and strategies proposed for the bank. The operating plan should describe and analyse the market area from which the bank expects to draw the majority of its business and establish a strategy for the bank's ongoing operations. The application should also describe how the bank will be organised and controlled internally. The licensing agency should determine if these arrangements are consistent with the proposed strategy and should also determine whether adequate internal policies and procedures have been developed and adequate resources deployed. This should include determining that appropriate corporate governance will be in place (a management structure with clear accountability, a board of directors with ability to provide an independent check on management, and independent audit and compliance functions) and that the "four eyes" principle (segregation of various functions, crosschecking, dual control of assets, double signatures, etc.) will be followed. It is essential to determine that the legal and operational structures will not inhibit supervision on either a solo or consolidated basis and that the supervisor will have adequate access to management and information. For this reason, supervisors should not grant a licence to a bank when the head office will be located outside its jurisdiction unless the supervisor is assured that it will have adequate access to management and information. (See Section E below for licensing of banks incorporated abroad.)

C. Fit and Proper Test for Directors and Senior Managers

A key aspect of the licensing process is an evaluation of the competence, integrity and qualifications of proposed management, including the board of directors**. The licensing agency should obtain the necessary information about the proposed directors and senior managers to consider individually and collectively their banking experience, other business experience, personal integrity and relevant skill. This evaluation of management should involve background checks on whether previous activities, including regulatory or judicial judgements, raise doubts concerning their competence, sound judgement, or honesty. It is critical that the bank's proposed management team includes a substantial number of individuals with a proven track record in banking. Supervisors should have the authority to require notification of subsequent changes in directors and senior management and to prevent such appointments if they are deemed to be detrimental to the interests of depositors.

D. Financial Projections Including Capital

The licensing agency should review *pro forma* financial statements and projections for the proposed bank. The review should determine whether the bank will have sufficient capital to support its proposed strategic plan, especially in light of start-up costs and possible operational losses in the early stages. In addition, the licensing authority should assess whether the projections are consistent and realistic, and whether the proposed bank is likely to be viable. In most countries, licensing agencies have established a minimum initial capital amount. The licensing agency should also consider the ability of shareholders to supply additional support, if needed, once the bank has commenced activities. If there will be a corporate shareholder with a significant holding, an assessment of the financial condition of the corporate parent should be made, including its capital strength.

* In many countries, a "major" shareholder is defined as holding 10% or more of a bank's equity capital.

** With regard to the "fit and proper" evaluation, where appropriate, differentiation can be made between the supervisory board and the executive board.

E. Prior Approval from the Home Country Supervisor When the Proposed Owner Is a Foreign Bank (See also Section VI.B.)

When a foreign bank, subsidiary of a foreign banking group, or a foreign nonbanking financial institution (subject to a supervisory authority) proposes to establish a local bank or branch office, the licensing authority should consider whether the Basle Minimum Standards are met and in particular the licence should not normally be approved until the consent of the home country supervisor of the bank or banking group has been obtained. The host authority should also consider whether the home country supervisor capably performs its supervisory task on a consolidated basis. In assessing whether capable consolidated supervision is provided, the host licensing authority should consider not only the nature and scope of the home country supervisory regime but also whether the structure of the applicant or its group is such as to not inhibit effective supervision by the home and host country supervisory authorities.

F. Transfer of a Bank's Shares

Principle 4. Banking supervisors must have the authority to review and reject any proposals to transfer significant ownership or controlling interests in existing banks to other parties.

In addition to licensing new banks, banking supervisors should be notified of any future significant direct or indirect investment in the bank or any increases or other changes in ownership over a particular threshold and should have the power to block such investments or prevent the exercise of voting rights in respect of such investments if they do not meet criteria comparable to those used for approving new banks. Notifications are often required for ownership or voting control involving established percentages of a bank's outstanding shares.* The threshold for approval of significant ownership changes may be higher than that for notification.

G. Major Acquisitions or Investments by a Bank

Principle 5. Banking supervisors must have the authority to establish criteria for reviewing major acquisitions or investments by a bank and ensuring that corporate affiliations or structures do not expose the bank to undue risks or hinder effective supervision.

In many countries, once a bank has been licensed, it may conduct any activities normally permissible for banks or any range of activities specified in the banking licence. Consequently, certain acquisitions or investments may be automatically permissible if they comply with certain limits set by the supervisors or by banking law or regulation. In certain circumstances, supervisors require banks to provide notice or obtain explicit permission before making certain acquisitions or investments. In these instances, supervisors need to determine if the banking organisation has both the financial and managerial resources to make the acquisition and may need to consider also whether the investment is permissible under existing banking laws and regulations. The supervisor should clearly define what types and amounts of investments need prior approval and for what cases notification is sufficient. Notification after the fact is most appropriate in those instances where the activity is closely related to banking and the investment is small relative to the bank's total capital.

SECTION IV ARRANGEMENTS FOR ONGOING BANKING SUPERVISION

A. Risks in Banking

Banking, by its nature, entails taking a wide array of risks. Banking supervisors need to understand these risks and be satisfied that banks are adequately measuring and managing them. The key risks faced by banks are discussed below.

Credit risk

The extension of loans is the primary activity of most banks. Lending activities require banks to make judgements related to the creditworthiness of borrowers. These judgements do not always prove to be accurate and the creditworthiness of a borrower may decline over time due to various factors. Consequently, a major risk that banks face is credit risk or the failure of a counterparty to perform according to a contractual arrangement. This risk applies not only to loans but to other on- and off-balance sheet exposures such as guarantees, acceptances and securities investments. Serious banking problems have arisen from the failure of banks to recognise impaired assets, to create reserves for writing off these assets, and to suspend recognition of interest income when appropriate.

Large exposures to a single borrower, or to a group of related borrowers are a common cause of banking problems in that they represent a credit risk concentration. Large concentrations can also arise with respect to particular industries, economic sectors, or geographical regions or by having sets of loans with other characteristics that make them vulnerable to the same economic factors (e.g. highly-leveraged transactions). Connected lending - the extension of credit to individuals or firms connected to the bank through ownership or through the ability to exert direct or indirect control - if not properly controlled, can lead to significant problems because determinations regarding the creditworthiness of the borrower are not always made objectively. Connected parties include a bank's parent organisation, major shareholders, subsidiaries, affiliated entities, directors, and executive officers. Firms are also connected when they are controlled by the same family or group. In these, or in similar, circumstances, the connection can lead to preferential treatment in lending and thus greater risk of loan losses.

* These established percentages typically range between 5 and 10%.

Country and transfer risk

In addition to the counterparty credit risk inherent in lending, international lending also includes country risk, which refers to risks associated with the economic, social and political environments of the borrower's home country. Country risk may be most apparent when lending to foreign governments or their agencies, since such lending is typically unsecured, but is important to consider when making any foreign loan or investment, whether to public or private borrowers. There is also a component of country risk called "transfer risk" which arises when a borrower's obligation is not denominated in the local currency. The currency of the obligation may become unavailable to the borrower regardless of its particular financial condition.

Market risk

Banks face a risk of losses in on- and off-balance sheet positions arising from movements in market prices. Established accounting principles cause these risks to be typically most visible in a bank's trading activities, whether they involve debt or equity instruments, or foreign exchange or commodity positions. One specific element of market risk is foreign exchange risk. Banks act as "market-makers" in foreign exchange by quoting rates to their customers and by taking open positions in currencies. The risks inherent in foreign exchange business, particularly in running open foreign exchange positions, are increased during periods of instability in exchange rates.

Interest rate risk

Interest rate risk refers to the exposure of a bank's financial condition to adverse movements in interest rates. This risk impacts both the earnings of a bank and the economic value of its assets, liabilities and off-balance sheet instruments. The primary forms of interest rate risk to which banks are typically exposed are: (1) repricing risk, which arises from timing differences in the maturity (for fixed rate) and repricing (for floating rate) of bank assets, liabilities and off-balance sheet positions; (2) yield curve risk, which arises from changes in the slope and shape of the yield curve; (3) basis risk, which arises from imperfect correlation in the adjustment of the rates earned and paid on different instruments with otherwise similar repricing characteristics; and (4) optionality, which arises from the express or implied options imbedded in many bank assets, liabilities and off-balance sheet portfolios.

Although such risk is a normal part of banking, excessive interest rate risk can pose a significant threat to a bank's earnings and capital base. Managing this risk is of growing importance in sophisticated financial markets where customers actively manage their interest rate exposure. Special attention should be paid to this risk in countries where interest rates are being deregulated.

Liquidity risk

Liquidity risk arises from the inability of a bank to accommodate decreases in liabilities or to fund increases in assets. When a bank has inadequate liquidity, it cannot obtain sufficient funds, either by increasing liabilities or by converting assets promptly, at a reasonable cost, thereby affecting profitability. In extreme cases, insufficient liquidity can lead to the insolvency of a bank.

Operational risk

The most important types of operational risk involve breakdowns in internal controls and corporate governance. Such breakdowns can lead to financial losses through error, fraud, or failure to perform in a timely manner or cause the interests of the bank to be compromised in some other way, for example, by its dealers, lending officers or other staff exceeding their authority or conducting business in an unethical or risky manner. Other aspects of operational risk include major failure of information technology systems or events such as major fires or other disasters.

Legal risk

Banks are subject to various forms of legal risk. This can include the risk that assets will turn out to be worth less or liabilities will turn out to be greater than expected because of inadequate or incorrect legal advice or documentation. In addition, existing laws may fail to resolve legal issues involving a bank; a court case involving a particular bank may have wider implications for banking business and involve costs to it and many or all other banks; and, laws affecting banks or other commercial enterprises may change. Banks are particularly susceptible to legal risks when entering new types of transactions and when the legal right of a counterparty to enter into a transaction is not established.

Reputational risk

Reputational risk arises from operational failures, failure to comply with relevant laws and regulations, or other sources. Reputational risk is particularly damaging for banks since the nature of their business requires maintaining the confidence of depositors, creditors and the general marketplace.

B. Development and Implementation of Prudential Regulations and Requirements

The risks inherent in banking must be recognised, monitored and controlled. Supervisors play a critical role in ensuring that bank management does this. An important part of the supervisory process is the authority of supervisors to develop and utilise prudential regulations and requirements to control these risks, including those covering capital adequacy, loan loss reserves, asset concentrations, liquidity, risk management and internal controls. These may be qualitative and/or quantitative requirements. Their purpose is to limit imprudent risk-taking by banks. These requirements should not supplant management decisions but rather impose minimum prudential standards to ensure that banks conduct their activities in an appropriate manner. The dynamic nature of banking requires that supervisors periodically assess their prudential requirements and evaluate the continued relevance of existing requirements as well as the need for new requirements.

1. Capital adequacy

Principle 6: Banking supervisors must set prudent and appropriate minimum capital adequacy requirements for all banks. Such requirements should reflect the risks that the banks undertake, and must define the components of capital, bearing in mind their ability to absorb losses. At least for internationally active banks, these requirements must not be less than those established in the Basle Capital Accord and its amendments.

Equity capital serves several purposes: it provides a permanent source of revenue for the shareholders and funding for the bank; it is available to bear risk and absorb losses; it provides a base for further growth; and it gives the shareholders reason to ensure that the bank is managed in a safe and sound manner. Minimum capital adequacy ratios are necessary to reduce the risk of loss to depositors, creditors and other stakeholders of the bank and to help supervisors pursue the overall stability of the banking industry. Supervisors must set prudent and appropriate minimum capital adequacy requirements and encourage banks to operate with capital in excess of the minimum. Supervisors should consider requiring higher than minimum capital ratios when it appears appropriate due to the particular risk profile of the bank or if there are uncertainties regarding the asset quality, risk concentrations or other adverse characteristics of a bank's financial condition. If a bank's ratio falls below the minimum, banking supervisors should ensure that it has realistic plans to restore the minimum in a timely fashion. Supervisors should also consider whether additional restrictions are needed in such cases.

In 1988, the member countries of the Basle Committee on Banking Supervision agreed to a method of ensuring a bank's capital adequacy. Many other countries have adopted the Capital Accord or something very close to it. The Accord addresses two important elements of a bank's activities: (1) different levels of credit risk inherent in its balance sheet and (2) off-balance sheet activities, which can represent a significant risk exposure.

The Accord defines what types of capital are acceptable for supervisory purposes and stresses the need for adequate levels of "core capital" (in the accord this capital is referred to as tier one capital) consisting of permanent shareholders' equity and disclosed reserves that are created or maintained by appropriations of retained earnings or other surplus (e.g. share premiums, retained profit, general reserves and reserves required by law). Disclosed reserves also include general funds that meet the following criteria: (1) allocations to the funds must be made out of post-tax retained earnings or out of pre-tax earnings adjusted for all potential tax liabilities; (2) the funds and movements into or out of them must be disclosed separately in the bank's published accounts; (3) the funds must be available to a bank to meet losses; and (4) losses cannot be charged directly to the funds but must be taken through the profit and loss account. The Accord also acknowledges other forms of supplementary capital (referred to as tier two capital), such as other forms of reserves and hybrid capital instruments that should be included within a system of capital measurement. The Accord assigns risk weights to on- and off-balance sheet exposures according to broad categories of relative riskiness. The framework of weights has been kept as simple as possible with only five weights being used: 0, 10, 20, 50 and 100%. The Accord sets minimum capital ratio requirements for internationally active banks of 4% tier one capital and 8% total (tier one plus tier two) capital in relation to riskweighted assets.* These requirements are applied to banks on a consolidated basis.** It must be stressed that these ratios are considered a minimum standard and many supervisors require higher ratios or apply stricter definitions of capital or higher risk weights than set out in the Accord.

2. Credit risk management

i. Credit-granting standards and credit monitoring process

Principle 7: An essential part of any supervisory system is the evaluation of a bank's policies, practices and procedures related to the granting of loans and making of investments and the ongoing management of the loan and investment portfolios.

Supervisors need to ensure that the credit and investment function at individual banks is objective and grounded in sound principles. The maintenance of prudent written lending policies, loan approval and administration procedures, and appropriate loan documentation are essential to a bank's management of the lending function. Lending and investment activities should be based on prudent underwriting standards that are approved by the bank's board of directors and clearly communicated to the bank's lending officers and staff. It is also critical for supervisors to determine the extent to which the institution makes its credit decisions free of conflicting interests and inappropriate pressure from outside parties.

Banks must also have a well-developed process for ongoing monitoring of credit relationships, including the financial condition of borrowers. A key element of any management information system should be a data base that provides essential details on the condition of the loan portfolio, including internal loan grading and classifications.

ii. Assessment of asset quality and adequacy of loan loss provisions and reserves

Principle 8: Banking supervisors must be satisfied that banks establish and adhere to adequate policies, practices and procedures for evaluating the quality of assets and the adequacy of loan loss provisions and loan loss reserves.

Supervisors should assess a bank's policies regarding the periodic review of individual credits, asset classification and provisioning. They should be satisfied that these policies are being reviewed regularly and implemented consistently.

* Although the Accord applies to internationally active banks, many countries also apply the Accord to their domestic banks.

** Supervisors should, of course, also give consideration to monitoring the capital adequacy of banks on a non-consolidated basis.

Supervisors should also ensure that banks have a process in place for overseeing problem credits and collecting past due loans. When the level of problem credits at a bank is of concern to the supervisors, they should require the bank to strengthen its lending practices, credit-granting standards, and overall financial strength.

When guarantees or collateral are provided, the bank should have a mechanism in place for continually assessing the strength of these guarantees and appraising the worth of the collateral. Supervisors should also ensure that banks properly record and hold adequate capital against off-balance sheet exposures when they retain contingent risks.

iii. Concentrations of risk and large exposures

Principle 9: Banking supervisors must be satisfied that banks have management information systems that enable management to identify concentrations within the portfolio and supervisors must set prudential limits to restrict bank exposures to single borrowers or groups of related borrowers.

Banking supervisors must set prudential limits to restrict bank exposures to single borrowers, groups of related borrowers and other significant risk concentrations.* These limits are usually expressed in terms of a percentage of bank capital and, although they vary, 25% of capital is typically the most that a bank or banking group may extend to a private sector non-bank borrower or a group of closely related borrowers without specific supervisory approval. It is recognised that newly-established or very small banks may face practical limits on their ability to diversify, necessitating higher levels of capital to reflect the resultant risk.

Supervisors should monitor the bank's handling of concentrations of risk and may require that banks report to them any such exposures exceeding a specified limit (e.g., 10% of capital) or exposures to large borrowers as determined by the supervisors. In some countries, the aggregate of such large exposures is also subject to limits.

iv. Connected lending

Principle 10: In order to prevent abuses arising from connected lending, banking supervisors must have in place requirements that banks lend to related companies and individuals on an arm's-length basis, that such extensions of credit are effectively monitored, and that other appropriate steps are taken to control or mitigate the risks.

Banking supervisors must be able to prevent abuses arising from connected and related party lending. This will require ensuring that such lending is conducted only on an arm's-length basis and that the amount of credit extended is monitored. These controls are most easily implemented by requiring that the terms and conditions of such credits not be more favourable than credit extended to non-related borrowers under similar circumstances and by imposing strict limits on such lending. Supervisors should have the authority, in appropriate circumstances, to go further and establish absolute limits on categories of such loans, to deduct such lending from capital when assessing capital adequacy, or to require collateralisation of such loans. Transactions with related parties that pose special risks to the bank should be subject to the approval of the bank's board of directors, reported to the supervisors, or prohibited altogether. Supervising banking organisations on a consolidated basis can in some circumstances identify and reduce problems arising from connected lending.

Supervisors should also have the authority to make discretionary judgements about the existence of connections between the bank and other parties. This is especially necessary in those instances where the bank and related parties have taken measures to conceal such connections.

v. Country and transfer risk

Principle 11: Banking supervisors must be satisfied that banks have adequate policies and procedures for identifying, monitoring and controlling country risk and transfer risk in their international lending and investment activities, and for maintaining appropriate reserves against such risks."

3. Market risk management

Principle 12: Banking supervisors must be satisfied that banks have in place systems that accurately measure, monitor and adequately control market risks; supervisors should have powers to impose specific limits and/or a specific capital charge on market risk exposures, if warranted.

Banking supervisors must determine that banks accurately measure and adequately control market risks. Where material, it is appropriate to provide an explicit capital cushion for the price risks to which banks are exposed, particularly those arising from their trading activities. Introducing the discipline that capital requirements impose can be an important further step in strengthening the soundness and stability of financial markets. There should also be well-structured quantitative and qualitative standards for the risk management process related to market risk."

* As a guide to appropriate controls on concentrations of risk, the Basle Committee has adopted a best practices paper covering large credit exposures. This 1991 paper addresses the definitions of credit exposures, single borrowers, and related counterparties, and also discusses appropriate levels of large exposure limits, and risks arising from different forms of asset concentrations.

** These issues were addressed in a 1982 Basle Committee paper "Management of banks' international lending"

*** In January 1996 the Basle Committee issued a paper amending the Capital Accord and implementing a new capital charge related to market risk. This capital charge comes into effect by the end of 1997. In calculating the capital charge, banks will have the option of using a standardised method or their own internal models. The G-10 supervisory authorities plan to use "backtesting" (i.e., ex-post comparisons between model results and actual performance) in conjunction with banks' internal risk measurement systems as a basis for applying capital charges.

Banking supervisors should also ensure that bank management has set appropriate limits and implemented adequate internal controls for their foreign exchange business.

4. Other risk management

Principle 13: Banking supervisors must be satisfied that banks have in place a comprehensive risk management process (including appropriate board and senior management oversight) to identify, measure, monitor and control all other material risks and, where appropriate, to hold capital against these risks.

Risk management standards* are a necessary element of banking supervision, and increasingly important as financial instruments and risk measurement techniques become more complex. Moreover, the effect of new technologies on financial markets both permits and requires many banks to monitor their portfolios daily and adjust risk exposures rapidly in response to market and customer needs. In this environment, management, investors, and supervisors need information about a bank's exposures that is correct, informative, and provided on a timely basis. Supervisors can contribute to this process by promoting and enforcing sound policies in banks, and requiring procedures that ensure the necessary information is available.

i. Interest rate risk

Supervisors should monitor the way in which banks control interest rate risk including effective board and senior management oversight, adequate risk management policies and procedures, risk measurement and monitoring systems, and comprehensive controls." In addition, supervisors should receive sufficient and timely information from banks in order to evaluate the level of interest rate risk. This information should take appropriate account of the range of maturities and currencies in each bank's portfolio, as well as other relevant factors such as the distinction between trading and non-trading activities.

ii. Liquidity management

The purpose of liquidity management is to ensure that the bank is able to meet fully its contractual commitments. Crucial elements of strong liquidity management include good management information systems, central liquidity control, analysis of net funding requirements under alternative scenarios, diversification of funding sources, and contingency planning." Supervisors should expect banks to manage their assets, liabilities and off-balance sheet contracts with a view to maintaining adequate liquidity. Banks should have a diversified funding base, both in terms of sources of funds and the maturity breakdown of the liabilities. They should also maintain an adequate level of liquid assets.

iii. Operational risk

Supervisors should ensure that senior management puts in place effective internal control and auditing procedures; also, that they have policies for managing or mitigating operational risk (e.g., through insurance or contingency planning). Supervisors should determine that banks have adequate and well-tested business resumption plans for all major systems, with remote site facilities, to protect against such events.

5. Internal controls

Principle 14. Banking supervisors must determine that banks have in place internal controls that are adequate for the nature and scale of their business. These should include clear arrangements for delegating authority and responsibility; separation of the functions that involve committing the bank, paying away its funds, and accounting for its assets and liabilities; reconciliation of these processes; safeguarding its assets; and appropriate independent internal or external audit and compliance functions to test adherence to these controls as well as applicable laws and regulations.

Principle 15. Banking supervisors must determine that banks have adequate policies, practices and procedures in place, including strict "know-your-customer" rules, that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements.

The purpose of internal controls is to ensure that the business of a bank is conducted in a prudent manner in accordance with policies and strategies established by the bank's board of directors; that transactions are only entered into with appropriate authority; that assets are safeguarded and liabilities controlled; that accounting and other records provide complete, accurate and timely information; and that management is able to identify, assess, manage and control the risks of the business.

There are four primary areas of internal controls:

- organisational structures (definitions of duties and responsibilities, discretionary limits for loan approval, and decision-making procedures);
- accounting procedures (reconciliation of accounts, control lists, periodic trial balances, etc.);

* The Basle Committee has recently established a sub-group to study issues related to risk management and internal controls and to provide guidance to the banking industry.

** The Basle Committee has recently issued a paper related to the management of interest rate risk that outlines a number of principles for use by supervisory authorities when considering interest rate risk management at individual banks.

*** The Basle Committee has issued a paper that sets out the main elements of a model analytical framework for measuring and managing liquidity. Although the paper focuses on the use of the framework by large, internationally-active banks, it provides guidance that should prove useful to all banks.

- the “four eyes” principle (segregation of various functions, cross-checking, dual control of assets, double signatures, etc.); and
- physical control over assets and investments.

These controls must be supplemented by an effective audit function that independently evaluates the adequacy, operational effectiveness and efficiency of the control systems within an organisation. Consequently, the internal auditor must have an appropriate status within the bank and adequate reporting lines designed to safeguard his or her independence.* The external audit can provide a cross-check on the effectiveness of this process. Banking supervisors must be satisfied that effective policies and practices are followed and that management takes appropriate corrective action in response to internal control weaknesses identified by internal and external auditors.

Banks are subject to a wide array of banking and non-banking laws and regulations and must have in place adequate policies and procedures to ensure compliance. Otherwise, violations of established requirements can damage the reputation of the bank and expose it to penalties. In extreme cases, this damage could threaten the bank’s solvency. Compliance failures also indicate that the bank is not being managed with the integrity and skill expected of a banking organisation. Larger banks in particular should have independent compliance functions and banking supervisors should determine that such functions are operating effectively.

Public confidence in banks can be undermined, and bank reputations damaged, as a result of association (even if inadvertent) with drug traders and other criminals. Consequently, while banking supervisors are not generally responsible for the criminal prosecution of money laundering offences or the ongoing anti-money laundering efforts in their countries, they have a role in ensuring that banks have procedures in place, including strict “know-your-customer” policies, to avoid association or involvement with drug traders and other criminals, as well as in the general promotion of high ethical and professional standards in the financial sector. Specifically, supervisors should encourage the adoption of those recommendations of the Financial Action Task Force on Money Laundering (FATF) that apply to financial institutions. These relate to customer identification and record-keeping, increased diligence by financial institutions in detecting and reporting suspicious transactions, and measures to deal with countries with insufficient or no anti-money laundering measures.

The occurrence of fraud in banks, or involving them, is also of concern to banking supervisors for three reasons. On a large scale it may threaten the solvency of banks and the integrity and soundness of the financial system. Second, it may be indicative of weak internal controls that will require supervisory attention. And thirdly, there are potential reputational and confidence implications which may also spread from a particular institution to the system. For these reasons, banks should have established lines of communication, both within the management chain and within an internal security or guardian function independent of management, for reporting problems. Employees should be required to report suspicious or troubling behaviour to a superior or to internal security. Moreover, banks should be required to report suspicious activities and significant incidents of fraud to the supervisors. It is not necessarily the role of supervisors to investigate fraud in banks, and the skills required to do so are specialised, but supervisors do need to ensure that appropriate authorities have been alerted. They need to be able to consider and, if necessary, act to prevent effects on other banks and to maintain an awareness of the types of fraudulent activity that are being undertaken or attempted in order to ensure that banks have controls capable of countering them.

C. Methods of Ongoing Banking Supervision

Principle 16: An effective banking supervisory system should consist of some form of both on-site and off-site supervision.

Principle 17: Banking supervisors must have regular contact with bank management and a thorough understanding of the institution’s operations.

Principle 18: Banking supervisors must have a means of collecting, reviewing and analysing prudential reports and statistical returns from banks on a solo and consolidated basis.

Principle 19: Banking supervisors must have a means of independent validation of supervisory information either through on-site examinations or use of external auditors.

Principle 20: An essential element of banking supervision is the ability of the supervisors to supervise the banking group on a consolidated basis.

Supervision requires the collection and analysis of information. This can be done on or off-site. An effective supervisory system will use both means. In some countries, onsite work is carried out by examiners and in others by qualified external auditors. In still other countries, a mixed system of on-site examinations and collaboration between the supervisors and the external auditors exists. The extent of on-site work and the method by which it is carried out depend on a variety of factors.

Regardless of their mix of on-site and off-site activities or their use of work done by external accountants, banking supervisors must have regular contact with bank management and a thorough understanding of the institution’s operations. Review of the reports of internal and external auditors can be an integral part of both on-site and off-site supervision. The various factors considered during the licensing process should be periodically assessed as part of on-going supervision. Banks should be required to submit information on a periodic basis for review by the

* In some countries, supervisors recommend that banks establish an “audit committee” within the board of directors. The purpose of this committee is to facilitate the effective performance of board oversight.

supervisors, and supervisors should be able to discuss regularly with banks all significant issues and areas of their business. If problems develop, banks should also feel that they can confide in and consult with the supervisor, and expect that problems will be discussed constructively and treated in a confidential manner.

They must also recognise their responsibility to inform supervisors of important matters in a timely manner.

1. Off-site surveillance

Supervisors must have a means of collecting, reviewing and analysing prudential reports and statistical returns from banks on a solo and consolidated basis. These should include basic financial statements as well as supporting schedules that provide greater detail on exposure to different types of risk and various other financial aspects of the bank, including provisions and off-balance sheet activities. The supervisory agency should also have the ability to obtain information on affiliated non-bank entities. Banking supervisors should also make full use of publicly-available information and analysis.

These reports can be used to check adherence to prudential requirements, such as capital adequacy or single debtor limits. Off-site monitoring can often identify potential problems, particularly in the interval between on-site inspections, thereby providing early detection and prompting corrective action before problems become more serious. Such reports can also be used to identify trends not only for particular institutions, but also for the banking system as a whole. These reports can provide the basis for discussions with bank management, either at periodic intervals or when problems appear. They should also be a key component of examination planning so that maximum benefit is achieved from the limited time spent conducting an on-site review.

2. On-site examination and/or use of external auditors^{*}

Supervisors must have a means of validating supervisory information either through on-site examinations or use of external auditors. On-site work, whether done by examination staff of the banking supervisory agency or commissioned by supervisors but undertaken by external auditors, should be structured to provide independent verification that adequate corporate governance exists at individual banks and that information provided by banks is reliable.

On-site examinations provide the supervisor with a means of verifying or assessing a range of matters including:

- the accuracy of reports received from the bank
- the overall operations and condition of the bank
- the adequacy of the bank's risk management systems and internal control procedures
- the quality of the loan portfolio and adequacy of loan loss provisions and reserves
- the competence of management
- the adequacy of accounting and management information systems
- issues identified in off-site or previous on-site supervisory processes
- bank adherence to laws and regulations and the terms stipulated in the banking licence.

The supervisory agency should establish clear internal guidelines related to the frequency and scope of examinations. In addition, examination policies and procedures should be developed in order to ensure that examinations are conducted in a thorough and consistent manner with clear objectives.

Depending on its use of examination staff, a supervisory agency may use external auditors to fulfil the above functions in whole or in part. In some cases, such functions may be part of the normal audit process (e.g. assessing the quality of the loan portfolio and the level of provisions that need to be held against it). In other areas, the supervisor should have adequate powers to require work to be commissioned specifically for supervisory purposes (e.g. on the accuracy of reports filed with supervisors or the adequacy of control systems.) However, the work of external auditors should be utilised for supervisory purposes only when there is a well-developed, professionally independent auditing profession with skills to undertake the work required. In these circumstances, the supervisory agency needs to reserve the right to veto the appointment of a particular firm of external auditors where supervisory reliance is to be placed on the firm's work. In addition, supervisors should urge banking groups to use common auditors and common accounting dates throughout the group, to the extent possible.

It is also important that the supervisors and external auditors have a clear understanding of their respective roles. Before problems are detected at a bank, the external auditors should clearly understand their responsibilities for communicating with the supervisory agency and should also be protected from personal liability for disclosures, in good faith, of such information. A mechanism should be in place to facilitate discussions between the supervisors and the external auditors.^{**} In many instances, these discussions should also include the bank.

In all cases, the supervisory agency should have the legal authority and means to conduct independent checks of banks based on identified concerns.

3. Supervision on a consolidated basis

An essential element of banking supervision is the ability of the supervisors to supervise the consolidated banking organisation. This includes the ability to review both banking and non-banking activities conducted by the banking

^{*} In some countries, external auditors hired by the supervisory agency to conduct work on its behalf are referred to as reporting accountants.

^{**} The Basle Committee has reviewed the relationship between bank supervisors and external auditors and has developed best practices for supervisors with regard to their interaction with external auditors. See "The Relationship between bank supervisors and external auditors" - Volume III of the Compendium.

organisation, either directly or indirectly (through subsidiaries and affiliates), and activities conducted at both domestic and foreign offices. Supervisors need to take into account that non-financial activities of a bank or group may pose risks to the bank. Supervisors should decide which prudential requirements will be applied on a bank-only (solo) basis, which ones will be applied on a consolidated basis, and which ones will be applied on both bases. In all cases, the banking supervisors should be aware of the overall structure of the banking organisation or group when applying their supervisory methods.^{*} Banking supervisors should also have the ability to coordinate with other authorities responsible for supervising specific entities within the organisation's structure.

D. Information Requirements of Banking Organisations

Principle 21: Banking supervisors must be satisfied that each bank maintains adequate records drawn up in accordance with consistent accounting policies and practices that enable the supervisor to obtain a true and fair view of the financial condition of the bank and the profitability of its business, and that the bank publishes on a regular basis financial statements that fairly reflect its condition.

For banking supervisors to conduct effective off-site supervision of banks and to evaluate the condition of the local banking market, they must receive financial information at regular intervals and this information must be verified periodically through on-site examinations or external audits. Banking supervisors must ensure that each bank maintains adequate accounting records drawn up in accordance with consistent accounting policies and practices that enable the supervisor to obtain a true and fair view of the financial condition of the bank and the profitability of its business. In order that the accounts portray a true and fair view, it is essential that assets are recorded at values that are realistic and consistent, taking account of current values, where relevant, and that profit reflects what, on a net basis, is likely to be received and takes into account likely transfers to loan loss reserves. It is important that banks submit information in a format that makes comparisons among banks possible although, for certain purposes, data derived from internal management information systems may also be helpful to supervisors. At a minimum, periodic reporting should include a bank's balance sheet, contingent liabilities and income statement, with supporting details and key risk exposures.

Supervisors can be obstructed or misled when banks knowingly or recklessly provide false information of material importance to the supervisory process. If a bank provides information to the supervisor knowing that it is materially false or misleading, or it does so recklessly, supervisory and/or criminal action should be taken against both the individuals involved and the institution.

1. Accounting standards

In order to ensure that the information submitted by banks is of a comparable nature and its meaning is clear, the supervisory agency will need to provide report instructions that clearly establish the accounting standards to be used in preparing the reports. These standards should be based on accounting principles and rules that command wide international acceptance and be aimed specifically at banking institutions.

2. Scope and frequency of reporting

The supervisory agency needs to have powers to determine the scope and frequency of reporting to reflect the volatility of the business and to enable the agency to track what is happening at individual banks on both a solo and consolidated basis, as well as with the banking system as a whole. The supervisors should develop a series of informational reports for banks to prepare and submit at regular intervals. While some reports may be filed as often as monthly, others may be filed quarterly or annually. In addition, some reports may be "event generated", meaning they are filed only if a particular event occurs (e.g. investment in a new affiliate). Supervisors should be sensitive to the burden that reporting imposes. Consequently, they may determine that it is not necessary for every bank to file every report. Filing status can be based on the organisational structure of the bank, its size, and the types of activities it conducts.

3. Confirmation of the accuracy of information submitted

It is the responsibility of bank management to ensure the accuracy, completeness and timeliness of prudential, financial, and other reports submitted to the supervisors. Therefore, bank management must ensure that reports are verified and that external auditors determine that the reporting systems in place are adequate and provide reliable data. External auditors should express an opinion on the annual accounts and management report supplied to shareholders and the general public. Weaknesses in bank auditing standards in a particular country may require that banking supervisors become involved in establishing clear guidelines concerning the scope and content of the audit programme as well as the standards to be used. In extreme cases where supervisors cannot be satisfied with the quality of the annual accounts or regulatory reports, or with the work done by external auditors, they should have the ability to use supervisory measures to bring about timely corrective action, and they may need to reserve the right to approve the issue of accounts to the public.

In assessing the nature and adequacy of work done by auditors, and the degree of reliance that can be placed on this work, supervisors will need to consider the extent to which the audit programme has examined such areas as the loan portfolio, loan loss reserves, nonperforming assets (including the treatment of interest on such assets), asset valuations, trading and other securities activities, derivatives, asset securitisations, and the adequacy of internal controls over financial reporting. Where it is competent and independent of management, internal audits can be relied upon as a source of information and may contribute usefully to the supervisors' understanding.

^{*} The Basle Committee recommended supervision on a consolidated basis in its paper "Consolidated supervision of banks' international activities"

4. Confidentiality of supervisory information

Although market participants should have access to correct and timely information, there are certain types of sensitive information* that should be held confidential by banking supervisors. In order for a relationship of mutual trust to develop, banks need to know that such sensitive information will be held confidential by the banking supervisory agency and its appropriate counterparts at other domestic and foreign supervisory agencies.

5. Disclosure

In order for market forces to work effectively, thereby fostering a stable and efficient financial system, market participants need access to correct and timely information. Disclosure, therefore, is a complement to supervision. For this reason, banks should be required to disclose to the public information regarding their activities and financial position that is comprehensive and not misleading. This information should be timely and sufficient for market participants to assess the risk inherent in any individual banking organisation.†

SECTION V FORMAL POWERS OF SUPERVISORS

Principle 22: Banking supervisors must have at their disposal adequate supervisory measures to bring about timely corrective action when banks fail to meet prudential requirements (such as minimum capital adequacy ratios), when there are regulatory violations, or where depositors are threatened in any other way. In extreme circumstances, this should include the ability to revoke the banking licence or recommend its revocation.

A. Corrective Measures

Despite the efforts of supervisors, situations can occur where banks fail to meet supervisory requirements or where their solvency comes into question. In order to protect depositors and creditors, and prevent more widespread contagion of such problems, supervisors must be able to conduct appropriate intervention. Banking supervisors must have at their disposal adequate supervisory measures to bring about timely corrective action and which enable a graduated response by supervisors depending on the nature of the problems detected. In those instances where the detected problem is relatively minor, informal action such as a simple oral or written communication to bank management may be all that is warranted. In other instances, more formal action may be necessary. These remedial measures have the greatest chance of success when they are part of a comprehensive programme of corrective action developed by the bank and with an implementation timetable; however, failure to achieve agreement with bank management should not inhibit the supervisory authority from requiring the necessary corrective action.

Supervisors should have the authority not only to restrict the current activities of the bank but also withhold approval for new activities or acquisitions. They should also have the authority to restrict or suspend dividend or other payments to shareholders, as well as to restrict asset transfers and a bank's purchase of its own shares. The supervisor should have effective means to address management problems, including the power to have controlling owners, directors, and managers replaced or their powers restricted, and, where appropriate, barring individuals from the business of banking. In extreme cases, the supervisors should have the ability to impose conservatorship over a bank that is failing to meet prudential or other requirements. It is important that all remedial actions be addressed directly to the bank's board of directors since they have overall responsibility for the institution.

Once action has been taken or remedial measures have been imposed, supervisors must be vigilant in their oversight of the problems giving rise to it by periodically checking to determine that the bank is complying with the measures. There should be a progressive escalation of action or remedial measures if the problems become worse or if bank management ignores more informal requests from supervisors to take corrective action.

B. Liquidation Procedures

In the most extreme cases, and despite ongoing attempts by the supervisors to ensure that a problem situation is resolved, a banking organisation may no longer be financially viable. In such cases, the supervisor can be involved in resolutions that require a take-over by or merger with a healthier institution. When all other measures fail, the supervisor should have the ability to close or assist in the closing of an unhealthy bank in order to protect the overall stability of the banking system.

SECTION VI CROSS-BORDER BANKING

The Principles set out in this section are consistent with the so-called Basle Concordat and its successors. The Concordat establishes understandings relating to contact and collaboration between home and host country authorities in the supervision of banks' cross-border establishments. The most recent of these documents, *"The supervision of crossborder banking"*, was developed by the Basle Committee in collaboration with the Offshore Group of Banking Supervisors and subsequently endorsed by 130 countries attending the International Conference of Banking Supervisors in June 1996. This document contains twenty-nine recommendations aimed at removing obstacles to the implementation of effective consolidated supervision.

* The types of information considered sensitive vary from country to country; however, this typically includes information related to individual customer accounts as well as problems that the supervisor is helping the bank to resolve.

†† The Basle Committee has recently established a sub-group to study issues related to disclosure and to provide guidance to the banking industry.

A. Obligations of Home Country Supervisors

Principle 23: Banking supervisors must practise global consolidated supervision over their internationally active banking organisations, adequately monitoring and applying appropriate prudential norms to all aspects of the business conducted by these banking organisations worldwide, primarily at their foreign branches, joint ventures and subsidiaries.

Principle 24: A key component of consolidated supervision is establishing contact and information exchange with the various other supervisors involved, primarily host country supervisory authorities.

As part of practising consolidated banking supervision, banking supervisors must adequately monitor and apply appropriate prudential norms to all aspects of the business conducted by their banking organisations worldwide including at their foreign branches, joint ventures and subsidiaries. A major responsibility of the parent bank supervisor is to determine that the parent bank is providing adequate oversight not only of its overseas branches but also its joint ventures and subsidiaries. This parent bank oversight should include monitoring compliance with internal controls, receiving an adequate and regular flow of information, and periodically verifying the information received. In many instances, a bank's foreign offices may be conducting business fundamentally different from the bank's domestic operations. Consequently, supervisors should determine that the bank has the expertise needed to conduct these activities in a safe and sound manner.

A key component of consolidated supervision is establishing contact and information exchange with the various other supervisors involved, including host country supervisory authorities. This contact should commence at the authorisation stage when the host supervisor should seek the approval from the home supervisor before issuing a licence. In many cases, bilateral arrangements exist between supervisors. These arrangements can prove helpful in defining the scope of information to be shared and the conditions under which such sharing would normally be expected. Unless satisfactory arrangements for obtaining information can be agreed, banking supervisors should prohibit their banks from establishing operations in countries with secrecy laws or other regulations prohibiting flows of information deemed necessary for adequate supervision.

The parent supervisor should also determine the nature and extent of supervision conducted by the host country of the local operations of the home country's banks. Where host country supervision is inadequate, the parent supervisor may need to take special additional measures to compensate, such as through on-site examinations, or by requiring additional information from the bank's head office or its external auditors. If these options can not be developed to give sufficient comfort, bearing in mind the risks involved, then the home supervisor may have no option but to request the closure of the relevant overseas establishment.

B. Obligations of Host Country Supervisors

Principle 25: Banking supervisors must require the local operations of foreign banks to be conducted to the same high standards as are required of domestic institutions and must have powers to share information needed by the home country supervisors of those banks for the purpose of carrying out consolidated supervision.

Foreign banks often provide depth and increase competition and are therefore important participants in local banking markets. Banking supervisors must require the local operations of foreign banks to be conducted to the same high standards as are required of domestic institutions and must have powers to share information needed by the home country supervisors of those banks for the purpose of carrying out consolidated supervision. Consequently, foreign bank operations should be subject to similar prudential, inspection and reporting requirements as domestic banks (recognising, of course, obvious differences such as branches not being separately capitalised).

As the host country supervisory agency supervises only a limited part of the overall operations of the foreign bank, the supervisory agency should determine that the home country supervisor practices consolidated supervision of both the domestic and overseas operations of the bank. In order for home country supervisors to practice effectively consolidated supervision, the host country supervisor must share information about the local operations of foreign banks with them provided there is reciprocity and protection of the confidentiality of the information. In addition, home country supervisors should be given onsite access to local offices and subsidiaries for appropriate supervisory purposes. Where host country laws pose obstacles to sharing information or cooperating with home country supervisors, host authorities should work to have their laws changed in order to permit effective consolidated supervision by home countries.

APPENDIX I

Special Issues Related to Government-owned Banks

Many countries have some commercial banks that are owned, wholly or substantially, by the national government or by other public bodies.^{*} In other countries, government-owned commercial banks comprise the majority of the banking system, usually for historic reasons. In principle, all banks should be subject to the same operational and supervisory standards regardless of their ownership; however, the unique nature of government-owned commercial banks should be recognised.

Government-owned commercial banks typically are backed by the full resources of the government. This provides additional support and strength for these banks. Although this government support can be advantageous, it should

^{*} This can include savings banks and cooperative banks. These banks are different, however, from "policy" banks that typically specialise in certain types of lending or target certain sectors of the economy.

also be noted that the correction of problems at these banks is sometimes deferred and the government is not always in a position to recapitalise the bank when required. At the same time, this support may lead to the taking of excessive risks by bank management. In addition, market discipline may be less effective when market participants know that a particular bank has the full backing of the government and consequently has access to more extensive (and possibly cheaper) funding than would be the case for a comparable privately-owned bank.

Consequently, it is important that supervisors seek to ensure that government-owned commercial banks operate to the same high level of professional skill and disciplines as required of privately-owned commercial banks in order to preserve a strong credit and control culture in the banking system as a whole. In addition, supervisors should apply their supervisory methods in the same manner to government-owned commercial banks as they do to all other commercial banks.

APPENDIX II

Deposit Protection

Despite the efforts of supervisors, bank failures can occur. At such times, the possible loss of all or part of their funds increases the risk that depositors will lose confidence in other banks. Consequently, many countries have established deposit insurance plans to protect small depositors. These plans are normally organised by the government or central bank, or by the relevant bankers' association and are compulsory rather than voluntary. Deposit insurance provides a safety net for many bank creditors thereby increasing public confidence in banks and making the financial system more stable. A safety net may also limit the effect that problems at one bank might have on other, healthier, banks in the same market, thereby reducing the possibility of contagion or a chain reaction within the banking system as a whole. A key benefit of deposit insurance is that, in conjunction with logical exit procedures, it gives the banking supervisors greater freedom to let problem banks fail.

Deposit insurance can however increase the risk of imprudent behaviour by individual banks. Small depositors will be less inclined to withdraw funds even if the bank pursues high-risk strategies, thus weakening an important check on imprudent management. Government officials and supervisors need to recognise this effect of a safety net and take steps to prevent excessive risk-taking by banks. One method of limiting risk-taking is to utilise a deposit insurance system consisting of "co-insurance." Under such a system, the deposit insurance covers a percentage (e.g. 90%) of individual deposits and/or provides cover only up to a certain absolute amount so that depositors still have some funds at risk. Other methods include charging risk-based premiums or withholding deposit insurance from large, institutional depositors.

The actual form of such a programme should be tailored to the circumstances in, as well as historical and cultural features of, each country.*

* Some form of banking deposit insurance exists in all of the member countries of the Basle Committee. The experiences of these countries should prove useful in designing a deposit insurance programme.

Cadbury Committee, Report of the Committee on the Financial Aspects of Corporate Governance – Cadbury Report (1992, London, UK)

The full text of the Cadbury report is available on SAIIA's website, <http://saiia.org.za/>. Click on the 'APRM Resource and Training Centre' at the bottom of the home page, on 'Governance Standards' on the subsequent page and on 'Section 3: Corporate Governance' thereafter.

SUMMARY OF RECOMMENDATIONS

Compliance with the Code of Best Practice

1. The boards of all listed companies registered in the UK should comply with the Code of Best Practice set out on pages 58 to 60. As many other companies as possible should aim at meeting its requirements (paragraph 3.1).
2. Listed companies reporting in respect of years ending after 30 June 1993 should make a statement about their compliance with the Code in the report and accounts and give reasons for any areas of non-compliance (paragraph 3.7).
3. Companies' statements of compliance should be reviewed by the auditors before publication. The review should cover only those parts of the compliance statement which relate to provisions of the Code where compliance can be objectively verified. The Auditing Practices Board should consider guidance for auditors accordingly (paragraph 3.9).
4. All parties concerned with corporate governance should use their influence to encourage compliance with the Code (paragraph 3.14). Institutional shareholders in particular, with the backing of the Institutional Shareholders' Committee, should use their influence as owners to ensure that the companies in which they have invested comply with the Code (paragraph 6.16).

Keeping the Code up to date

5. The Committee's sponsors, convened by the Financial Reporting Council, should appoint a new Committee by the end of June to examine how far compliance with the Code has progressed, how far our other recommendations have been implemented, and whether the Code needs updating. Our sponsors should also determine whether the sponsorship of the new Committee should be broadened and whether wider matters of corporate governance should be included in its brief. In the meantime the present Committee will remain responsible for reviewing the implementation of its proposals (paragraph 3.12).

Directors' service contracts

6. The Companies Act should be amended to come into line with the requirement of the Code that directors' service contracts should not exceed three years without shareholders' approval (paragraph 4.41).

Interim reporting

7. Companies should expand their interim reports to include balance sheet information. The London Stock Exchange should consider amending the continuing obligations accordingly. There should not be a requirement for a full audit, but interim reports should be reviewed by the auditors and the Auditing Practices Board should develop appropriate guidance. The Accounting Standards Board in conjunction with the London Stock Exchange should clarify the accounting rules which companies should follow in preparing interim reports. The inclusion of cash flow information should be considered by the Committee's successor body (paragraph 4.56).

Enhancing the perceived objectivity of the audit

8. Fees paid to audit firms for non-audit work should be fully disclosed. The essential principle is that disclosure should enable the relative significance of the company's audit and non-audit fees to the audit firm to be assessed, both in a UK context and, where appropriate, a worldwide context. The 1991 Regulations under the Companies Act should be reviewed and amended as necessary (paragraph 5.1 I).
9. The accountancy profession should draw up guidelines on the rotation of audit partners (paragraph 5.12).

Enhancing the effectiveness of the audit

10. Directors should report on the effectiveness of their system of internal control, and the auditors should report on their statement. The accountancy profession together with representatives of preparers of accounts should draw up criteria for assessing effective systems of internal control and guidance for companies and auditors (paragraphs 4.32 and 5.16).
11. Directors should state in the report and accounts that the business is a going concern, with supporting assumptions or qualifications as necessary, and the auditors should report on this statement. The accountancy profession together with representatives of preparers of accounts should develop guidance for companies and auditors (paragraph 5.22).

12. The question of legislation to back the recommendations on additional reports on internal control systems and going concern should be decided in the light of experience (paragraphs 5.17 and 5.22).
13. The Government should consider introducing legislation to extend to the auditors of all companies the statutory protection already available to auditors in the regulated sector (banks, building societies, insurance, and investment business) so that they can report reasonable suspicion of fraud freely to the appropriate investigatory authorities (paragraph 5.28).
14. The accountancy profession together with the legal profession and representatives of preparers of accounts should consider further the question of illegal acts other than fraud (paragraph 5.30).
15. The accounting profession should continue its efforts to improve its standards and procedures so as to strengthen the standing and independence of auditors (paragraph 5.36).

Voting by institutional investors

16. Institutional investors should disclose their policies on the use of their voting rights (paragraph 6.12).

Endorsement of work by others

17. The Committee gives its full support to the objectives of the Financial Reporting Council and the Accounting Standards Board. It welcomes the action by the Financial Reporting Review Panel over companies whose accounts fall below accepted reporting standards (paragraphs 4.52 and 5.8).
18. The Committee supports the initiative of the Auditing Practices Board on the development of an expanded audit report. It also gives its full support to the lead which it is taking on the development of auditing practice generally (paragraphs 5.14 and 5.15).
19. The Committee welcomes the statement by the Institutional Shareholders' Committee on the Responsibilities of Institutional Shareholders in the UK (paragraph 6.11)

Issues for the Committee's successor body

20. Issues which the Committee has identified that its successor body may wish to review or consider in greater depth include: the application of the Code to smaller listed companies (paragraph 3.5); directors' training (paragraph 4.20); the rules for disclosure of directors' remuneration, and the role which shareholders could play (paragraph 4.46); a requirement for inclusion of cash flow information in interim reports (paragraph 4.56); and the procedures for putting forward resolutions at general meetings (paragraph 6.4). The Committee and its successor will also keep watch on developments regarding the nature and extent of auditors' liability (paragraph 5.35).

THE CODE OF BEST PRACTICE

1 The Board of Directors

- 1.1. The board should meet regularly, retain full and effective control over the company and monitor the executive management.
- 1.2. There should be a clearly accepted division of responsibilities at the head of a company, which will ensure a balance of power and authority, such that no one individual has unfettered powers of decision. Where the chairman is also the chief executive it is essential that there should be a strong and independent element on the board, with a recognised senior member.
- 1.3. The board should include non-executive directors of sufficient calibre and number for their views to carry significant weight in the board's decisions.
- 1.4. The board should have a formal schedule of matters specifically reserved to it for decision to ensure that the direction and control of the company is firmly in its hands.
- 1.5. There should be an agreed procedure for directors in the furtherance of their duties to take independent professional advice if necessary, at the company's expense.
- 1.6. All directors should have access to the advice and services of the company secretary, who is responsible to the board for ensuring that board procedures are followed and that applicable rules and regulations are complied with. Any question of the removal of the company secretary should be a matter for the board as a whole.

2 Non-Executive Directors

- 2.1. Non-executive directors should bring an independent judgement to bear on issues of strategy, performance, resources, including key appointments, and standards of conduct.
- 2.2. The majority should be independent of management and free from any business or other relationship which could materially interfere with the exercise of their independent judgement. apart from their fees and shareholding. Their fees should reflect the time which they commit to the company.
- 2.3. Non-executive directors should be appointed for specified terms and reappointment should not be automatic.
- 2.4. Non-executive directors should be selected through a formal process and both this process and their appointment should be a matter for the board as a whole.

3 Executive Directors

- 3.1. Directors' service contracts should not exceed three years without shareholders' approval.

- 3.2. There should be full and clear disclosure of directors' total emoluments and those of the chairman and highest-paid UK director, including pension contributions and stock options. Separate figures should be given for salary and performance-related elements and the basis on which performance is measured should be explained.
- 3.3. Executive directors' pay should be subject to the recommendations of a remuneration committee made up wholly or mainly of non-executive directors.

4 Reporting and Controls

- 4.1. It is the board's duty to present a balanced and understandable assessment of the company's position.
- 4.2. The board should ensure that an objective and professional relationship is maintained with the auditors.
- 4.3. The board should establish an audit committee of at least three non-executive directors with written terms of reference which deal clearly with its authority and duties.
- 4.4. The directors should explain their responsibility for preparing the accounts next to a statement by the auditors about their reporting responsibilities.
- 4.5. The directors should report on the effectiveness of the company's system of internal control.
- 4.6. The directors should report that the business is a going concern, with supporting assumptions or qualifications as necessary.

Footnote

The company's statement of compliance should be reviewed by the auditors in so far as it relates to paragraphs 1.4, 1.5, 2.3, 2.4, 3.1 to 3.3, and 4.3 to 4.6 of the Code.

Commonwealth Association for Corporate Governance (CACG), Principles for Corporate Governance in the Commonwealth (1999, Havelock, New Zealand)

The full text of the Principles for Corporate Governance in the Commonwealth is available on SAIIA's website, <http://saiia.org.za/>. Click on the 'APRM Resource and Training Centre' at the bottom of the home page, on 'Governance Standards' on the subsequent page and on 'Section 3: Corporate Governance' thereafter.

Introduction

It is the responsibility of the board of directors to ensure good corporate governance. This involves a set of relationships between the management of a corporation, its board, its shareholders and other relevant stakeholders. Accordingly, the board must agree on the corporation's purpose (what it is for), its values (what it stands for), and the strategy to achieve its purpose. It must account to shareholders and be responsible for relations with its stakeholders.

Good corporate governance requires that the board must govern the corporation with integrity and enterprise in a manner which entrenches and enhances the licence it has to operate. This licence is not only regulatory but embraces the corporation's interaction with its shareholders and other stakeholders such as the communities in which it operates, bankers and other suppliers of finance and credit, customers, the media, public opinion makers and pressure groups. While the board is accountable to the owners of the corporation (shareholders) for achieving the corporate objectives, its conduct in regard to factors such as business ethics and the environment for example may have an impact on legitimate societal interests (stakeholders) and thereby influence the reputation and long-term interests of the business enterprise.

The guidelines which follow set out 15 Principles of corporate governance aimed primarily at boards of directors of corporations with a unitary board structure, as will most often be found in the Commonwealth. The Principles apply equally to boards of directors of all business enterprises – public, private, family owned or state-owned. The Principles are applicable to both executive and non-executive directors. The term "director" should be taken as being synonymous with any person responsible for the direction of a business enterprise. Similarly, the principles can be usefully applied to other forms of enterprise such as non-governmental organisations and agencies.

Part One provides an executive summary of the 15 Principles, while Part Two annotates guidelines which are intended to assist boards in interpreting the intent of such Principles. These Principles are not to be regarded as legal statutes which are to be followed to the letter – rather they represent standards of conduct which should be followed according to the spirit and intention of the guidelines. They indicate the standards of the duties of care and diligence which should be observed by directors. The Principles are designed to assist directors of all forms of business enterprises to make judgments on whether general or particular conduct conforms or conflicts with the guidelines set out. Clearly, some of these Principles may not yet be capable of implementation in a number of Commonwealth countries but represent an objective to which all business enterprises in the Commonwealth should aspire in the fullness of time. Consequently it is not possible, nor is it intended, to identify every circumstance in which the CACG Guidelines as set out in the accompanying Principles can be applied. Part Three covers other corporate governance issues that warrant consideration, notably business ethics and the role of state-owned enterprises which are predominant in many economies in the Commonwealth. Part Four summarises the essential elements of codes that have been adopted in certain Commonwealth countries to provide guidance on approaches taken on corporate governance at the national level in the Commonwealth.

The appendices which follow contain information and references which may be useful to readers of the CACG Guidelines.

As emphasised throughout this document, the CACG Guidelines have been prepared within the context of the wider business environment – meaning that an effective legal and regulatory regime, efficiency and probity in the state sector, reasonably competitive markets, active and responsible capital providers, higher levels of conduct by professions and professionals, a free and critical media, informed and protected stakeholder interests are all fundamental to a more holistic approach to corporate governance. All have a vested interest in the success of corporations. The Commonwealth is participating in the Global Corporate Governance Forum in order to co-ordinate efforts globally in the multi-faceted process of reform that may be needed in some countries, whilst focusing particular emphasis upon the board of directors as a critical area for improvement.

It should be reiterated that the CACG Guidelines are evolutionary in concept and purpose, and this may necessitate the guidelines to be suitably updated from time to time to accommodate changing circumstances in the Commonwealth and globally.

Part One – Executive Summary of Guidelines

The board should:

Principle 1 – exercise leadership, enterprise, integrity and judgment in directing the corporation so as to achieve continuing prosperity for the corporation and to act in the best interest of the business enterprise in a manner based on transparency, accountability and responsibility;

Principle 2 – ensure that through a managed and effective process board appointments are made that provide a mix of proficient directors, each of whom is able to add value and to bring independent judgment to bear on the decision-making process;

Principle 3 – determine the corporation’s purpose and values, determine the strategy to achieve its purpose and to implement its values in order to ensure that it survives and thrives, and ensure that procedures and practices are in place that protect the corporation’s assets and reputation;

Principle 4 – monitor and evaluate the implementation of strategies, policies, management performance criteria and business plans;

Principle 5 – ensure that the corporation complies with all relevant laws, regulations and codes of best business practice;

Principle 6 – ensure that the corporation communicates with shareholders and other stakeholders effectively;

Principle 7 – serve the legitimate interests of the shareholders of the corporation and account to them fully;

Principle 8 – identify the corporation’s internal and external stakeholders and agree a policy, or policies, determining how the corporation should relate to them;

Principle 9 – ensure that no one person or a block of persons has unfettered power and that there is an appropriate balance of power and authority on the board which is, inter alia, usually reflected by separating the roles of the chief executive officer and Chairman, and by having a balance between executive and non-executive directors;

Principle 10 – regularly review processes and procedures to ensure the effectiveness of its internal systems of control, so that its decision-making capability and the accuracy of its reporting and financial results are maintained at a high level at all times;

Principle 11 – regularly assess its performance and effectiveness as a whole, and that of the individual directors, including the chief executive officer;

Principle 12 – appoint the chief executive officer and at least participate in the appointment of senior management, ensure the motivation and protection of intellectual capital intrinsic to the corporation, ensure that there is adequate training in the corporation for management and employees, and a succession plan for senior management;

Principle 13 – ensure that all technology and systems used in the corporation are adequate to properly run the business and for it to remain a meaningful competitor;

Principle 14 – identify key risk areas and key performance indicators of the business enterprise and monitor these factors;

Principle 15 – ensure annually that the corporation will continue as a going concern for its next fiscal year.

Part Two – Principles of Guidelines

Principle 1 – Leadership

The board should exercise leadership, enterprise, integrity and judgment in directing the corporation so as to achieve continuing prosperity for the corporation and to act in the best interest of the business enterprise in a manner based on transparency, accountability and responsibility.

Every business enterprise should be headed by an effective board which can both lead and control the corporation, comprising non-executive directors and executive directors. The concept of a unitary board, constituting executive directors with their intimate knowledge of the business and independent non-executive directors who can bring a broader view to the corporation’s activities, is the favoured board structure. Management of the business risk and the exercise of commercial judgment on behalf of the corporation can be positively enhanced by this mutual association and exchange of business experience and knowledge for the benefit of the corporation. The board should, preferably, be balanced as between executive and non-executive directors. The actual proportion will depend on the circumstances and business of each enterprise, and may well be influenced by local law and regulations.

The firm and objective leadership of a Chairman, preferably non-executive, who accepts the duties and responsibilities which the post entails, should provide the direction necessary for an effective board. The board should strive to focus on “performance” in directing the commercial and economic fortunes of the corporation, and not only concentrate on issues of “conformance”. The board, under an effective Chairman, must be in a position to ensure a balance between enterprise and control in the direction it gives to the corporation.

The fundamental responsibility of each board is to improve the economic and commercial prosperity of the corporation – regardless of whether it is a private sector or state-owned enterprise. Each director should be diligent in discharging his or her duties to the corporation, endeavour to regularly attend meetings and must acquire a broad knowledge of the business of the corporation so that they can provide meaningful direction to it. Equally, every director should be aware and conversant with the statutory and regulatory requirements affecting the direction of the corporation and thereby of the society in which it operates.

Principle 2 – Board Appointments

The board should ensure that through a managed and effective process board appointments are made that provide a mix of proficient directors, each of whom is able to add value and to bring independent judgment to bear on the decision-making process.

The board should be composed of people of integrity who can bring a blend of knowledge, skills, objectivity, experience and commitment to the board which should be led by a capable Chairman who brings out the best in each director. Crucial to this, is having a proper director selection process to avoid the propensity for “cronyism” and “tokenism”. The selection process must be managed by asking what skills are needed on the board to add value to the processes of the board in the context of the business of the corporation. Consequently, the composition of the board should be planned with strategic considerations and objectives of the corporation in mind.

New directors should be familiarised with the corporation’s operations, senior management and its business environment and be inducted in terms of their fiduciary duties and responsibilities as well as in respect of the board’s expectations. If new directors have no board experience, they should receive training in their unaccustomed responsibility which carries with it significant personal liabilities.

The board, as a whole, should be involved in the selection of directors. Ultimately the shareholders, as owners of the capital of the corporation, have the jurisdiction and discretion to appoint or remove directors but this should always be done through a transparent process at properly constituted meetings.

Principle 3 – Strategy and Values

The board should determine the corporation’s purpose and values, determine the strategy to achieve its purpose and to implement its values in order to ensure that it survives and thrives, and ensure that procedures and practices are in place that protect the corporation’s assets and reputation.

The primary role of the board is to define the purpose of the corporation (that is, its strategic intent and objectives as a business enterprise) and its values (that is, its organisational behaviour and norms to achieve its purpose). Both the purpose and the values should be clear, concise and achievable.

The board should be able to exercise objective judgment on the corporate affairs of the business enterprise, independent from management but with sufficient management information to enable a proper and objective assessment to be made by the directors. The board should guide and set the pace for the corporation’s current operations and future developments. The board should regularly review and evaluate the present and future strengths, weaknesses and opportunities of and threats to the corporation. Comparisons with competitors, locally and internationally, and best practice are important elements of this process – especially in the new era of the global economy and electronic information.

The board should promote a culture that supports enterprise and innovation, with appropriate short and long term performance-related rewards that are fair and achievable in motivating management and employees effectively and productively. It is imperative that the board seeks to drive the business enterprise proficiently through proper and considered decision-making processes, and recognises entrepreneurial endeavour amongst its management without contravening laws and regulations.

The board, having agreed the purpose and values of the corporation, needs also to identify the corporation’s external and internal stakeholders (see Principle 8 for more detail). The board should monitor management’s implementation of the corporation’s strategic and financial objectives, and the application by management of its policies towards the corporation’s shareholders and other stakeholders.

As part of these processes, the board should on a regular basis monitor the corporation to determine that the corporate governance framework in the organisation remains valid and consistent with its strategy and values.

Principle 4 – Company Performance

The board should monitor and evaluate the implementation of strategies, policies, management performance criteria and business plans.

The board should define its own levels of materiality, reserving specific powers to itself and delegating other matters with the necessary authority to management. The implementation of these strategies, policies, mutually agreed management performance criteria and business plans must be monitored and evaluated to ensure that they remain relevant and dynamic.

The board must ensure that internal control procedures provide reliable and valid information for this monitoring and evaluation process. These control procedures and systems of reporting must be appropriately resourced and should be reviewed regularly. Internal controls include not only financial matters but also operational and compliance controls and management of business risk associated with the corporation. See Principle 10 for more detail on a formal internal audit process necessary to provide these assurances.

The strategies, policies, mutually agreed management performance criteria and business plans of the corporation must be clearly defined and measurable in a manner which is precise and tangible, both to the board and management. Each aspect requires a comprehensive assessment against accurate and relevant information, both financial and non-financial as appropriate, and should be obtained from the corporation’s own internal reporting systems as well as external sources so that an informed assessment can be made of all issues facing the board and the corporation in monitoring and evaluating the implementation of these objectives. It is within this context that

the corporation's governance structures (see Principle 3 above) should be monitored with constant vigilance to ensure that the business enterprise operates in a manner resulting in enhanced governance.

Principle 5 – Compliance

The board should ensure that the corporation complies with all relevant laws, regulations and codes of best business practice.

Directors, at all times, have a duty and responsibility to act honestly and with due diligence and care in their business dealings and to ensure that the corporation epitomises this in all that it undertakes and at every level of the organisation. Each director must comply with the law and associated regulations, and has a responsibility to ensure that the corporation and its employees do likewise.

While the board is accountable to the shareholders of the corporation as the owners of its capital, society expects a corporation to act responsibly in regard to aspects concerning its broader constituency such as the environment, health and safety, employee relations, equal opportunity for all employees, the effect of anti-competitive practices, ethical consumer conduct, etc.

Principle 6 – Communication

The board should ensure that the corporation communicates with shareholders and other stakeholders effectively.

Shareholders and potential investors require access to regular, reliable and comparable information in sufficient detail for them to assess the stewardship of management to enable them to make informed investment decisions. Insufficient or unclear information will affect confidence in the corporation, its board and management and may result in the increase of the cost of capital to the corporation and hamper efficient allocation of resources. Effective communication and disclosure will also help improve public understanding of the structure and objectives of the business enterprise, its corporate policies, and relationships with its shareholders and other stakeholders.

The board should ensure that all communications with shareholders, employees and other relevant stakeholders are timely and accurate. Communication should be understandable and based on the guidelines of openness, with substance prevailing over form. The information provided should be reliable, frank and robust in times of crisis. The communication must enable the reader to evaluate the situation with all the facts in order to take appropriate action.

Obviously, in many circumstances, the requirements for communication with shareholders will be prescribed by statute and/or regulation. Regardless of the effectiveness or otherwise of such regulations, directors nevertheless have a responsibility to ensure that a corporation's communication is in the spirit outlined. This is good corporate citizenship.

The board must recognise that communication will be most effective where it is treated as an on-going pro-active process. The board should ensure that long term strategic decisions are communicated not only to shareholders, but also to the stakeholders whose co-operation will be needed for the long term success of the strategy and thereby the corporation.

Directors must not disclose price sensitive confidential information, unless that disclosure has been authorised by the board of the corporation and such disclosure is made public. Neither the board as a whole, nor individual directors, must knowingly or recklessly disseminate false or misleading information.

Principle 7 – Accountability to Shareholders

The board should serve the legitimate interests of the shareholders of the corporation and account to them fully.

The board should endeavour to ensure that the business enterprise is financially viable and properly managed, so as to protect and enhance the interests of the corporation and its shareholders over time. The board should seek to understand the expectations of shareholders and endeavour to fulfil those expectations when deciding upon the best interests of the corporation. The board should always ensure that all shareholders are treated fairly and provided with appropriate information on an equal basis, irrespective of the significance or otherwise of their interest in the corporation. The board should act in the context that its shareholders, certainly in the case of publicly quoted corporations, are constantly changing. Consequently, decisions should consider the interests of future shareholders as well.

The personal interests of a director, or persons closely associated with the director, must not take precedence over those of the corporation and its shareholders. A director should avoid conflicts of interests. Full and timely disclosure of any conflict, or potential conflict, must be made known to the board. Where an actual or potential conflict does arise, a director should at least refrain from participating in the debate and/or voting on the matter. In the extreme case of continuing material conflict of interest, the director should consider resigning from the board. Any director who is appointed to a board at the instigation of a party with a substantial interest in the corporation, such as a major shareholder or a substantial creditor, should recognise the potential for a conflict of interests and accept that their primary responsibility is to always act in the interests of the corporation.

Directors must not make improper use of information acquired by them in their position as a director. This prohibition applies irrespective of whether or not the director, or any person closely associated with them, would gain directly or indirectly a personal advantage or whether or not the corporation would be harmed – this is as applicable to state-owned enterprises as it is to private sector enterprises. Likewise, a director should not obtain, attempt to obtain, or accept any bribe, secret commission or illegal inducement of any sort and this should be actively discouraged throughout the corporation with appropriate sanction where it is found to have taken place.

In matters of remuneration, the board should set and implement a remuneration policy that creates a reward system to recruit, retain and motivate high quality executive directors.

With reference to the issue of communication with shareholders, and other relevant stakeholders, see Principle 6.

Principle 8 – Relationships with Stakeholders

The board should identify the corporation's internal and external stakeholders and agree a policy, or policies, determining how the corporation should relate to them.

Good governance ensures that constituencies with a relevant interest in the corporation's business are taken into account. Corporations do not act independently from the societies in which they operate and, therefore, a business enterprise's corporate actions must be compatible with legitimate societal issues pertinent to its location of activities. The competitiveness and ultimate success of a corporation is dependent on a range of different resource providers including investors, employees, creditors, suppliers, etc.

Hence, the board must take into account stakeholders who may have a direct or indirect interest in the achievement of the economic objectives of the corporation. The board should promote goodwill and a reciprocal relationship with these parties, and be prepared to outline a policy or policies determining and regulating its conduct and relationships with stakeholders identified as having a legitimate interest in the activities of the corporation – whether by way of contractual relationships or as a consequence of the impact of its activities.

The board should recognise that its relationship and communication with interested parties now takes place in a society that demands greater transparency.

It is important to reiterate that while the board remains accountable to its shareholders, it has a responsibility to develop relationships with other relevant stakeholders. This is the modern inclusive approach to directing the fortunes of a business enterprise.

Principle 9 – Balance of Powers

The board should ensure that no one person or a block of persons has unfettered power and that there is an appropriate balance of power and authority on the board which is, inter alia, usually reflected by separating the roles of the chief executive officer and Chairman, and by having a balance between executive and non-executive directors.

Effective boards should have a good balance of well-chosen, competent directors who under the Chairman's leadership will shape a strategy for the future of the corporation and direct its interests to ensure profitable performance and sustainable growth over the longer term. Given the importance of the Chairman's role in leading the board, it is recommended to separate this role from that of the chief executive officer. Where the roles of the Chairman and chief executive officer are combined, it is important to ensure that the non-executive directors are of sufficient calibre to bring an independent judgment to bear on issues of strategy, performance, resources and standards of conduct and evaluation of performance. Courage, wisdom and independence should be the hallmark of any non-executive director, so that he or she acts in the best interests of the corporation.

The board should allow every director to play a full and constructive role in its affairs. A director should be prepared and able, where necessary, to express disagreement with colleagues on the board – including the Chairman and chief executive officer.

If a director is in doubt as to whether a proposed course of action is consistent with his or her fiduciary duties and responsibilities, then the course of action should rather not be supported. Independent professional advice should be sought as soon as possible to clarify the position of the director concerned. When a director concludes that he or she is unable to acquiesce in a decision of the board, and all reasonable steps have been taken to resolve the issue, the director should rather accept that resignation or dismissal is a better alternative than acquiescence. Consideration should be given to informing shareholders of instances where a director's resignation or dismissal relates to a policy disagreement of the nature described, as they have the ultimate discretion and jurisdiction in the appointment and dismissal of directors and should be aware of an honest account of any such disagreements between directors.

It should always be remembered that as shareholders are responsible ultimately for electing board members, it is in their interests that the board is properly constituted and not dominated by an individual or group of individuals. However, in practice the board as a whole usually plays a major role in selecting its own members and should accordingly plan for its own continuity and succession.

To remain effective, the board should select, appoint, induct and develop or remove board members as necessary from time to time. Incompetent or unsuitable directors should be removed, taking relevant legal and other matters into consideration. In practice, the Chairman will usually play a lead part in such issues.

Non-executive directors, desirably, should be free from any business or other relationship which could interfere materially with the exercise of their independent judgment (see also Principle 7).

Principle 10 – Internal Procedures

The board should regularly review processes and procedures to ensure the effectiveness of its internal systems of control, so that its decision-making capability and the accuracy of its reporting and financial results are maintained at a high level at all times.

It is good practice for boards to create and maintain relevant board committees and to determine their terms of reference, life span, role and function. In doing so, the board should establish, maintain and develop appropriate reporting procedures and proper written mandates or charters for committees such as the executive or management committee which usually oversees the day-to-day implementation of board policy and decisions, the remuneration committee which reviews executive and top management remuneration arrangements, the environmental committee where the corporation's operations warrant such a committee, and the audit committee which reviews amongst other things the internal audit function.

The board should determine a policy for the frequency, purpose, conduct and duration of its meetings and those of its committees. It should also adopt efficient and timely methods for informing and briefing board members prior to meetings. The information needs of the board should be well defined and regularly monitored. Each board member has a responsibility to be satisfied that, objectively, they have been furnished with all the material facts before making a decision.

The board should implement a formal internal audit function. An audit committee should be established to keep under review the scope and effectiveness of the audit (both internal and external) and its relative cost efficiencies. The board should make sure that access between itself and the corporation's internal and external auditors is open and constructive. It should be satisfied that the scope of the audit is adequate, and that management and the internal auditors have co-operated fully. This aspect, while perhaps erring more on the detail than the principle, is critical to assuring the board of the efficacy of a corporation's internal systems of control and financial reporting. However, for all practical purposes, the establishment of an internal audit process may not necessarily be capable of implementation in many of the Commonwealth countries. As with a number of the principles set out in these Guidelines, it is nonetheless an objective to which all business enterprises should aspire in the fullness of time and development of the corporation.

Principle 11 – Board Performance Assessment

The board should regularly assess its performance and effectiveness as a whole, and that of the individual directors, including the chief executive officer.

The board should examine regularly the impact of the effectiveness of its directors – collectively and individually. It should set and achieve objectives for continuous improvement in the quality and effectiveness of the board's performance, including performance in a crisis. The board should review regularly the degree to which its objectives are achieved and the quality of the board's decisions.

In order to maximise the efficiency and effectiveness of the board's work, each individual director's performance should be monitored and appraised on an annual basis. Training opportunities for existing and potential directors should be identified and appropriate development undertaken.

The Chairman, whose role is crucial in ensuring that the board is properly led, is responsible primarily for the working of the board and for ensuring that all relevant issues are on the agenda and that all available information on an issue is before the board. The Chairman should also ensure that all directors are suitably enabled and encouraged to play a full role in the board's activities. Given this pivotal role, the other members of the board should ensure that the Chairman's effectiveness is also appraised annually. In practice, non-executive directors may take a lead role in this appraisal process.

The performance of the chief executive officer, whose principal function is to lead the corporation on a day-to-day basis, should be appraised annually. In practice, the Chairman may take a lead role in this process.

The evaluation of the board should be based on objective and tangible criteria, including the performance of the corporation, accomplishment of long-term strategic objectives and the development of management, etc.

Every director should keep abreast of both practical and theoretical developments in the corporation's direction to ensure that his or her expertise is constantly relevant to the corporation. Continuous and rapid change is now the norm in business, and it is the responsibility of each director to continually and systematically add to their knowledge and expertise in a way which will substantively contribute to the success and prosperity of the business enterprise.

Principle 12 – Management Appointments and Development

The board should appoint the chief executive officer and at least participate in the appointment of senior management, ensure the motivation and protection of intellectual capital intrinsic to the corporation, ensure that there is adequate training in the corporation for management and employees, and a succession plan for senior management.

One of the board's important responsibilities is the appointment of the chief executive officer. The board should participate, with its chief executive officer, in the appointment of senior management. After all, the board must have confidence in the management to implement its strategies, plans and policies. In this regard, the board owes its duty to the corporation and is thereby accountable to the owners of the corporation's capital (shareholders) for the performance of the business enterprise.

The board must ensure, where necessary, that the corporation's intrinsic intellectual capital is protected by way of trade and employment restraints, copyright, confidentiality undertakings, etc. While this, again, may be considered to extend beyond mere principle to detail, this aspect serves as an example of issues inherent to the success of the corporation. It emphasises the importance with which the board should consider all of the corporation's inherent assets, with particular relevance to its human resources and their development generally in the business enterprise.

Training is an essential part of most businesses today. Where it is needed, the board should ensure not only that it is adequate and relevant but that it will result in the corporation remaining competitive and effective. With the modern emphasis on human resource utilisation, succession planning of senior management is an important board responsibility.

The board should also monitor management and staff morale generally.

Principle 13 – Technology

The board should ensure that technology and systems used in the corporation are adequate to properly run the business and for it to remain a meaningful competitor.

The development of electronic information and technology in the 20th Century has been significant, and the advances in the next millennium are anticipated to be momentous. Competitive advantages may well be derived by a corporation's strategy regarding its use of information technology, and technology generally be it electronic or otherwise, in the efficient utilisation of its assets and processes.

Consequently, a board has the responsibility to ensure that its management information systems, internal controls and technology relevant to the corporation's business are not only updated so that the corporation remains competitive but are of such a nature that they can cope with the planned strategy of the business enterprise in an increasingly competitive world without barriers.

Principle 14 – Risk Management

The board must identify key risk areas and key performance indicators of the business enterprise and monitor these factors.

If its strategies and objectives are to have any relevance, the board must understand and fully appreciate the business risk issues and key performance indicators affecting the ability of the corporation to achieve its purpose. Generating economic profit so as to enhance shareholder value in the long term, by competing effectively, is the primary objective of a corporation and its board. The framework of good corporate governance practices in a corporation must be designed with this objective in mind, while fulfilling broader economic, social and other objectives in the environment and circumstances in which the corporation operates.

These factors – business risk and key performance indicators – should be benchmarked against industry norms and best practice, so that the corporation's performance can be effectively evaluated. Once established, these indicators must be constantly monitored by the board. Management must ensure that they fully and accurately report on them to the satisfaction of the board.

The board, as emphasised throughout, has a critical role to play in ensuring that the business enterprise is directed towards achieving its primary economic objectives of profit and growth. It must, therefore, fully appreciate the key performance indicators of the corporation and respond to key risk areas when it deems it necessary to assure the long-term sustainable development of the corporation.

Principle 15 – Annual Review of Future Solvency

The board must ensure annually that the corporation will continue as a going concern for its next fiscal year.

The intent behind this principle is not that a corporation continues in perpetuity but to have a process in place which will prompt directors to act expeditiously when it is believed that the business may no longer be a going concern.

It is the responsibility of the board, all things being equal at the time the financial statements and annual audit have been completed and reviewed, to satisfy itself that the corporation will continue as a going concern in its next fiscal year. Any conclusion arrived at by the board that the corporation will continue as a going concern should result from the evaluation by the board of objective criteria. The conclusion should be reported in the financial statements for the benefit of the shareholders, but also be communicated as appropriate to the corporation's other relevant stakeholders.

The losses through company failures are felt not only by shareholders – employees lose their jobs, their families lose their livelihood, the consumers lose choice of products, the suppliers lose customers, and the whole economy of a country may possibly suffer as a consequence. The modern approach is to deal with failing corporations pro-actively, rather than reactively. Every corporation saved from failure preserves precious jobs and sustains the economy. The role of the auditors in ensuring that international standards of accounting and reporting are adhered to by corporations is a fundamental element of this principle.

World-wide the approach is now to rescue and turn around a failing business enterprise, rather than to liquidate and wind it up. It is important, however, for the board to recognise factors and issues – both internally and externally – which may lead to the failure of the corporation and take responsibility for initiating measures likely to sustain its ongoing economic existence. In short, managing the corporation back to health is preferred to liquidation and the choice of resuscitation of a business enterprise should be preferred to bankruptcy.

Part Three – Other Corporate Governance Issues

Corporate Governance and State Enterprises in the Commonwealth

A predominant feature of the Commonwealth is the preponderance of state-owned enterprises or business enterprises in which the state has a significant commercial or other material interest. This is particularly relevant to those Commonwealth countries loosely categorised as emerging or transition economies.

In an era of privatisation of such enterprises, usually as part of some form of structural economic adjustment programme, the issue of corporate governance practices has been highlighted. Many of the inherent conflicts and problems associated with the corporate governance debate have been found to occur in such business enterprises – whether pre and/or post privatisation. A particular difficulty has been the apparent lack of independence of state enterprise boards, as appointments are often associated with political influences and cronyism. It would be pertinent to observe that this has not necessarily been the exclusive domain of state enterprises alone. Similar excesses in the private sector gave rise to demands for action in the 1980s in the OECD countries and, again, in the latter part of the 1990s following the Asian crisis.

The independence of directors and boards of state enterprises, in their various forms, in many emerging and transition economies remains a challenge – not only for the directors themselves but also for those with whom such enterprises contract. A particular difficulty is the shortage of skills and lack of familiarity with board functions and fiduciary responsibilities. The lack of enforcement of existing regulatory measures, whether outdated or not, has contributed to poor corporate governance practices.

What has not always been readily recognised has been the economic costs of inefficient management practices associated with state assets, arising from typical corporate governance issues of responsibility and accountability. According to World Bank estimates, losses in public enterprises through inefficient or inappropriate use of state assets in the lowest income countries are between 8% and 12% of GDP – often amounting to more than is spent on health and education in those countries. The inevitable restructuring associated with privatisation programmes has, in consequence, often imposed the burden of further economic and social costs that could otherwise have been avoided. Raising standards of competence and efficiency, especially in the poorest countries with scarce resources and great social need is imperative if they are to compete or even participate in the so-called “global economy”.

The Commonwealth has recognised the importance of drawing state enterprises into the corporate governance fold for the following reasons:

- While the conventional fiduciary relationships between shareholder and the board (as found in the private sector) do not necessarily apply, directors of state enterprises nevertheless owe a fiduciary responsibility to account to a country's taxpayers and the communities which such enterprises serve for the efficient utilisation of state-owned assets:
 - The taxpayers, for the proper utilisation of their taxes.
 - The communities, for the efficient delivery of services in expectation of the payment of taxes and other fiscal charges, e.g. power, water, telecommunications, roads, etc.
- In emerging and transition economies, the main or substantive commercial activity usually rests with the state enterprises. These enterprises often constitute the primary (and sometimes only) customer or supplier on whom an emergent private sector activity may depend. With the emphasis on encouraging the development of small, micro and medium enterprises, this has significant economic consequences. The conduct and efficacy of state enterprises can, therefore, act as a “driver” of good corporate governance practices in ensuring that this permeates through to an emergent private sector.

The CACG has found a unanimous demand for the inclusion of state enterprises within the corporate governance initiatives motivated under its national policy workshop programme. Indeed, many of these programmes have been conducted in liaison with a country's government privatisation agency. It would be instructive to note that this point of view has been derived not only from national policy workshops that to date have already covered some 16 countries in the past two years, but has also been obtained from other conferences and forums comprising over 45 countries exposed to this debate. These views represent not only the developing countries in the Commonwealth but, in addition, the developed economies – corporate governance is already deeply embedded in the New Zealand state enterprises and public sector boards, while the Commonwealth Secretariat has been requested to participate in a Canadian public sector research organisation undertaking an enquiry into corporate governance issues associated with state corporations in Canada. In South Africa, for example, corporate governance has been recognised as a fundamental objective for the efficient utilisation and management of state-owned assets. Allied to this are the requirements of Reporting by Public Enterprises legislation governing financial reporting by South African state enterprises. It would be instructive to note that, within this context, South Africa's electricity utility Eskom was publicly recognised as the leading practitioner in South Africa in 1997 for its corporate governance practices and procedures in a national competition comprising some of the major stock exchange-listed South African companies. Other such enterprises and non-governmental agencies have been similarly recognised.

Given the diversity of state enterprises by virtue of the many industries and economic activities in which they are to be found in the Commonwealth, and having regard to the particular characteristics and stages of economic development to be found in countries comprising the Commonwealth, there is obviously no single or uniform model of corporate governance that could or should be recommended for such enterprises. However, the CACG in conjunction with the Commonwealth Secretariat has identified the role of state enterprises in the effective application of corporate governance practices as a critical element and one which requires considerable focus and attention.

Business Ethics and Corruption

The CACG advocates that business enterprises should respond to a range of interests beyond their shareholders, in respect of ensuring that its activities and conduct are not detrimental to the legitimate concerns of other

stakeholders with whom a corporation may have direct or indirect relationships. As previously emphasised, this does not remove the imperative that the board shall remain accountable to the owners of the capital of the corporation (shareholders).

It is acknowledged that there is an argument which suggests that corporations which are properly managed and controlled by directors with long-term vision and purpose will, in their own enlightened self interest, ensure that they take proper account of these wider objectives. Increasing importance is now rightly attached by corporations to their dependence on corporate reputation for commercial success, reiterated by increasing scrutiny from regulators, the press, pressure groups, labour unions, employees, communities in which they operate, etc.

In this regard, most contracts concluded by corporations involve mutual rights and obligations. This involves trust and the responsibility of management to ensure that the conduct of the corporation, internally and externally, is based on enterprise and integrity. The fiduciary duties and responsibilities of directors should, at all times, remain paramount. All stakeholders with a link to the corporation should feel confident that their dealings with the corporation are undertaken with honesty, openness and fairness. It is advocated that one of the responsibilities of directors of any business enterprise – whether private, public, family owned or state-owned – should be to determine the moral and ethical climate of the business. This can take many forms, normally documented and widely disseminated in the organisation, but at the end of the day the conduct of the directors in their dealings both within the corporation and outside will set the example by which others will follow!

Ethics is an aspirational objective, and should represent the intrinsic cultural values of the society in which a corporation operates as well as the behaviour expected of the corporation in all its dealings with shareholders and other stakeholders generally. Where a corporation sees fit to codify ethical conduct, such guidelines should be succinct but sufficiently detailed to give a clear direction to the behaviour of those to whom it is directed. Ethical practices and issues are both complex and vexed. No single or universal model can be defined or prescribed, other than to emphasise the significant importance with which this issue is viewed not only by the CACG but also international institutional investors and other significant interested parties. A typical template setting out ethical conduct issues, which was prepared as an appendice to the King Report on Corporate Governance, has been reproduced and accompanies these CACG Guidelines.

While difficult to quantify in precise economic terms, the impact of bribery and corruption on countries, communities and business enterprises has been devastating. Given the many and subtle forms that this may take, it has been estimated by the Asian Development Bank that losses due to corruption can total more than a country's foreign debt in lost revenues and additional costs for goods and services. The reciprocal approach of developed and advanced economies in discouraging and/or prohibiting corrupt practices has to play an equal part in removing this scourge in the emerging and transition economies. Any form of corruption, whether through improper paying or receiving of benefits, is not to be tolerated.

Role of Professions in the Commonwealth

An important aspect of corporate governance is, in the opinion of the CACG, the role of the professions. While bodies such as the CACG can make recommendations and participate in training programmes for directors and managers of corporations, the reinforcement of corporate governance practices often rests with the professions in the form of regulatory reporting and the basis of professional advice rendered to corporations.

Accordingly, the development of new capacities, including the establishment of professional institutions where these do not presently exist or have fallen dormant, in emerging and transition economies requires some degree of focus. The conduct of professions in these economies must, by definition, determine the behaviour and conduct of business enterprises. The CACG would prevail on the professions – accountants, corporate secretaries, lawyers, directors, etc. – and particularly those with international affiliations, to contemplate the measures by which they can contribute in practical terms to good corporate governance practices in Commonwealth countries in which they are engaged (whether by direct representation or indirectly through professional affiliation).

Given the emphasis of the 15 Principles in the CACG Guidelines, it is now essential that directorship be regarded as a professional role for which incumbents must be trained and qualified. Some countries now insist that no person should be a member of the board of a stock exchange-listed or state-owned corporation without formal training, while some countries have instituted the status of “chartered” director gained only through a combination of formal examination and minimum experience. In the complex environment of the global economy and with the many, and varied, demands placed on boards it is no longer sufficient for directors to simply regard their position as honorific with no special duties or responsibilities. It can only be reiterated that the role of the director is an onerous task with significant responsibility and personal liability.

Other Issues

There are undoubtedly numerous other issues of corporate governance that could be considered within the context of that already covered in this document. However, the purpose of the CACG Guidelines is to identify those areas and aspects of corporate governance which currently predominate the Commonwealth and it is not intended nor necessarily desirable to provide a detailed exposition on the many other issues that may be peculiar to any particular country or business enterprise. As mentioned in the preamble, corporate governance is a dynamic and evolutionary process. Thus, the CACG Guidelines have been designed to be flexible and responsive to developments that may in the future incorporate other issues not specifically covered in this document.

In a number of countries, issues specific to the environment, health and safety, equal opportunity, worker participation on boards and associated consultative processes, have been defined by legislation or other regulation. Accordingly, the CACG does not necessarily propagate a particular position or stance on these issues but instead offers to co-ordinate or source access to such issues and/or developments through its network and affiliations in the Commonwealth and with other bodies by way of exchange of information and mutual experience. It is in this regard, that the CACG's involvement with the World Bank's Global Corporate Governance Forum should prove mutually beneficial.

Financial Action Task Force (FATF), Financial Action Task Force on Money Laundering, The Forty Recommendations (2003, Paris, France)

(Incorporating the amendments of 22 October 2004)

INTRODUCTION

Money laundering methods and techniques change in response to developing counter-measures. In recent years, the Financial Action Task Force (FATF)¹ has noted increasingly sophisticated combinations of techniques, such as the increased use of legal persons to disguise the true ownership and control of illegal proceeds, and an increased use of professionals to provide advice and assistance in laundering criminal funds. These factors, combined with the experience gained through the FATF's Non-Cooperative Countries and Territories process, and a number of national and international initiatives, led the FATF to review and revise the Forty Recommendations into a new comprehensive framework for combating money laundering and terrorist financing. The FATF now calls upon all countries to take the necessary steps to bring their national systems for combating money laundering and terrorist financing into compliance with the new FATF Recommendations, and to effectively implement these measures.

The review process for revising the Forty Recommendations was an extensive one, open to FATF members, non-members, observers, financial and other affected sectors and interested parties. This consultation process provided a wide range of input, all of which was considered in the review process.

The revised Forty Recommendations now apply not only to money laundering but also to terrorist financing, and when combined with the Eight Special Recommendations on Terrorist Financing provide an enhanced, comprehensive and consistent framework of measures for combating money laundering and terrorist financing. The FATF recognises that countries have diverse legal and financial systems and so all cannot take identical measures to achieve the common objective, especially over matters of detail. The Recommendations therefore set minimum standards for action for countries to implement the detail according to their particular circumstances and constitutional frameworks. The Recommendations cover all the measures that national systems should have in place within their criminal justice and regulatory systems; the preventive measures to be taken by financial institutions and certain other businesses and professions; and international co-operation.

The original FATF Forty Recommendations were drawn up in 1990 as an initiative to combat the misuse of financial systems by persons laundering drug money. In 1996 the Recommendations were revised for the first time to reflect evolving money laundering typologies. The 1996 Forty Recommendations have been endorsed by more than 130 countries and are the international anti-money laundering standard.

In October 2001 the FATF expanded its mandate to deal with the issue of the financing of terrorism, and took the important step of creating the Eight Special Recommendations on Terrorist Financing. These Recommendations contain a set of measures aimed at combating the funding of terrorist acts and terrorist organisations, and are complementary to the Forty Recommendations².

A key element in the fight against money laundering and the financing of terrorism is the need for countries systems to be monitored and evaluated, with respect to these international standards. The mutual evaluations conducted by the FATF and FATF-style regional bodies, as well as the assessments conducted by the IMF and World Bank, are a vital mechanism for ensuring that the FATF Recommendations are effectively implemented by all countries.

THE FORTY RECOMMENDATIONS

A. LEGAL SYSTEMS

Scope of the criminal offence of money laundering

1. Countries should criminalise money laundering on the basis of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the Vienna Convention) and the United Nations Convention against Transnational Organized Crime, 2000 (the Palermo Convention).

Countries should apply the crime of money laundering to all serious offences, with a view to including the widest range of predicate offences. Predicate offences may be described by reference to all offences, or to a threshold linked either to a category of serious offences or to the penalty of imprisonment applicable to the predicate offence (threshold approach), or to a list of predicate offences, or a combination of these approaches.

Where countries apply a threshold approach, predicate offences should at a minimum comprise all offences that

¹ The FATF is an inter-governmental body which sets standards, and develops and promotes policies to combat money laundering and terrorist financing. It currently has 33 members: 31 countries and governments and two international organisations; and more than 20 observers: five FATF-style regional bodies and more than 15 other international organisations or bodies. A list of all members and observers can be found on the FATF website at http://www.fatf-gafi.org/Members_en.htm

² The FATF Forty and Eight Special Recommendations have been recognised by the International Monetary Fund and the World Bank as the international standards for combating money laundering and the financing of terrorism.

fall within the category of serious offences under their national law or should include offences which are punishable by a maximum penalty of more than one year's imprisonment or for those countries that have a minimum threshold for offences in their legal system, predicate offences should comprise all offences, which are punished by a minimum penalty of more than six months imprisonment.

Whichever approach is adopted, each country should at a minimum include a range of offences within each of the designated categories of offences³.

Predicate offences for money laundering should extend to conduct that occurred in another country, which constitutes an offence in that country, and which would have constituted a predicate offence had it occurred domestically. Countries may provide that the only prerequisite is that the conduct would have constituted a predicate offence had it occurred domestically.

Countries may provide that the offence of money laundering does not apply to persons who committed the predicate offence, where this is required by fundamental principles of their domestic law.

2. Countries should ensure that:
 - a. The intent and knowledge required to prove the offence of money laundering is consistent with the standards set forth in the Vienna and Palermo Conventions, including the concept that such mental state may be inferred from objective factual circumstances.
 - b. Criminal liability, and, where that is not possible, civil or administrative liability, should apply to legal persons. This should not preclude parallel criminal, civil or administrative proceedings with respect to legal persons in countries in which such forms of liability are available. Legal persons should be subject to effective, proportionate and dissuasive sanctions. Such measures should be without prejudice to the criminal liability of individuals.

Provisional measures and confiscation

3. Countries should adopt measures similar to those set forth in the Vienna and Palermo Conventions, including legislative measures, to enable their competent authorities to confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value, without prejudicing the rights of bona fide third parties.

Such measures should include the authority to: (a) identify, trace and evaluate property which is subject to confiscation; (b) carry out provisional measures, such as freezing and seizing, to prevent any dealing, transfer or disposal of such property; (c) take steps that will prevent or void actions that prejudice the State's ability to recover property that is subject to confiscation; and (d) take any appropriate investigative measures.

Countries may consider adopting measures that allow such proceeds or instrumentalities to be confiscated without requiring a criminal conviction, or which require an offender to demonstrate the lawful origin of the property alleged to be liable to confiscation, to the extent that such a requirement is consistent with the principles of their domestic law.

B. MEASURES TO BE TAKEN BY FINANCIAL INSTITUTIONS AND NONFINANCIAL BUSINESSES AND PROFESSIONS TO PREVENT MONEY LAUNDERING AND TERRORIST FINANCING

4. Countries should ensure that financial institution secrecy laws do not inhibit implementation of the FATF Recommendations.

Customer due diligence and record-keeping

- 5.* Financial institutions should not keep anonymous accounts or accounts in obviously fictitious names. Financial institutions should undertake customer due diligence measures, including identifying and verifying the identity of their customers, when:
 - establishing business relations;
 - carrying out occasional transactions: (i) above the applicable designated threshold; or (ii) that are wire transfers in the circumstances covered by the Interpretative Note to Special Recommendation VII;
 - there is a suspicion of money laundering or terrorist financing; or
 - the financial institution has doubts about the veracity or adequacy of previously obtained customer identification data.

The customer due diligence (CDD) measures to be taken are as follows:

- a. Identifying the customer and verifying that customer's identity using reliable, independent source documents, data or information⁴.
- b. Identifying the beneficial owner, and taking reasonable measures to verify the identity of the beneficial owner such that the financial institution is satisfied that it knows who the beneficial owner is. For legal persons and arrangements this should include financial institutions taking reasonable measures to understand the ownership and control structure of the customer.

³ See the definition of "designated categories of offences" in the Glossary.

⁴ Reliable, independent source documents, data or information will hereafter be referred to as "identification data".

* Recommendations marked with an asterisk should be read in conjunction with their Interpretative Note.

- c. Obtaining information on the purpose and intended nature of the business relationship.
- d. Conducting ongoing due diligence on the business relationship and scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's knowledge of the customer, their business and risk profile, including, where necessary, the source of funds.

Financial institutions should apply each of the CDD measures under (a) to (d) above, but may determine the extent of such measures on a risk sensitive basis depending on the type of customer, business relationship or transaction. The measures that are taken should be consistent with any guidelines issued by competent authorities. For higher risk categories, financial institutions should perform enhanced due diligence. In certain circumstances, where there are low risks, countries may decide that financial institutions can apply reduced or simplified measures.

Financial institutions should verify the identity of the customer and beneficial owner before or during the course of establishing a business relationship or conducting transactions for occasional customers. Countries may permit financial institutions to complete the verification as soon as reasonably practicable following the establishment of the relationship, where the money laundering risks are effectively managed and where this is essential not to interrupt the normal conduct of business.

Where the financial institution is unable to comply with paragraphs (a) to (c) above, it should not open the account, commence business relations or perform the transaction; or should terminate the business relationship; and should consider making a suspicious transactions report in relation to the customer.

These requirements should apply to all new customers, though financial institutions should also apply this Recommendation to existing customers on the basis of materiality and risk, and should conduct due diligence on such existing relationships at appropriate times.

- 6.* Financial institutions should, in relation to politically exposed persons, in addition to performing normal due diligence measures:
 - a. Have appropriate risk management systems to determine whether the customer is a politically exposed person.
 - b. Obtain senior management approval for establishing business relationships with such customers.
 - c. Take reasonable measures to establish the source of wealth and source of funds.
 - d. Conduct enhanced ongoing monitoring of the business relationship.
7. Financial institutions should, in relation to cross-border correspondent banking and other similar relationships, in addition to performing normal due diligence measures:
 - a. Gather sufficient information about a respondent institution to understand fully the nature of the respondent's business and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action.
 - b. Assess the respondent institution's anti-money laundering and terrorist financing controls.
 - c. Obtain approval from senior management before establishing new correspondent relationships.
 - d. Document the respective responsibilities of each institution.
 - e. With respect to "payable-through accounts", be satisfied that the respondent bank has verified the identity of and performed on-going due diligence on the customers having direct access to accounts of the correspondent and that it is able to provide relevant customer identification data upon request to the correspondent bank.
8. Financial institutions should pay special attention to any money laundering threats that may arise from new or developing technologies that might favour anonymity, and take measures, if needed, to prevent their use in money laundering schemes. In particular, financial institutions should have policies and procedures in place to address any specific risks associated with nonface to face business relationships or transactions.
- 9.* Countries may permit financial institutions to rely on intermediaries or other third parties to perform elements (a) – (c) of the CDD process or to introduce business, provided that the criteria set out below are met. Where such reliance is permitted, the ultimate responsibility for customer identification and verification remains with the financial institution relying on the third party.

The criteria that should be met are as follows:

 - a. A financial institution relying upon a third party should immediately obtain the necessary information concerning elements (a) – (c) of the CDD process. Financial institutions should take adequate steps to satisfy themselves that copies of identification data and other relevant documentation relating to the CDD requirements will be made available from the third party upon request without delay.
 - b. The financial institution should satisfy itself that the third party is regulated and supervised for, and has measures in place to comply with CDD requirements in line with Recommendations 5 and 10.

It is left to each country to determine in which countries the third party that meets the conditions can be based, having regard to information available on countries that do not or do not adequately apply the FATF Recommendations.

- 10.* Financial institutions should maintain, for at least five years, all necessary records on transactions, both domestic or international, to enable them to comply swiftly with information requests from the competent authorities. Such records must be sufficient to permit reconstruction of individual transactions (including the amounts and types of currency involved if any) so as to provide, if necessary, evidence for prosecution of criminal activity. Financial institutions should keep records on the identification data obtained through the customer due diligence process (e.g. copies or records of official identification documents like passports, identity cards, driving licenses or similar documents), account files and business correspondence for at least five years after the business relationship is ended. The identification data and transaction records should be available to domestic competent authorities upon appropriate authority.
- 11.* Financial institutions should pay special attention to all complex, unusual large transactions, and all unusual patterns of transactions, which have no apparent economic or visible lawful purpose. The background and purpose of such transactions should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities and auditors.
- 12.* The customer due diligence and record-keeping requirements set out in Recommendations 5, 6, and 8 to 11 apply to designated non-financial businesses and professions in the following situations:
 - a. Casinos - when customers engage in financial transactions equal to or above the applicable designated threshold.
 - b. Real estate agents - when they are involved in transactions for their client concerning the buying and selling of real estate.
 - c. Dealers in precious metals and dealers in precious stones - when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.
 - d. Lawyers, notaries, other independent legal professionals and accountants when they prepare for or carry out transactions for their client concerning the following activities:
 - buying and selling of real estate;
 - managing of client money, securities or other assets;
 - management of bank, savings or securities accounts;
 - organisation of contributions for the creation, operation or management of companies;
 - creation, operation or management of legal persons or arrangements, and buying and selling of business entities.
 - e. Trust and company service providers when they prepare for or carry out transactions for a client concerning the activities listed in the definition in the Glossary.

Reporting of suspicious transactions and compliance

- 13.* If a financial institution suspects or has reasonable grounds to suspect that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, directly by law or regulation, to report promptly its suspicions to the financial intelligence unit (FIU).
- 14.* Financial institutions, their directors, officers and employees should be:
 - a. Protected by legal provisions from criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred.
 - b. Prohibited by law from disclosing the fact that a suspicious transaction report (STR) or related information is being reported to the FIU.
- 15.* Financial institutions should develop programmes against money laundering and terrorist financing. These programmes should include:
 - a. The development of internal policies, procedures and controls, including appropriate compliance management arrangements, and adequate screening procedures to ensure high standards when hiring employees.
 - b. An ongoing employee training programme.
 - c. An audit function to test the system.
- 16.* The requirements set out in Recommendations 13 to 15, and 21 apply to all designated nonfinancial businesses and professions, subject to the following qualifications:
 - a. Lawyers, notaries, other independent legal professionals and accountants should be required to report suspicious transactions when, on behalf of or for a client, they engage in a financial transaction in relation to the activities described in Recommendation 12(d). Countries are strongly encouraged to extend the reporting requirement to the rest of the professional activities of accountants, including auditing.
 - b. Dealers in precious metals and dealers in precious stones should be required to report suspicious transactions when they engage in any cash transaction with a customer equal to or above the applicable designated threshold.
 - c. Trust and company service providers should be required to report suspicious transactions for a client when, on

behalf of or for a client, they engage in a transaction in relation to the activities referred to Recommendation 12(e). Lawyers, notaries, other independent legal professionals, and accountants acting as independent legal professionals, are not required to report their suspicions if the relevant information was obtained in circumstances where they are subject to professional secrecy or legal professional privilege.

Other measures to deter money laundering and terrorist financing

17. Countries should ensure that effective, proportionate and dissuasive sanctions, whether criminal, civil or administrative, are available to deal with natural or legal persons covered by these Recommendations that fail to comply with anti-money laundering or terrorist financing requirements.
18. Countries should not approve the establishment or accept the continued operation of shell banks. Financial institutions should refuse to enter into, or continue, a correspondent banking relationship with shell banks. Financial institutions should also guard against establishing relations with respondent foreign financial institutions that permit their accounts to be used by shell banks.
19. Countries should consider the feasibility and utility of a system where banks and other financial institutions and intermediaries would report all domestic and international currency transactions above a fixed amount, to a national central agency with a computerised data base, available to competent authorities for use in money laundering or terrorist financing cases, subject to strict safeguards to ensure proper use of the information.
20. Countries should consider applying the FATF Recommendations to businesses and professions, other than designated non-financial businesses and professions, that pose a money laundering or terrorist financing risk.
Countries should further encourage the development of modern and secure techniques of money management that are less vulnerable to money laundering.

Measures to be taken with respect to countries that do not or insufficiently comply with the FATF Recommendations

21. Financial institutions should give special attention to business relationships and transactions with persons, including companies and financial institutions, from countries which do not or insufficiently apply the FATF Recommendations. Whenever these transactions have no apparent economic or visible lawful purpose, their background and purpose should, as far as possible, be examined, the findings established in writing, and be available to help competent authorities. Where such a country continues not to apply or insufficiently applies the FATF Recommendations, countries should be able to apply appropriate countermeasures.
22. Financial institutions should ensure that the principles applicable to financial institutions, which are mentioned above are also applied to branches and majority owned subsidiaries located abroad, especially in countries which do not or insufficiently apply the FATF Recommendations, to the extent that local applicable laws and regulations permit. When local applicable laws and regulations prohibit this implementation, competent authorities in the country of the parent institution should be informed by the financial institutions that they cannot apply the FATF Recommendations.

Regulation and supervision

- 23.*Countries should ensure that financial institutions are subject to adequate regulation and supervision and are effectively implementing the FATF Recommendations. Competent authorities should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest or holding a management function in a financial institution.

For financial institutions subject to the Core Principles, the regulatory and supervisory measures that apply for prudential purposes and which are also relevant to money laundering, should apply in a similar manner for anti-money laundering and terrorist financing purposes.

Other financial institutions should be licensed or registered and appropriately regulated, and subject to supervision or oversight for anti-money laundering purposes, having regard to the risk of money laundering or terrorist financing in that sector. At a minimum, businesses providing a service of money or value transfer, or of money or currency changing should be licensed or registered, and subject to effective systems for monitoring and ensuring compliance with national requirements to combat money laundering and terrorist financing.

24. Designated non-financial businesses and professions should be subject to regulatory and supervisory measures as set out below.
 - a. Casinos should be subject to a comprehensive regulatory and supervisory regime that ensures that they have effectively implemented the necessary anti-money laundering and terrorist-financing measures. At a minimum:
 - casinos should be licensed;
 - competent authorities should take the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino
 - competent authorities should ensure that casinos are effectively supervised for compliance with requirements to combat money laundering and terrorist financing.
 - b. Countries should ensure that the other categories of designated non-financial businesses and professions are subject to effective systems for monitoring and ensuring their compliance with requirements to combat

money laundering and terrorist financing. This should be performed on a risk-sensitive basis. This may be performed by a government authority or by an appropriate self-regulatory organisation, provided that such an organisation can ensure that its members comply with their obligations to combat money laundering and terrorist financing.

- 25.* The competent authorities should establish guidelines, and provide feedback which will assist financial institutions and designated non-financial businesses and professions in applying national measures to combat money laundering and terrorist financing, and in particular, in detecting and reporting suspicious transactions.

C. INSTITUTIONAL AND OTHER MEASURES NECESSARY IN SYSTEMS FOR COMBATING MONEY LAUNDERING AND TERRORIST FINANCING

Competent authorities, their powers and resources

- 26.* Countries should establish a FIU that serves as a national centre for the receiving (and, as permitted, requesting), analysis and dissemination of STR and other information regarding potential money laundering or terrorist financing. The FIU should have access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information that it requires to properly undertake its functions, including the analysis of STR.
- 27.* Countries should ensure that designated law enforcement authorities have responsibility for money laundering and terrorist financing investigations. Countries are encouraged to support and develop, as far as possible, special investigative techniques suitable for the investigation of money laundering, such as controlled delivery, undercover operations and other relevant techniques. Countries are also encouraged to use other effective mechanisms such as the use of permanent or temporary groups specialised in asset investigation, and co-operative investigations with appropriate competent authorities in other countries.
28. When conducting investigations of money laundering and underlying predicate offences, competent authorities should be able to obtain documents and information for use in those investigations, and in prosecutions and related actions. This should include powers to use compulsory measures for the production of records held by financial institutions and other persons, for the search of persons and premises, and for the seizure and obtaining of evidence.
29. Supervisors should have adequate powers to monitor and ensure compliance by financial institutions with requirements to combat money laundering and terrorist financing, including the authority to conduct inspections. They should be authorised to compel production of any information from financial institutions that is relevant to monitoring such compliance, and to impose adequate administrative sanctions for failure to comply with such requirements.
30. Countries should provide their competent authorities involved in combating money laundering and terrorist financing with adequate financial, human and technical resources. Countries should have in place processes to ensure that the staff of those authorities are of high integrity.
31. Countries should ensure that policy makers, the FIU, law enforcement and supervisors have effective mechanisms in place which enable them to co-operate, and where appropriate coordinate domestically with each other concerning the development and implementation of policies and activities to combat money laundering and terrorist financing.
32. Countries should ensure that their competent authorities can review the effectiveness of their systems to combat money laundering and terrorist financing systems by maintaining comprehensive statistics on matters relevant to the effectiveness and efficiency of such systems. This should include statistics on the STR received and disseminated; on money laundering and terrorist financing investigations, prosecutions and convictions; on property frozen, seized and confiscated; and on mutual legal assistance or other international requests for co-operation.

Transparency of legal persons and arrangements

33. Countries should take measures to prevent the unlawful use of legal persons by money launderers. Countries should ensure that there is adequate, accurate and timely information on the beneficial ownership and control of legal persons that can be obtained or accessed in a timely fashion by competent authorities. In particular, countries that have legal persons that are able to issue bearer shares should take appropriate measures to ensure that they are not misused for money laundering and be able to demonstrate the adequacy of those measures. Countries could consider measures to facilitate access to beneficial ownership and control information to financial institutions undertaking the requirements set out in Recommendation 5.
34. Countries should take measures to prevent the unlawful use of legal arrangements by money launderers. In particular, countries should ensure that there is adequate, accurate and timely information on express trusts, including information on the settlor, trustee and beneficiaries, that can be obtained or accessed in a timely fashion by competent authorities. Countries could consider measures to facilitate access to beneficial ownership and control information to financial institutions undertaking the requirements set out in Recommendation 5.

D. INTERNATIONAL CO-OPERATION

35. Countries should take immediate steps to become party to and implement fully the Vienna Convention, the

Palermo Convention, and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism. Countries are also encouraged to ratify and implement other relevant international conventions, such as the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 2002 Inter-American Convention against Terrorism.

Mutual legal assistance and extradition

36. Countries should rapidly, constructively and effectively provide the widest possible range of mutual legal assistance in relation to money laundering and terrorist financing investigations, prosecutions, and related proceedings. In particular, countries should:

- a. Not prohibit or place unreasonable or unduly restrictive conditions on the provision of mutual legal assistance.
- b. Ensure that they have clear and efficient processes for the execution of mutual legal assistance requests.
- c. Not refuse to execute a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
- d. Not refuse to execute a request for mutual legal assistance on the grounds that laws require financial institutions to maintain secrecy or confidentiality.

Countries should ensure that the powers of their competent authorities required under Recommendation 28 are also available for use in response to requests for mutual legal assistance, and if consistent with their domestic framework, in response to direct requests from foreign judicial or law enforcement authorities to domestic counterparts.

To avoid conflicts of jurisdiction, consideration should be given to devising and applying mechanisms for determining the best venue for prosecution of defendants in the interests of justice in cases that are subject to prosecution in more than one country.

37. Countries should, to the greatest extent possible, render mutual legal assistance notwithstanding the absence of dual criminality.

Where dual criminality is required for mutual legal assistance or extradition, that requirement should be deemed to be satisfied regardless of whether both countries place the offence within the same category of offence or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence.

38.* There should be authority to take expeditious action in response to requests by foreign countries to identify, freeze, seize and confiscate property laundered, proceeds from money laundering or predicate offences, instrumentalities used in or intended for use in the commission of these offences, or property of corresponding value. There should also be arrangements for co-ordinating seizure and confiscation proceedings, which may include the sharing of confiscated assets.

39. Countries should recognise money laundering as an extraditable offence. Each country should either extradite its own nationals, or where a country does not do so solely on the grounds of nationality, that country should, at the request of the country seeking extradition, submit the case without undue delay to its competent authorities for the purpose of prosecution of the offences set forth in the request. Those authorities should take their decision and conduct their proceedings in the same manner as in the case of any other offence of a serious nature under the domestic law of that country. The countries concerned should cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecutions.

Subject to their legal frameworks, countries may consider simplifying extradition by allowing direct transmission of extradition requests between appropriate ministries, extraditing persons based only on warrants of arrests or judgements, and/or introducing a simplified extradition of consenting persons who waive formal extradition proceedings.

Other forms of co-operation

40.* Countries should ensure that their competent authorities provide the widest possible range of international co-operation to their foreign counterparts. There should be clear and effective gateways to facilitate the prompt and constructive exchange directly between counterparts, either spontaneously or upon request, of information relating to both money laundering and the underlying predicate offences. Exchanges should be permitted without unduly restrictive conditions. In particular:

- a. Competent authorities should not refuse a request for assistance on the sole ground that the request is also considered to involve fiscal matters.
- b. Countries should not invoke laws that require financial institutions to maintain secrecy or confidentiality as a ground for refusing to provide co-operation.
- c. Competent authorities should be able to conduct inquiries; and where possible, investigations; on behalf of foreign counterparts.

Where the ability to obtain information sought by a foreign competent authority is not within the mandate of its counterpart, countries are also encouraged to permit a prompt and constructive exchange of information with non-counterparts. Co-operation with foreign authorities other than counterparts could occur directly or indirectly. When uncertain about the appropriate avenue to follow, competent authorities should first contact

their foreign counterparts for assistance.

Countries should establish controls and safeguards to ensure that information exchanged by competent authorities is used only in an authorised manner, consistent with their obligations concerning privacy and data protection.

GLOSSARY

In these Recommendations the following abbreviations and references are used:

“Beneficial owner” refers to the natural person(s) who ultimately owns or controls a customer and/or the person on whose behalf a transaction is being conducted. It also incorporates those persons who exercise ultimate effective control over a legal person or arrangement.

“Core Principles” refers to the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision, the Objectives and Principles for Securities Regulation issued by the International Organization of Securities Commissions, and the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors.

“Designated categories of offences” means:

- participation in an organised criminal group and racketeering;
- terrorism, including terrorist financing;
- trafficking in human beings and migrant smuggling;
- sexual exploitation, including sexual exploitation of children;
- illicit trafficking in narcotic drugs and psychotropic substances;
- illicit arms trafficking;
- illicit trafficking in stolen and other goods;
- corruption and bribery;
- fraud;
- counterfeiting currency;
- counterfeiting and piracy of products;
- environmental crime;
- murder, grievous bodily injury;
- kidnapping, illegal restraint and hostage-taking;
- robbery or theft;
- smuggling;
- extortion;
- forgery;
- piracy; and
- insider trading and market manipulation.

When deciding on the range of offences to be covered as predicate offences under each of the categories listed above, each country may decide, in accordance with its domestic law, how it will define those offences and the nature of any particular elements of those offences that make them serious offences.

“Designated non-financial businesses and professions” means:

- a. Casinos (which also includes internet casinos).
- b. Real estate agents.
- c. Dealers in precious metals.
- d. Dealers in precious stones.
- e. Lawyers, notaries, other independent legal professionals and accountants – this refers to sole practitioners, partners or employed professionals within professional firms. It is not meant to refer to ‘internal’ professionals that are employees of other types of businesses, nor to professionals working for government agencies, who may already be subject to measures that would combat money laundering.
- f. Trust and Company Service Providers refers to all persons or businesses that are not covered elsewhere under these Recommendations, and which as a business, provide any of the following services to third parties:
 - acting as a formation agent of legal persons;
 - acting as (or arranging for another person to act as) a director or secretary of a company, a partner of a partnership, or a similar position in relation to other legal persons;
 - providing a registered office; business address or accommodation, correspondence or administrative address for a company, a partnership or any other legal person or arrangement;
 - acting as (or arranging for another person to act as) a trustee of an express trust;
 - acting as (or arranging for another person to act as) a nominee shareholder for another person.

“Designated threshold” refers to the amount set out in the Interpretative Notes.

“Financial institutions” means any person or entity who conducts as a business one or more of the following activities or operations for or on behalf of a customer:

1. Acceptance of deposits and other repayable funds from the public.⁵
2. Lending.⁶
3. Financial leasing.⁷
4. The transfer of money or value.⁸
5. Issuing and managing means of payment (e.g. credit and debit cards, cheques, traveller’s cheques, money orders and bankers’ drafts, electronic money).
6. Financial guarantees and commitments.
7. Trading in:
 - a. money market instruments (cheques, bills, CDs, derivatives etc.);
 - b. foreign exchange;
 - c. exchange, interest rate and index instruments;
 - d. transferable securities;
 - e. commodity futures trading.
8. Participation in securities issues and the provision of financial services related to such issues.
9. Individual and collective portfolio management.
10. Safekeeping and administration of cash or liquid securities on behalf of other persons.
11. Otherwise investing, administering or managing funds or money on behalf of other persons.
12. Underwriting and placement of life insurance and other investment related insurance⁹.
13. Money and currency changing.

When a financial activity is carried out by a person or entity on an occasional or very limited basis having regard to quantitative and absolute criteria) such that there is little risk of money laundering activity occurring, a country may decide that the application of anti-money laundering measures is not necessary, either fully or partially.

In strictly limited and justified circumstances, and based on a proven low risk of money laundering, a country may decide not to apply some or all of the Forty Recommendations to some of the financial activities stated above.

“FIU” means financial intelligence unit.

“Legal arrangements” refers to express trusts or other similar legal arrangements.

“Legal persons” refers to bodies corporate, foundations, anstalt, partnerships, or associations, or any similar bodies that can establish a permanent customer relationship with a financial institution or otherwise own property.

“Payable-through accounts” refers to correspondent accounts that are used directly by third parties to transact business on their own behalf.

“Politically Exposed Persons” (PEPs) are individuals who are or have been entrusted with prominent public functions in a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Business relationships with family members or close associates of PEPs involve reputational risks similar to those with PEPs themselves. The definition is not intended to cover middle ranking or more junior individuals in the foregoing categories.

“Shell bank” means a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group.

“STR” refers to suspicious transaction reports.

“Supervisors” refers to the designated competent authorities responsible for ensuring compliance by financial institutions with requirements to combat money laundering and terrorist financing.

“the FATF Recommendations” refers to these Recommendations and to the FATF Special Recommendations on Terrorist Financing.

⁵ This also captures private banking.

⁶ This includes inter alia: consumer credit; mortgage credit; factoring, with or without recourse; and finance of commercial transactions (including forfaiting).

⁷ This does not extend to financial leasing arrangements in relation to consumer products.

⁸ This applies to financial activity in both the formal or informal sector e.g. alternative remittance activity. See the Interpretative Note to Special Recommendation VI. It does not apply to any natural or legal person that provides financial institutions solely with message or other support systems for transmitting funds. See the Interpretative Note to Special Recommendation VII.

⁹ This applies both to insurance undertakings and to insurance intermediaries (agents and brokers).

ANNEX

INTERPRETATIVE NOTES TO THE FORTY RECOMMENDATIONS

General

1. Reference in this document to “countries” should be taken to apply equally to “territories” or “jurisdictions”.
2. Recommendations 5-16 and 21-22 state that financial institutions or designated non-financial businesses and professions should take certain actions. These references require countries to take measures that will oblige financial institutions or designated non-financial businesses and professions to comply with each Recommendation. The basic obligations under Recommendations 5, 10 and 13 should be set out in law or regulation, while more detailed elements in those Recommendations, as well as obligations under other Recommendations, could be required either by law or regulation or by other enforceable means issued by a competent authority.
3. Where reference is made to a financial institution being satisfied as to a matter, that institution must be able to justify its assessment to competent authorities.
4. To comply with Recommendations 12 and 16, countries do not need to issue laws or regulations that relate exclusively to lawyers, notaries, accountants and the other designated non-financial businesses and professions so long as these businesses or professions are included in laws or regulations covering the underlying activities.
5. The Interpretative Notes that apply to financial institutions are also relevant to designated nonfinancial businesses and professions, where applicable.

Recommendations 5, 12 and 16

The designated thresholds for transactions (under Recommendations 5 and 12) are as follows:

- Financial institutions (for occasional customers under Recommendation 5) - USD/EUR 15,000.
- Casinos, including internet casinos (under Recommendation 12) - USD/EUR 3000
- For dealers in precious metals and dealers in precious stones when engaged in any cash transaction (under Recommendations 12 and 16) - USD/EUR 15,000.

Financial transactions above a designated threshold include situations where the transaction is carried out in a single operation or in several operations that appear to be linked.

Recommendation 5

Customer due diligence and tipping off

1. If, during the establishment or course of the customer relationship, or when conducting occasional transactions, a financial institution suspects that transactions relate to money laundering or terrorist financing, then the institution should:
 - a. Normally seek to identify and verify the identity of the customer and the beneficial owner, whether permanent or occasional, and irrespective of any exemption or any designated threshold that might otherwise apply.
 - b. Make a STR to the FIU in accordance with Recommendation 13.
2. Recommendation 14 prohibits financial institutions, their directors, officers and employees from disclosing the fact that an STR or related information is being reported to the FIU. A risk exists that customers could be unintentionally tipped off when the financial institution is seeking to perform its customer due diligence (CDD) obligations in these circumstances. The customer’s awareness of a possible STR or investigation could compromise future efforts to investigate the suspected money laundering or terrorist financing operation.
3. Therefore, if financial institutions form a suspicion that transactions relate to money laundering or terrorist financing, they should take into account the risk of tipping off when performing the customer due diligence process. If the institution reasonably believes that performing the CDD process will tip-off the customer or potential customer, it may choose not to pursue that process, and should file an STR. Institutions should ensure that their employees are aware of and sensitive to these issues when conducting CDD.

CDD for legal persons and arrangements

4. When performing elements (a) and (b) of the CDD process in relation to legal persons or arrangements, financial institutions should:
 - a. Verify that any person purporting to act on behalf of the customer is so authorised, and identify that person.
 - b. Identify the customer and verify its identity - the types of measures that would be normally needed to satisfactorily perform this function would require obtaining proof of incorporation or similar evidence of the legal status of the legal person or arrangement, as well as information concerning the customer’s name, the names of trustees, legal form, address, directors, and provisions regulating the power to bind the legal person or arrangement.
 - c. Identify the beneficial owners, including forming an understanding of the ownership and control structure, and take reasonable measures to verify the identity of such persons. The types of measures that would be normally needed to satisfactorily perform this function would require identifying the natural persons with a

controlling interest and identifying the natural persons who comprise the mind and management of the legal person or arrangement. Where the customer or the owner of the controlling interest is a public company that is subject to regulatory disclosure requirements, it is not necessary to seek to identify and verify the identity of any shareholder of that company.

The relevant information or data may be obtained from a public register, from the customer or from other reliable sources.

Reliance on identification and verification already performed

5. The CDD measures set out in Recommendation 5 do not imply that financial institutions have to repeatedly identify and verify the identity of each customer every time that a customer conducts a transaction. An institution is entitled to rely on the identification and verification steps that it has already undertaken unless it has doubts about the veracity of that information. Examples of situations that might lead an institution to have such doubts could be where there is a suspicion of money laundering in relation to that customer, or where there is a material change in the way that the customer's account is operated which is not consistent with the customer's business profile.

Timing of verification

6. Examples of the types of circumstances where it would be permissible for verification to be completed after the establishment of the business relationship, because it would be essential not to interrupt the normal conduct of business include:
 - Non face-to-face business.
 - Securities transactions. In the securities industry, companies and intermediaries may be required to perform transactions very rapidly, according to the market conditions at the time the customer is contacting them, and the performance of the transaction may be required before verification of identity is completed.
 - Life insurance business. In relation to life insurance business, countries may permit the identification and verification of the beneficiary under the policy to take place after having established the business relationship with the policyholder. However, in all such cases, identification and verification should occur at or before the time of payout or the time where the beneficiary intends to exercise vested rights under the policy.
7. Financial institutions will also need to adopt risk management procedures with respect to the conditions under which a customer may utilise the business relationship prior to verification. These procedures should include a set of measures such as a limitation of the number, types and/or amount of transactions that can be performed and the monitoring of large or complex transactions being carried out outside of expected norms for that type of relationship. Financial institutions should refer to the Basel CDD paper¹⁰ (section 2.2.6.) for specific guidance on examples of risk management measures for non-face to face business.

Requirement to identify existing customers

8. The principles set out in the Basel CDD paper concerning the identification of existing customers should serve as guidance when applying customer due diligence processes to institutions engaged in banking activity, and could apply to other financial institutions where relevant.

Simplified or reduced CDD measures

9. The general rule is that customers must be subject to the full range of CDD measures, including the requirement to identify the beneficial owner. Nevertheless there are circumstances where the risk of money laundering or terrorist financing is lower, where information on the identity of the customer and the beneficial owner of a customer is publicly available, or where adequate checks and controls exist elsewhere in national systems. In such circumstances it could be reasonable for a country to allow its financial institutions to apply simplified or reduced CDD measures when identifying and verifying the identity of the customer and the beneficial owner.
10. Examples of customers where simplified or reduced CDD measures could apply are:
 - Financial institutions – where they are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are supervised for compliance with those controls.
 - Public companies that are subject to regulatory disclosure requirements.
 - Government administrations or enterprises.
11. Simplified or reduced CDD measures could also apply to the beneficial owners of pooled accounts held by designated non financial businesses or professions provided that those businesses or professions are subject to requirements to combat money laundering and terrorist financing consistent with the FATF Recommendations and are subject to effective systems for monitoring and ensuring their compliance with those requirements. Banks should also refer to the Basel CDD paper (section 2.2.4.), which provides specific guidance concerning situations where an account holding institution may rely on a customer that is a professional financial intermediary to perform the customer due diligence on his or its own customers (i.e. the beneficial owners of the bank account). Where relevant, the CDD Paper could also provide guidance in relation to similar accounts held by other types of financial institutions.

¹⁰ "Basel CDD paper" refers to the guidance paper on Customer Due Diligence for Banks issued by the Basel Committee on Banking Supervision in October 2001.

12. Simplified CDD or reduced measures could also be acceptable for various types of products or transactions such as (examples only):
- Life insurance policies where the annual premium is no more than USD/EUR 1000 or a single premium of no more than USD/EUR 2500.
 - Insurance policies for pension schemes if there is no surrender clause and the policy cannot be used as collateral.
 - A pension, superannuation or similar scheme that provides retirement benefits to employees, where contributions are made by way of deduction from wages and the scheme rules do not permit the assignment of a member's interest under the scheme.
13. Countries could also decide whether financial institutions could apply these simplified measures only to customers in its own jurisdiction or allow them to do for customers from any other jurisdiction that the original country is satisfied is in compliance with and has effectively implemented the FATF Recommendations.
- Simplified CDD measures are not acceptable whenever there is suspicion of money laundering or terrorist financing or specific higher risk scenarios apply.

Recommendation 6

Countries are encouraged to extend the requirements of Recommendation 6 to individuals who hold prominent public functions in their own country.

Recommendation 9

This Recommendation does not apply to outsourcing or agency relationships.

This Recommendation also does not apply to relationships, accounts or transactions between financial institutions for their clients. Those relationships are addressed by Recommendations 5 and 7.

Recommendations 10 and 11

In relation to insurance business, the word “transactions” should be understood to refer to the insurance product itself, the premium payment and the benefits.

Recommendation 13

1. The reference to criminal activity in Recommendation 13 refers to:
 - a. all criminal acts that would constitute a predicate offence for money laundering in the jurisdiction; or
 - b. at a minimum to those offences that would constitute a predicate offence as required by Recommendation 1.

Countries are strongly encouraged to adopt alternative (a). All suspicious transactions, including attempted transactions, should be reported regardless of the amount of the transaction.
2. In implementing Recommendation 13, suspicious transactions should be reported by financial institutions regardless of whether they are also thought to involve tax matters. Countries should take into account that, in order to deter financial institutions from reporting a suspicious transaction, money launderers may seek to state *inter alia* that their transactions relate to tax matters.

Recommendation 14 (tipping off)

Where lawyers, notaries, other independent legal professionals and accountants acting as independent legal professionals seek to dissuade a client from engaging in illegal activity, this does not amount to tipping off.

Recommendation 15

The type and extent of measures to be taken for each of the requirements set out in the Recommendation should be appropriate having regard to the risk of money laundering and terrorist financing and the size of the business.

For financial institutions, compliance management arrangements should include the appointment of a compliance officer at the management level.

Recommendation 16

1. It is for each jurisdiction to determine the matters that would fall under legal professional privilege or professional secrecy. This would normally cover information lawyers, notaries or other independent legal professionals receive from or obtain through one of their clients: (a) in the course of ascertaining the legal position of their client, or (b) in performing their task of defending or representing that client in, or concerning judicial, administrative, arbitration or mediation proceedings. Where accountants are subject to the same obligations of secrecy or privilege, then they are also not required to report suspicious transactions.
2. Countries may allow lawyers, notaries, other independent legal professionals and accountants to send their STR to their appropriate self-regulatory organisations, provided that there are appropriate forms of co-operation between these organisations and the FIU.

Recommendation 23

Recommendation 23 should not be read as to require the introduction of a system of regular review of licensing of controlling interests in financial institutions merely for anti-money laundering purposes, but as to stress the desirability of suitability review for controlling shareholders in financial institutions (banks and non-banks in

particular) from a FATF point of view. Hence, where shareholder suitability (or “fit and proper”) tests exist, the attention of supervisors should be drawn to their relevance for anti-money laundering purposes.

Recommendation 25

When considering the feedback that should be provided, countries should have regard to the FATF Best Practice Guidelines on Providing Feedback to Reporting Financial Institutions and Other Persons.

Recommendation 26

Where a country has created an FIU, it should consider applying for membership in the Egmont Group. Countries should have regard to the Egmont Group Statement of Purpose, and its Principles for Information Exchange Between Financial Intelligence Units for Money Laundering Cases. These documents set out important guidance concerning the role and functions of FIUs, and the mechanisms for exchanging information between FIU.

Recommendation 27

Countries should consider taking measures, including legislative ones, at the national level, to allow their competent authorities investigating money laundering cases to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. Without such measures the use of procedures such as controlled deliveries and undercover operations are precluded.

Recommendation 38

Countries should consider:

- a. Establishing an asset forfeiture fund in its respective country into which all or a portion of confiscated property will be deposited for law enforcement, health, education, or other appropriate purposes.
- b. Taking such measures as may be necessary to enable it to share among or between other countries confiscated property, in particular, when confiscation is directly or indirectly a result of co-ordinated law enforcement actions.

Recommendation 40

1. For the purposes of this Recommendation:

- “Counterparts” refers to authorities that exercise similar responsibilities and functions.
- “Competent authority” refers to all administrative and law enforcement authorities concerned with combating money laundering and terrorist financing, including the FIU and supervisors.

Financial Action Task Force (FATF), Special Recommendations on Terrorist Financing (2004, Paris, France)

Recognising the vital importance of taking action to combat the financing of terrorism, the FATF has agreed these Recommendations, which, when combined with the FATF Forty Recommendations on money laundering, set out the basic framework to detect, prevent and suppress the financing of terrorism and terrorist acts.

I. Ratification and implementation of UN instruments

Each country should take immediate steps to ratify and to implement fully the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.

Countries should also immediately implement the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts, particularly United Nations Security Council Resolution 1373.

II. Criminalising the financing of terrorism and associated money laundering

Each country should criminalise the financing of terrorism, terrorist acts and terrorist organisations. Countries should ensure that such offences are designated as money laundering predicate offences.

III. Freezing and confiscating terrorist assets

Each country should implement measures to freeze without delay funds or other assets of terrorists, those who finance terrorism and terrorist organisations in accordance with the United Nations resolutions relating to the prevention and suppression of the financing of terrorist acts.

Each country should also adopt and implement measures, including legislative ones, which would enable the competent authorities to seize and confiscate property that is the proceeds of, or used in, or intended or allocated for use in, the financing of terrorism, terrorist acts or terrorist organisations.

IV. Reporting suspicious transactions related to terrorism

If financial institutions, or other businesses or entities subject to anti-money laundering obligations, suspect or have reasonable grounds to suspect that funds are linked or related to, or are to be used for terrorism, terrorist acts or by terrorist organisations, they should be required to report promptly their suspicions to the competent authorities.

V. International Co-operation

Each country should afford another country, on the basis of a treaty, arrangement or other mechanism for mutual legal assistance or information exchange, the greatest possible measure of assistance in connection with criminal, civil enforcement, and administrative investigations, inquiries and proceedings relating to the financing of terrorism, terrorist acts and terrorist organisations.

Countries should also take all possible measures to ensure that they do not provide safe havens for individuals charged with the financing of terrorism, terrorist acts or terrorist organisations, and should have procedures in place to extradite, where possible, such individuals.

VI. Alternative Remittance

Each country should take measures to ensure that persons or legal entities, including agents, that provide a service for the transmission of money or value, including transmission through an informal money or value transfer system or network, should be licensed or registered and subject to all the FATF Recommendations that apply to banks and non-bank financial institutions. Each country should ensure that persons or legal entities that carry out this service illegally are subject to administrative, civil or criminal sanctions.

VII. Wire transfers

Countries should take measures to require financial institutions, including money remitters, to include accurate and meaningful originator information (name, address and account number) on funds transfers and related messages that are sent, and the information should remain with the transfer or related message through the payment chain.

Countries should take measures to ensure that financial institutions, including money remitters, conduct enhanced scrutiny of and monitor for suspicious activity funds transfers which do not contain complete originator information (name, address and account number).

VIII. Non-profit organisations

Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:

- i. by terrorist organisations posing as legitimate entities;
- ii. to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
- iii. to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

IX. Cash Couriers

1. Countries should have measures in place to detect the physical cross-border transportation of currency and bearer negotiable instruments, including a declaration system or other disclosure obligation.

Countries should ensure that their competent authorities have the legal authority to stop or restrain currency or bearer negotiable instruments that are suspected to be related to terrorist financing or money laundering, or that are falsely declared or disclosed.

Countries should ensure that effective, proportionate and dissuasive sanctions are available to deal with persons who make false declaration(s) or disclosure(s). In cases where the currency or bearer negotiable instruments are related to terrorist financing or money laundering, countries should also adopt measures, including legislative ones consistent with Recommendation 3 and Special Recommendation III, which would enable the confiscation of such currency or instruments.

2. Depending on the type of competent authority involved and the nature and purpose of the cooperation, different channels can be appropriate for the exchange of information. Examples of mechanisms or channels that are used to exchange information include: bilateral or multilateral agreements or arrangements, memoranda of understanding, exchanges on the basis of reciprocity, or through appropriate international or regional organisations. However, this Recommendation is not intended to cover co-operation in relation to mutual legal assistance or extradition.
3. The reference to indirect exchange of information with foreign authorities other than counterparts covers the situation where the requested information passes from the foreign authority through one or more domestic or foreign authorities before being received by the requesting authority. The competent authority that requests the information should always make it clear for what purpose and on whose behalf the request is made.
4. FIUs should be able to make inquiries on behalf of foreign counterparts where this could be relevant to an analysis of financial transactions. At a minimum, inquiries should include:
 - Searching its own databases, which would include information related to suspicious transaction reports.
 - Searching other databases to which it may have direct or indirect access, including law enforcement databases, public databases, administrative databases and commercially available databases.

Where permitted to do so, FIUs should also contact other competent authorities and financial institutions in order to obtain relevant information.

International Accounting Standards Board (IASB), International Accounting Standards

The International Accounting Standards are too lengthy to include in this volume. They may be accessed at the International Accounting Standards Board's website, www.iasb.org/home.htm.

International Association of Insurance Supervisors, Insurance Core Principles (2000)

1. Introduction

1.1 Background

1. The preamble to the IAIS's By-Laws states:
 - a. The insurance supervisors recognise that
 - the insurance industries and markets are of fundamental economic and social importance, nationally and internationally; and
 - most domestic insurance markets are increasingly being integrated into a global market.
 - b. The insurance supervisors wish to
 - engender awareness of common interests and concerns among such insurance regulators and supervisors; and
 - enhance the ability of insurance supervisors to better protect insurance policyholders and to better promote and secure efficient insurance markets.
 - c. The insurance supervisors
 - resolve to cooperate together to ensure improved supervision of the insurance industry on the domestic as well as on an international level in order to maintain efficient, fair, safe and stable insurance markets for the benefit and protection of policyholders.
2. In order to achieve these wishes and resolutions, the insurance supervisors have resolved to unite their efforts to develop practical standards for supervision of insurance.

1.2 Purpose

3. The Insurance Core Principles comprise essential principles that need to be in place for a supervisory system to be effective. Insurance supervisors should apply the Insurance Core Principles in the supervision of all insurers within their jurisdictions. The Insurance Core Principles are intended to serve as a basic reference for insurance supervisors in all jurisdictions. They may need to be supplemented by other measures designed to address particular conditions and risks in the insurance systems of individual jurisdictions. The Insurance Core Principles are to be used in assisting individual jurisdictions to strengthen their regulatory and supervisory arrangements.

1.3 Observance

4. In assessing observance of the following principles, it should be kept in mind that the regulatory powers assigned to insurance supervisors vary between jurisdictions and the regulation of particular activities may be the responsibility of different authorities.
5. Insurance supervisors should carry out a self-assessment to determine whether the principles are being substantially observed in their jurisdiction. In completing this selfassessment and determining the extent of observance, insurance supervisors should consider whether all the main principles are satisfied and the degree to which each principle is met. Insurance supervisors are encouraged to provide information on their self-assessments to the IAIS so that the IAIS may periodically review the extent to which members have adopted the principles. In this regard the IAIS has prepared the Insurance Core Principles Methodology providing comprehensive criteria for each principle that can be used for assessing observance. The Insurance Core Principles are supported by best practices set out in approved IAIS principles and standards. Together with the Insurance Core Principles, these other documents should always be referred to in order to obtain a complete picture.

2. Definitions

6. In this paper:

Board of Directors refers to either the board of directors of a company which is incorporated in the jurisdiction or, in the case of a company which is licensed in the jurisdiction but incorporated in another jurisdiction, to a senior company official acceptable to the insurance supervisor.

Financial reports refers to accounting statements, financial returns, and statutory reports, including the balance sheet, the income statement and any other numerical reports prepared for disclosure to policyholders, investors, or insurance supervisors. It does not refer to reports prepared for other purposes.

Home jurisdiction. A home jurisdiction is one in which a parent insurer is incorporated, or in which the head office of a branch is incorporated. Host jurisdictions/supervisors must be aware of the distinctions between immediate and higher level home jurisdictions/supervisors, taking account of the hierarchical corporate structures of many international insurers and insurance groups. Except where specified, the terms home jurisdiction/supervisor where they appear cover both immediate and higher levels.

Host jurisdiction. A host jurisdiction is one in which a branch of a foreign insurer is located; or in which a subsidiary or joint venture of a foreign parent insurer is incorporated.

Insurer/Insurance company refers to a licensed legal entity, which underwrites insurance, including a mutual insurance company (but note the exemption of pure reinsurers).

Intermediary refers to any person who, or organisation which, gives advice by way of directly offering, advertising or on a person-to-person basis in respect of an insurance product and includes the promotion of such product or the facilitation of an agreement or contract between an insurer and a customer. Intermediaries are generally divided into separate classes. The most common types are 'independent intermediaries' who represent the buyer in dealings with the insurer (also known as independent brokers) and 'agents' (which generally include multiple agents and sub-agents) who represent the insurer.

Insurance group refers, in this paper, to a group structure which contains two or more insurers. The structure of international insurance groups may derive from an ultimate holding company which is not an insurer. Such a holding company can be an industrial or commercial company, another financial institution (for example a bank), or a company the majority of whose assets consist of shares in insurance companies (and/or other regulated financial institutions).

Insurance supervisor refers, as appropriate, to either the insurance regulator or the insurance supervisor in the jurisdiction. The text of this paper does not always as far as 'foreign' branches and cross-border business are concerned, reflect the situation in the European Union where the principles of mutual recognition of licenses and home country control are applied.

Jurisdiction refers to a country, state, province, or other territory with legally enforceable local insurance laws that relate to the incorporation or operation of insurance companies.

Licensing refers to the incorporation of a company in the jurisdiction or the approval given to a company to underwrite insurance in the jurisdiction. These are recognised to be separate approvals and may be made in separate jurisdictions. The principles, which apply to licensing, apply to both types of approval.

3. Insurance Core Principles

7. An insurance supervisor is expected primarily to protect policyholders and promote a secure and efficient market by ensuring that companies comply with the legislation and regulations governing the business of insurance. The insurance supervisor intervenes as necessary, using powers available under the legislation. The following are key issues for the insurance supervisor.

3.1 Organisation of an Insurance supervisor

Principle 1: Organisation of an Insurance Supervisor

8. The insurance supervisor of a jurisdiction must be organised so that it is able to accomplish its primary task, i.e. to maintain efficient, fair, safe and stable insurance markets for the benefit and protection of policyholders. It should at any time be able to carry out this task efficiently in accordance with the Insurance Core Principles. In particular, the insurance supervisor should:
 - a. be operationally independent and accountable in the exercising of its functions and powers;
 - b. have adequate powers, legal protection and financial resources to perform its functions and exercise its powers;
 - c. adopt a clear, transparent and consistent regulatory and supervisory process;
 - d. clearly define the responsibility for decision making; and
 - e. hire, train and maintain sufficient staff with high professional standards who follow the appropriate standards of confidentiality.

3.2 Licensing and Changes in Control

Principle 2: Licensing

9. Companies wishing to underwrite insurance in the domestic insurance market should be licensed. Where the insurance supervisor has authority to grant a license, the insurance supervisor:
 - a. in granting a license, should assess the suitability of owners, directors, and/or senior management, and the soundness of the business plan, which could include pro forma financial statements, a capital plan and projected solvency margins; and
 - b. in permitting access to the domestic market, may choose to rely on the work carried out by an insurance supervisor in another jurisdiction if the prudential rules of the two jurisdictions are broadly equivalent.

Principle 3: Changes in Control

10. The insurance supervisor should review changes in the control of companies that are licensed in the jurisdiction. The insurance supervisor should establish clear requirements to be met when a change in control occurs. These may be the same as, or similar to, the requirements which apply in granting a license. In particular, the insurance supervisor should:
 - a. require the purchaser or the licensed insurance company to provide notification of the change in control and/or seek approval of the proposed change; and

- b. establish criteria to assess the appropriateness of the change, which could include the assessment of the suitability of the new owners as well as any new directors and senior managers, and the soundness of any new business plan.

3.3 Corporate Governance

Principle 4: Corporate Governance

- 11. It is desirable that standards be established in the jurisdictions which deal with corporate governance. Where the insurance supervisor has responsibility for setting requirements for corporate governance, the insurance supervisor should set requirements with respect to:
 - a. the roles and responsibilities of the board of directors;
 - b. reliance on other supervisors for companies licensed in another jurisdiction; and
 - c. the distinction between the standards to be met by companies incorporated in his jurisdiction and branch operations of companies incorporated in another jurisdiction.

3.4 Internal Controls

Principle 5: Internal Controls

- 12. The insurance supervisor should be able to:
 - a. review the internal controls that the board of directors and management approve and apply, and request strengthening of the controls where necessary; and
 - b. require the board of directors to provide suitable prudential oversight, such as setting standards for underwriting risks and setting qualitative and quantitative standards for investment and liquidity management.

3.5 Prudential Rules

- 13. Insurance companies, by the very nature of their business, are exposed to risk. Insurance companies should meet prudential standards established to limit or manage the amount of risk that they retain.
- 14. In establishing the requirements the insurance supervisor should consider whether standards that apply to companies that are incorporated in the jurisdiction should differ from those that apply to branches of companies incorporated in another jurisdiction.

Principle 6: Assets

- 15. Standards should be established with respect to the assets of companies licensed to operate in the jurisdiction. Where insurance supervisors have the authority to establish the standards, these should apply at least to an amount of assets equal to the total of the technical provisions, and should address:
 - a. diversification by type;
 - b. any limits, or restrictions, on the amount that may be held in financial instruments, property, and receivables;
 - c. the basis for valuing assets which are included in the financial reports;
 - d. the safekeeping of assets;
 - e. appropriate matching of assets and liabilities, and
 - f. liquidity.

Principle 7: Liabilities

- 16. Insurance supervisors should establish standards with respect to the liabilities of companies licensed to operate in their jurisdiction. In developing the standards, the insurance supervisor should consider:
 - a. what is to be included as a liability of the company, for example, claims incurred but not paid, claims incurred but not reported, amounts owed to others, amounts owed that are in dispute, premiums received in advance, as well as the provision for policy liabilities or technical provisions that may be set by an actuary;
 - b. the standards for establishing policy liabilities or technical provisions; and
 - c. the amount of credit allowed to reduce liabilities for amounts recoverable under reinsurance arrangements with a given reinsurer, making provision for the ultimate collectability.

Principle 8: Capital Adequacy and Solvency

- 17. The requirements regarding the capital to be maintained by companies which are licensed, or seek a licence, in the jurisdiction should be clearly defined and should address the minimum levels of capital or the levels of deposits that should be maintained. Capital adequacy requirements should reflect the size, complexity, and business risks of the company in the jurisdiction.

Principle 9: Derivatives and 'off-balance sheet' items

- 18. The insurance supervisor should be able to set requirements with respect to the use of financial instruments that may not form a part of the financial report of a company licensed in the jurisdiction. In setting these requirements, the insurance supervisor should address:
 - a. restrictions in the use of derivatives and other off-balance sheet items;
 - b. disclosure requirements for derivatives and other off-balance sheet items; and

- c. the establishment of adequate internal controls and monitoring of derivative positions.

Principle 10: Reinsurance

19. Insurance companies use reinsurance as a means of risk containment. The insurance supervisor must be able to review reinsurance arrangements, to assess the degree of reliance placed on these arrangements and to determine the appropriateness of such reliance. Insurance companies would be expected to assess the financial positions of their reinsurers in determining an appropriate level of exposure to them.
20. The insurance supervisor should set requirements with respect to reinsurance contracts or reinsurance companies addressing:
 - a. the amount of the credit taken for reinsurance ceded. The amount of credit taken should reflect an assessment of the ultimate collectability of the reinsurance recoverables and may take into account the supervisory control over the reinsurer; and
 - b. the amount of reliance placed on the insurance supervisor of the reinsurance business of a company which is incorporated in another jurisdiction.

3.6 Market Conduct

Principle 11: Market Conduct

21. Insurance supervisors should ensure that insurers and intermediaries exercise the necessary knowledge, skills and integrity in dealings with their customers.
22. Insurers and intermediaries should:
 - a. at all times act honestly and in a straightforward manner;
 - b. act with due skill, care and diligence in conducting their business activities;
 - c. conduct their business and organise their affairs with prudence;
 - d. pay due regard to the information needs of their customers and treat them fairly;
 - e. seek from their customers information which might reasonably be expected before giving advice or concluding a contract;
 - f. avoid conflicts of interest;
 - g. deal with their regulators in an open and cooperative way;
 - h. support a system of complaints handling where applicable; and
 - i. organise and control their affairs effectively.

3.7 Monitoring and On-site Inspection

Principle 12: Financial Reporting

23. It is important that insurance supervisors get the information they need to properly form an opinion on the financial strength of the operations of each insurance company in their jurisdiction. The information needed to carry out this review and analysis is obtained from the financial and statistical reports that are filed on a regular basis, supported by information obtained through special information requests, on-site inspections and communication with actuaries and external auditors.
24. A process should be established for:
 - a. setting the scope and frequency of reports requested and received from all companies licensed in the jurisdiction, including financial reports, statistical reports, actuarial reports and other information;
 - b. setting the accounting requirements for the preparation of financial reports in the jurisdiction;
 - c. ensuring that external audits of insurance companies operating in the jurisdiction are acceptable; and
 - d. setting the standards for the establishment of technical provisions or policy and other liabilities to be included in the financial reports in the jurisdiction.
25. In so doing a distinction may be made:
 - a. between the standards that apply to reports and calculations prepared for disclosure to policyholders and investors, and those prepared for the insurance supervisor; and
 - b. between the financial reports and calculations prepared for companies incorporated in the jurisdiction, and branch operations of companies incorporated in another jurisdiction.

Principle 13: On-site Inspection

26. The insurance supervisor should be able to:
 - a. carry out on-site inspections to review the business and affairs of the company, including the inspection of books, records, accounts, and other documents. This may be limited to the operation of the company in the jurisdiction or, subject to the agreement of the respective supervisors, include other jurisdictions in which the company operates; and
 - b. request and receive any information from companies licensed in its jurisdiction, whether this information be specific to a company or be requested of all companies.

3.8 Sanctions

Principle 14: Sanctions

27. Insurance supervisors must have the power to take remedial action where problems involving licensed companies are identified. The insurance supervisor must have a range of actions available in order to apply appropriate sanctions to problems encountered. The legislation should set out the powers available to the insurance supervisor and may include:
 - a. the power to restrict the business activities of a company, for example, by withholding approval for new activities or acquisitions;
 - b. the power to direct a company to stop practices that are unsafe or unsound, or to take action to remedy an unsafe or unsound business practice; and
 - c. the option to invoke other sanctions on a company or its business operation in the jurisdiction, for example, by revoking the licence of a company or imposing remedial measures where a company violates the insurance laws of the jurisdiction.

3.9 Cross-border Business Operations

Principle 15: Cross-border Business Operations

28. Insurance companies are becoming increasingly international in scope, establishing branches and subsidiaries outside their home jurisdiction and sometimes conducting crossborder business on a services basis only. The insurance supervisor should ensure that:
 - a. no foreign insurance establishment escapes supervision;
 - b. all insurance establishments of international insurance groups and international insurers are subject to effective supervision;
 - c. the creation of a cross-border insurance establishment is subject to consultation between host and home supervisors; and
 - d. foreign insurers providing insurance cover on a cross-border services basis are subject to effective supervision.

3.10 Coordination, Cooperation and Confidentiality

Principle 16: Coordination and Cooperation

29. Increasingly, insurance supervisors liaise with each other to ensure that each is aware of the other's concerns with respect to an insurance company that operates in more than one jurisdiction either directly or through a separate corporate entity.
30. In order to share relevant information with other insurance supervisors, adequate and effective communications should be developed and maintained.
31. In developing or implementing a regulatory framework, consideration should be given to whether the insurance supervisor:
 - a. is able to enter into an agreement or understanding with any other supervisor both in other jurisdictions and in other sectors of the industry (i.e. insurance, banking or securities) to share information or otherwise work together;
 - b. is permitted to share information, or otherwise work together, with an insurance supervisor in another jurisdiction. This may be limited to insurance supervisors who have agreed, and are legally able, to treat the information as confidential;
 - c. should be informed of findings of investigations where power to investigate fraud, money laundering, and other such activities rests with a body other than the insurance supervisor; and
 - d. is permitted to set out the types of information and the basis on which information obtained by the insurance supervisor may be shared.

Principle 17: Confidentiality

32. All insurance supervisors should be subject to professional secrecy constraints in respect of information obtained in the course of their activities, including during the conduct of on-site inspections.
33. The insurance supervisor is required to hold confidential any information received from other insurance supervisors, except where constrained by law or in situations where the insurance supervisor who provided the information provides authorisation for its release.
34. Jurisdictions whose confidentiality requirements continue to constrain or prevent the sharing of information for supervisory purposes with insurance supervisors in other jurisdictions, and jurisdictions where information received from another insurance supervisor cannot be kept confidential, are urged to review their requirements.

International Conference on Popular Participation in the Recovery and Development Process in Africa, African Charter for Popular Participation in Development and Transformation (February 1990, Arusha, Tanzania)

PREAMBLE

1. The International Conference on Popular Participation in the Recovery and Development Process in Africa was held, in Arusha, the United Republic of Tanzania from 12 to 16 February 1990, as a rare collaborative effort between African people's organizations, the African governments, non-governmental organizations and the United Nations agencies, in the search for a collective understanding of the role of popular participation in the development and transformation of the region. It was also an occasion to articulate and give renewed focus to the concepts of democratic development, people's solidarity and creativity and self-reliance and to formulate policy recommendations for national governments, popular organizations and the international community in order to strengthen participatory processes and patterns of development. It was the third in a series of major international conferences organized by the Economic Commission for Africa in collaboration with the rest of the United Nations system to contribute to the implementation of the United Nations Programme of Action for African Economic Recovery and Development, 1986-1990 (UN-PAAERD). It came as a sequel to the Abuja International Conference on Africa. The Challenge of Economic Recovery and Accelerated Development held in 1987, and the 1988 Khartoum International Conference on the Human Dimension of Africa's Economic Recovery and Development. It is important to note that the initiative for this Conference came from the submission of the NGOs to the Ad Hoc Committee of the Whole of the General Assembly on the mid-term review and assessment of the implementation of UN-PAAERD in September 1988.
2. The Conference was organized under the auspices of the United Nations Inter-Agency Task Force on the Follow-Up on the Implementation of the UN-PAAERD at the Regional Level (UN-IATF) and with the full support and warm hospitality of the government and people of the United Republic of Tanzania. The ECA Conference of Ministers responsible for Economic Development and Planning adopted Resolution 664 (XXIV) at its Twenty-Fourth Session in which it supported this Conference and urged Member States of the Commission, the International Community, NGOs and the United Nations system to support and actively participate in it. The Conference was attended by over 500 participants from a wide range of African people's organizations – including, in particular, non-governmental, grass-roots, peasant, women and youth organizations and associations, trade unions and others – as well as representatives of African Governments, agencies of the United Nations system, non-African, non-governmental organizations, regional, sub-regional and intergovernmental organizations, bilateral donors, multilateral organizations as well as specialists, both from within and outside Africa. The Conference was opened by H.E Ali Hassan Mwinyi, President of the United Republic of Tanzania. Opening statements were also made by the representative of the Secretary-General of the United Nations, the Executive Secretary of the Economic Commission for Africa, the representative of the Secretary-General of the Organization of African Unity, the Secretary-General of the Organization of African Trade Union Unity and representatives of the Non-Governmental Organizations, African Women's Organizations and the Pan-African Youth Movement. The Conference would like to put on record, its appreciation for the full support and warm hospitality of the Government and people of the United Republic of Tanzania.
3. The Conference was organized out of concern for the serious deterioration in the human and economic conditions in Africa in the decade of the 1980s, the recognition of the lack of progress in achieving popular participation and the lack of full appreciation of the role popular participation plays in the process of recover and development.
4. **The objectives of the Conference were to:**
 - a. Recognize the role of people's participation in Africa's recovery and development efforts;
 - b. Sensitize national governments and the international community to the dimensions, dynamics, processes and potential of a development approach rooted in popular initiatives and self-reliant efforts;
 - c. Identify obstacles to people's participation in development and define appropriate approaches to the promotion of popular participation in policy formulation, planning, implementation, monitoring and evaluation of development programmes;
 - d. Recommend actions to be taken by Governments, the United Nations system as well as the public and private donor agencies in building an enabling environment for authentic popular participation in the development process and encourage people and their organizations to undertake self-reliant development initiatives;
 - e. Facilitate the exchange of information, experience and knowledge for mutual support among people and their organizations; and

- f. Propose indicators for the monitoring of progress in facilitating people's participation in Africa's development
5. We, the people, engaged in debate and dialogue on the issues involved over the span of five plenary sessions and fifteen workshops during the five-day long International Conference. In the light of our deliberations, we have decided to place on record our collective analysis, conclusions, policy recommendations and action proposals for the consideration of the people, the African Governments and the International Community.

ASSERTING THE ROLE OF POPULAR PARTICIPATION

6. We are united in our conviction that the crisis currently engulfing Africa, is not only an economic crisis but also a human, legal, political and social crisis. It is a crisis of unprecedented and unacceptable proportions manifested not only in abysmal declines in economic indicators and trends, but more tragically and glaringly in the suffering, hardship and impoverishment of the vast majority of African people. At the same time, the political context of socio-economic development has been characterized, in many instances, by an over-centralization of power and impediments to the effective participation of the overwhelming majority of the people in social, political and economic development. As a result, the motivation of the majority of African people and their organizations to contribute their best to the development process, and to the betterment of their own well-being as well as their say in national development has been severely constrained and curtailed and their collective and individual creativity has been undervalued and underutilized.
7. We affirm that nations cannot be built without the popular support and full participation of the people, nor can the economic crisis be resolved and the human and economic conditions improved without the full and effective contribution, creativity and popular enthusiasm of the vast majority of the people. After all, it is to the people that the very benefits of development should and must accrue. We are convinced that neither can Africa's perpetual economic crisis be overcome, nor can a bright future for Africa and its people see the light of day unless the structures, pattern and political contest of the process of socio-economic development are appropriately altered.
8. We, therefore, have no doubt that at the heart of Africa's development objectives must lie the ultimate and overriding goal of human-centered development that ensures the overall well-being of the people through sustained improvement in their living standards and the full and effective participation of the people in charting their development policies, programmes and processes and contributing to their realization. We furthermore observe that given the current world political and economic situation, Africa is becoming further marginalized in world affairs, both geo-politically and economically. African countries must realize that, more than ever before, their greatest resource is their people and that it is through their active and full participation that Africa can surmount the difficulties that lie ahead.
9. We are convinced that to achieve the above objective will require a redirection of resources to satisfy, in the first place, the critical needs of the people, to achieve economic and social justice and to emphasize self-reliance on the one hand, and, on the other hand, to empower the people to determine the direction and content of development, and to effectively contribute to the enhancement of production and productivity that are required. Bearing this in mind and having carefully analyzed the structure of the African economies, the root causes of the repeated economic crisis and the strategies and programmes that have hitherto been applied to deal with them, we are convinced that Africa has no alternative but to urgently and immediately embark upon the task of transforming the structure of its economies to achieve long-term self-sustained growth and development that is both human centered and participatory in nature. Furthermore, Africa's grave environmental and ecological crisis cannot be solved in the absence of a process of sustainable development which commands the full support and participation of the people. We believe in this context that the African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation (AAF-SAP) – which was endorsed by the Twenty-Fifth Assembly of Heads of State and Government of the Organization of African Unity (OAU) held in July 1989, and by the Conference of Heads of the State or Government of Non-Aligned countries held in Belgrade in September 1989 and by the Forty-Fourth Session of the General Assembly of the United Nations which invited the international community, including multi-lateral, financial and development institutions, to consider the framework as a basis for constructive dialogue and fruitful consultation – offers the best framework for such an approach. We also wish in this regard to put on record our disapproval of all economic programmes, such as orthodox Structural Adjustment Programmes, which undermine the human condition and disregard the potential and role of popular participation in self-sustaining development.
10. In our sincere view, popular participation is both a means and an end. As an instrument of development, popular participation provides the driving force for collective commitment for the determination of people-based development processes and willingness by the people to undertake sacrifices and expend their social energies for its execution. As an end in itself, popular participation is the fundamental right of the people to fully and effectively participate in the determination of the decisions which affect their lives at all levels and at all times.

PROMOTING POPULAR PARTICIPATION

11. We believe strongly that popular participation is, in essence, the empowerment of the people to effectively involve themselves in creating the structures and in designing policies and programmes that serve the interests of all as well as to effectively contribute to the development process and share equitably in its benefits.

Therefore, there must be an opening up of political process to accommodate freedom of opinions, tolerate differences, accept consensus on issues as well as ensure the effective participation of the people and their organizations and associations. This requires action on the part of all, first and foremost of the people themselves. But equally important are the actions of the State and the international community, to create the necessary conditions for such an empowerment and facilitate effective popular participation in societal and economic life. This requires that the political system evolve to allow for democracy and full participation by all sections evolve to allow for democracy and full participation by all sections of our societies.

12. In view of the critical contribution made by women to African societies and economies and the extreme subordination and discrimination suffered by women in Africa, it is the consensus of the participants that the attainment of equal rights by women in social, economic and political spheres must become a central feature of a democratic and participatory pattern of development. Further, it is the consensus of this conference that the attainment of women's full participation must be given highest priority by society as a whole and African Governments in particular. This right should be fought for and defended by society, African Non-Governmental Organizations and Voluntary Development Organizations as well as non-African, Non-Governmental Organizations and Voluntary Development Organizations, Governments and the United Nations system in due recognition of the primary role being played by women now and on the course to recovery and transformation of African for better quality of life.

PEOPLE'S ROLE

13. We want to emphasize the basic fact that the role of the people and their popular organizations is central to the realization of popular participation. They have to be fully involved, committed and indeed, seize the initiative. In this regard, it is essential that they establish independent people's organizations at various levels that are genuinely grass-root, voluntary, democratically administered and self-reliant and that are rooted in the tradition and culture of the society so as to ensure community empowerment and self development. Consultative machinery at various levels should be established with governments on various aspects of democratic participation. It is crucial that the people and their popular organizations should develop links across national borders to promote cooperation and inter-relationships on sub-regional, regional, south-south and south-north bases. This is necessary for sharing lessons of experience, developing people's solidarity and raising political consciousness on democratic participation.
14. In view of the vital and central role played by women in family well-being and maintenance, their special commitment to the survival, protection and development of children, as well as survival of society and their important role in the process of African recovery and reconstruction, special emphasis should be put by all the people in terms of eliminating biases particularly with respect to the reduction of the burden on women and taking positive action to ensure their full equality and effective participation in the development process.
15. Having said this, we must underscore that popular participation begins and must be earnestly practiced at the family level, because home is the base for development. It must also be practiced at the work place, and in all organizations, and in all walks of life.

ROLE OF AFRICAN GOVERNMENTS

16. We strongly believe that popular participation is dependent on the nature of the State itself and ability of Government to respond to popular demand. Since African Governments have a critical role to play in the promotion of popular participation, they have to yield space to the people, without which popular participation will be difficult to achieve. Too often, the social base of power and decision-making are too narrow. Hence the urgent need to broaden these; to galvanize and tap the people's energy and commitment, and to promote political accountability by the State to the people. This makes it imperative that a new partnership between African Governments and the people in the common interest of societal and accelerated socio-economic development should be established without delay. This new partnership must not only recognize the importance of gender issues but must take action to ensure women's involvement at all levels of decision-making. In particular Governments should set themselves specific targets for the appointment of women in senior policy and management posts in all sectors of government.
17. We believe that for people to participate meaningfully in their self-development, their freedom to express themselves and their freedom from fear must be guaranteed. This can only be assured through the extension and protection of people's basic human rights and we urge all Governments to vigorously implement the African Charter on Human and Peoples' Rights and the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the ILO Convention No 87 concerning Freedom of Association and Protection of the Right to Organize and the Convention on the Elimination of All Forms of Discrimination Against Women.
18. We also believe that one of the key conditions for ensuring people's participation throughout the continent is the bringing to an end of all wars and armed conflicts. The millions of African refugees and displaced persons are those with least opportunity to participate in the determination of their future. We urge Governments and all parties to Africa's conflicts, domestic and external, to seek peaceful means of resolving their differences and of establishing peace throughout Africa. In situations of armed conflicts, we uphold the right of civilians to food and other basic necessities and emphasize that the international community must exercise its moral authority to ensure that this right is protected.

19. We cannot overemphasize the benefits that can be reaped if, with the elimination of internal strife or inter-country conflicts, the resources spent of defence were to be redirected to productive activities and social services to the people. As rightly noted in the African Alternative Framework to Structural Adjustment Programmes for Socio-Economic Recovery and Transformation, "it is not difficult to imagine what it would mean to social welfare in Africa, with all its positive multiplier effects, if a saving can be achieved in defence spending and non-productive expenditures". We believe that our Governments can make such savings and we call upon them to do so urgently.
20. We are, however, aware of certain situations, particularly, for the Front-line States which continue to face the destabilization acts of apartheid South Africa. This destabilization results in a debilitating diversion of resources that would otherwise have been used to meet critical basic needs of the people in these countries.

ROLE OF THE INTERNATIONAL COMMUNITY

21. We call on the international community to examine its own record on popular participation, and hereafter to support indigenous efforts which promote the emergence of a democratic environment and facilitate the people's effective participation and empowerment in the political life of their countries.
22. We also call on the United Nations system to intensify its efforts to promote the application of justice in international economic relations, the defence of human rights, the maintenance of peace and the achievement of disarmament and to assist African countries and people's organizations with the development of human and economic resources. We also call on the United Nations system to implement its own decision to have at least 30 percent of senior positions held by women. Special efforts are needed to ensure that African women are adequately represented at senior levels in United Nations agencies, particularly those operating in Africa.

POPULAR PARTICIPATION IN DEVELOPMENT

23. On the basis of the foregoing, we lay down the following basic strategies, modalities and actions for effective participation in development.

A. At the level of Governments

1. African Governments must adopt development strategies, approaches and programmes, the content and parameters of which are in line with the interest and aspirations of the people and which incorporate, rather than alienate, African values and economic, social, cultural, political and environmental realities.
2. We strongly urge African Governments to promote the formulation and implementation of national development programmes within the framework of the aforesaid aspirations, interest and realities, which develop as a result of a popular participatory process, and which aim at the transformation of the African economies to achieve self-reliant and self-sustaining people-centered development based on popular participation and democratic consensus.
3. In implementing these endogenous and people-centered development strategies, an enabling environment must be created to facilitate broad-based participation, on a decentralized basis, in the development process. Such an enabling environment is an essential prerequisite for the stimulation of initiatives and creativity and for enhancing output and productivity by actions such as:
 - i. extending more economic power to the people through the equitable distribution of income, support for their productive capacity through enhanced access to productive inputs, such as land, credit, technology, etc, and in such a manner as to reflect the central role played by women in the economy;
 - ii. promoting mass literacy and skills training in particular and development of human resources in general;
 - iii. greater participation and consensus-building in the formulation and implementation of economic and social policies at all levels, including the identification and elimination of laws and bureaucratic procedures that pose obstacles to people's participation;
 - iv. increasing employment opportunities for the rural and urban poor, expanding opportunities for them to contribute to the generation of output and enhanced productivity levels and creating better marketing conditions for the benefit of the producers; and
 - v. strengthening communication capacities for rural development, mass literacy etc.
4. Small-scale indigenous entrepreneurship and producers cooperatives, as forms of productive participatory development, should be promoted and actions should be taken to increase their productivity.
5. Intensifying the efforts to achieve sub-regional and regional economic cooperation and integration and increased intra-African trade.

B. At the level of the people and their organizations.

To foster participation and democratic development, the people and their organizations should:

- a. Establish autonomous grass-roots organizations to promote participatory self-reliant development and increase the output and productivity of the masses.
- b. Develop their capacity to participate effectively in debates on economic policy and development issues. This requires building people's capacity to formulate and analyze development programmes and approaches.
- c. Promote education, literacy skill training and human resource development as a means of enhancing popular participation.

- d. Shake off lethargy and traditional beliefs that are impediments to development, especially the customs and cultural practices that undermine the status of women in society, while recognizing and valuing those beliefs and practices that contribute to development. Rural and urban people's organizations, such as workers, peasants, women, youth, students etc, should be encouraged to initiate and implement strategies to strengthen their productive power and meet their basic needs.
- e. Concerted efforts should be made to change prevailing attitudes towards the disabled so as to integrate them and bring them into the main stream of development.
- f. Create and enhance networks and collaborative relationships among peoples organizations. This will have the effect to social involvement capable of including social change.
- g. People's organizations should support strongly and participate in the efforts to promote effective sub-regional and regional economic cooperation and integration and intra-African trade.

C. At the level of the International Community.

We also call on the international community to support popular participation in African by:

- a. Supporting African countries in their drive to internalize the development and transformation process. The IMF, World Bank and other bilateral and multi-lateral donors are urged to accept and support African initiatives to conceptualize, formulate and implement endogenously designed development and transformation programmes.
- b. Directing technical assistance programmes, first and foremost, to the strengthening of national capabilities for policy analysis and the design and implementation of economic reform and development programmes.
- c. Fostering the democratization of development in African countries by supporting the decentralization of development processes, the active participation of the people and their organizations in the formulation of development strategies and economic reform programmes and open debate and consensus-building processes on development and reform issues.
- d. Allowing for the release of resources for development on a participatory basis which will require the reversal of the net outflow of financial resources from Africa to the multi-lateral financial institutions and donor countries and their use for development purposes and for the benefit of the people.
- e. Reducing drastically the stock of Africa's debt and debt-servicing obligations and providing a long-term period of moratorium on remaining debt-servicing obligations in order to release resources for financing development and transformation on a participatory basis.
- f. Ensuring that the human dimension is central to adjustment programmes which must be compatible with the objectives and aspirations of the African people and with African realities and must be conceived and designed internally by African countries as part and parcel of the longterm objectives and framework of development and transformation.
- g. Supporting African NGOs, grass-roots organizations, women's and your organizations and trade unions in activities such as training, networking and other programme activities, as well as the documentation, and wide dissemination of their experiences.

D. At the level of NGOs and VDOs.

The African and non-African NGOs and VDOs have an important role in supporting recovery and development efforts and popular participation initiatives and organizations in Africa. They are urged to take the following actions:

- a. African NGOs and VDOs and their partners should be fully participatory, democratic and accountable,
- b. African NGOs, VDOs and GROs should develop and/or strengthen institutional structures at the regional, sub-regional and national levels, such as FAVDO, to bring them together.
- c. African NGOs and VDOs should broaden the dissemination of successful African popular participation and grass-root experiences throughout the continent and the exchange of experience thereon to create a multiplier effect and sensitize policy-makers.
- d. The International Conference on Popular Participation is clear in its recognition of the value of the contribution of grass-roots organizations and NGOs to Africa's development and demonstrates that effective dialogue between governments, NGOs and grass-roots organizations is essential and valuable. This Conference recommends that national for a be established to enable honest and open dialogue between African Governments, grass-roots organizations and NGOs in order that the experience of grass-roots participatory development informs national policy-making.
- e. Non-African NGOs and VDOs should give increased support and target their operations within the framework of national economic strategies and reform programmes aimed at transforming the structures of the African economies with a view to internalizing the development process and ensuring its sustainability with a particular focus on the human dimension and people's participation.
- f. Non-African NGOs and VDOs should give due recognition to Africa NGOs and participatory, self-reliant development initiatives launched by African grass-roots organizations;
- g. Non-African NGOs and VDOs should utilize African expertise to the maximum extent possible with regard to their development work in Africa and advocacy and campaigning work at the international level.

- h. Non-African NGOs should strengthen their advocacy work internationally and in their home countries and with regard to bilateral donors and the multi-lateral system, closely monitoring their response to the African crisis and holding donor governments and agencies accountable for their policies and actions. In particular, non-African and African NGOs should formulate a programme of action geared towards their fullest participation in the end-term review of UN-PAAERD.
- i. Cooperation and dialogue between African and Non-African NGOs and VDOs should be strengthened to increase the effectiveness of their interventions at the community level and the building of greater understanding on the part of international public opinion of the real causes of the African socio-economic crisis and the actions that are needed to deal with its root causes.
- j. Non-African NGOs acknowledge that their influence as donors is often detrimental to ensuring genuine partnership with African NGOs, VDOs and grass-root organizations and affects the enabling environment for popular participation. In that context cooperation in all its forms must be transparent and reflect African priorities.
- k. African and non-African NGOs and VDOs should, in addition to their traditional humanitarian activities, increasingly provide support for the productive capacities of the African poor and for promoting environmentally sound patterns of local development.

E. At level of the Media and communication

- a. The national and regional media should make every effort to fight for and defend their freedom at all costs, and make special effort to champion the cause of popular participation and publicize activities and programmes thereof and generally provide access for the dissemination of information and education programmes on popular participation.
- b. Combining their indigenous communication systems with appropriate use of modern low-cost communications technology, African communities and NGOs, VDOs and trade unions and other mass organizations must strengthen their communication capacities for development. Regional and national NGOs should participate in the assessment of Africa's Development Support Communication Needs to be carried out under the auspices of the United Nations Steering Committee and the United Nations Inter-Agency Task Force on UN-PAAERD.

F. At the level of women's organizations.

In ensuring that the participation of women in the development process, is advanced and strengthened, popular women's organizations should:

- a. Continue to strengthen their capacity as builders of confidence among women;
- b. Strive for the attainment of policies and programmes that reflect and recognize women's roles as producers, mothers, active community mobilizers and custodians of culture;
- c. Work to ensure the full understanding of men, in particular, and the society, in general, of women's role in the recovery and transformation of Africa so that men and women together might articulate and pursue appropriate courses of action;
- d. Implement measures to reduce the burden carried by women through:
 - i. advocating to the society at large, including central and local government levels, the importance of task sharing in the home and community, especially in the areas of water and wood fetching, child rearing etc;
 - ii. promoting the establishment and proper functioning of community-based day care centers in all communities, and
 - iii. striving to attain economic equality by advocating the rights of women to land and greater access to credit.
- e. Women's organizations should be democratic, autonomous and accountable organizations.

G. At the level of organized labour.

Trade Unions should:

- a. Be democratic, voluntary, autonomous and accountable organizations.
- b. Initiate, animate and promote mass literacy and training programmes.
- c. Organize and mobilize rural workers in accordance with ILO Convention 141, which African Governments are strongly urged to ratify.
- d. Defend trade union rights, in particular the right to strike.
- e. Assist in the formation of workers' cooperatives.
- f. Assist in organizing the unemployed for productive activities, such as the establishment of small and medium scale enterprises.
- g. Give special attention to effective and democratic participation of women members at all levels of trade unions.
- h. Promote workplace democracy through the call for the protection of workers' rights to freedom of association, collective bargaining and participatory management.

H. At the level of youth and students and their organizations.

Considering the centrality of the youth and students in Africa's population and the recovery and development

process, the following actions should be taken:

- a. Preparation and adoption of an African Charter on Youth and Student Rights to include the right to organize, education, employment and free and public expression.
- b. The full democratic participation in youth and students in African society requires immediate steps by Government, popular organizations, parents and the youth themselves to eliminate the major impediments to youth participation, such as frequent bans on youth and student organizations, police brutality against unarmed protesting students, detention and harassment on campuses, dismissal from studies and the frequent and arbitrary closure of educational institutions.
- c. Youth, students, Governments and the international community must join forces urgently to combat growing drug trafficking and drug abuse. We also urge Governments to sign and ratify the International Convention on the Illicit Trafficking of Drugs and Psychotropic Substances.
- d. The advancement of youth participation in development also requires the protection of Africa's minors against forced military service, whether in national or insurgent/rebel groups.
- e. African youth and students should organize national autonomous associations to participate in and contribute to development activities and programmes such as literacy, reforestation, agriculture and environmental protection.
- f. Student and youth organizations must also strive to be democratic, accountable, voluntary and autonomous and should coordinate their activities with workers', women's and peasant organizations.
- g. National youth and student organizations should take urgent steps to strengthen and further democratize existing Pan-African youth and student organizations to make them play their roles more effectively in Africa's development process.

MONITORING POPULAR PARTICIPATION

32. We proclaim the urgent necessity to involve the people in monitoring popular participation in Africa on the basis of agreed indicators and we propose the use of the following indicators, which are not necessarily exhaustive, for measuring the progress in the implementation of the recommendations of the Charter:
 - a. The literacy rate, which is an index of the capacity for mass participation in public debate, decision-making and general development processes.
 - b. Freedom of association, especially political association, and presence of democratic institutions, such as political parties, trade unions, people's grass-root organizations and professional associations, and the guarantee of constitutional rights.
 - c. Representation of the people and their organizations in national bodies.
 - d. The rule of law and social and economic justice, including equitable distribution of income and the creation of full employment opportunities.
 - e. Protection of the ecological, human and legal environment.
 - f. Press and media freedom to facilitate public debate on major issues.
 - g. Number and scope of grass-roots organizations with effective participation in development activities, producers and consumers cooperatives and community projects.
 - h. Extent of implementation of the Abuja Declaration on Women (1989) in each country.
 - i. Political accountability of leadership at all levels measured by the use of checks and balances.
 - j. Decentralization of decision-making process and institutions.
33. We are convinced of the imperative necessity to follow-up and monitor the implementation of this Charter and to report periodically thereon on progress achieved as well as problems encountered. We accordingly recommend that at the national level a follow-up mechanism on which representatives at high level of Government, trade unions, women's organizations, NGOs, VDOs, grass-roots and youth and student organizations will be members.
34. At the regional level, we propose a joint OAU/ECA Regional Monitoring Machinery on which also, in addition to representatives of these two organizations will be representatives of the network of organizations named above. This regional monitoring group will submit biennial progress reports on the implementation of the Charter to the ECA Conference of Ministers and the Assembly of Heads of State and Government of the OAU.

CONCLUSION

35. This Conference has taken place during a period when the world continues to witness tumultuous changes in Eastern Europe. Even more dramatically, this Conference has taken place during the very week when Nelson Mandela's release has exhilarated all of Africa, and galvanized the international community.
36. There is an inescapable thread of continuity between those events and our Conference; it is the power of people to effect momentous change. At no other time in the post-war period has popular participation had so astonishing and profound an impact.
37. History and experience both teach that this world never works in compartments. The forces of freedom and

democracy are contagious. Inevitably, and irresistibly, popular participation will have a vital role to play on the continent of Africa, and play that role we will.

38. It is manifestly unacceptable that development and transformation in Africa can proceed without the full participation of its people. It is manifestly unacceptable that the people and their organizations be excluded from the decision-making process. It is manifestly unacceptable that popular participation be seen as anything less than the centerpiece in the struggle to achieve economic and social justice for all.
39. In promoting popular participation, it is necessary to recognize that a new partnership and compact must be forged among all the ACTORS in the process of social, political and economic change. Without this collective commitment, popular participation is neither possible nor capable of producing results. We, therefore, pledge to work together in this new partnership to promote full and effective participation by the masses together with Governments in the recovery and development process in Africa.
40. We, the people here assembled, have no illusion that the Charter will be embraced overnight by all of those to whom it is directed. But we are confident that this document is an indispensable step on the road to everything we would wish for the people of Africa.

International Federation of Accountants (IFAC),
International Standards in Auditing – The Handbook
of International Auditing, Assurance, and Ethics
Pronouncements (2007 edition, New York, USA)

The Handbook of International Auditing, Assurance, and Ethics Pronouncements is too long to be included in this volume. It can, however, be found on the IFAC website,
<http://www.ifac.org/Store/Details.tpl?SID=11707139611377889&Cart=1194422532876277>

International Labour Organisation (ILO), Abolition of Forced Labour Convention (1957, Geneva, Switzerland)

The General Conference of the International Labour Organisation,

HAVING BEEN CONVENED at Geneva by the Governing Body of the International Labour Office, and having met in its Fortieth Session on 5 June 1957, and

HAVING CONSIDERED the question of forced labour, which is the fourth item on the agenda of the session, and

HAVING NOTED the provisions of the Forced Labour Convention, 1930, and

HAVING NOTED that the Slavery Convention, 1926, provides that all necessary measures shall be taken to prevent compulsory or forced labour from developing into conditions analogous to slavery and that the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, 1956, provides for the complete abolition of debt bondage and serfdom, and

HAVING NOTED that the Protection of Wages Convention, 1949, provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment, and

HAVING DECIDED upon the adoption of further proposals with regard to the abolition of certain forms of forced or compulsory labour constituting a violation of the rights of man referred to in the Charter of the United Nations and enunciated by the Universal Declaration of Human Rights, and

HAVING DETERMINED that these proposals shall take the form of an international Convention,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-seven the following Convention, which may be cited as the Abolition of Forced Labour Convention, 1957:

Article 1

Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour—

- a. as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- b. as a method of mobilising and using labour for purposes of economic development;
- c. as a means of labour discipline;
- d. as a punishment for having participated in strikes;
- e. as a means of racial, social, national or religious discrimination.

Article 2

Each Member of the International Labour Organisation which ratifies this Convention undertakes to take effective measures to secure the immediate and complete abolition of forced or compulsory labour as specified in Article 1 of this Convention.

Article 3

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 4

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 5

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 6

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 7

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 8

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 9

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 5 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 10

The English and French versions of the text of this Convention are equally authoritative.

International Labour Organisation (ILO), Discrimination (Employment and Occupation) Convention (1958, Geneva, Switzerland)

The General Conference of the International Labour Organisation,

HAVING BEEN convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and

HAVING DECIDED upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and

HAVING DETERMINED that these proposals shall take the form of an international Convention, and

CONSIDERING that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

CONSIDERING further that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Discrimination (Employment and Occupation) Convention, 1958:

Article 1

1. For the purpose of this Convention the term discrimination includes—
 - a. any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
 - b. such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice—

- a. to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;
- b. to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- c. to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- d. to pursue the policy in respect of employment under the direct control of a national authority;
- e. to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- f. to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

Article 4

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

Article 5

1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.
2. Any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

Article 6

Each Member which ratifies this Convention undertakes to apply it to nonmetropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

International Labour Organisation (ILO), Equal Remuneration Convention (1951, Geneva, Switzerland)

The General Conference of the International Labour Organisation,

HAVING BEEN CONVENED at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-fourth Session on 6 June 1951, and

HAVING DECIDED upon the adoption of certain proposals with regard to the principle of equal remuneration for men and women workers for work of equal value, which is the seventh item on the agenda of the session, and

HAVING DETERMINED that these proposals shall take the form of an international Convention,

adopts this twenty-ninth day of June of the year one thousand nine hundred and fifty-one the following Convention, which may be cited as the Equal Remuneration Convention, 1951:

Article 1

For the purpose of this Convention—

- a. the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- b. the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
2. This principle may be applied by means of—
 - a. national laws or regulations;
 - b. legally established or recognised machinery for wage determination;
 - c. collective agreements between employers and workers; or
 - d. a combination of these various means.

Article 3

1. Where such action will assist in giving effect to the provisions of this Convention measures shall be taken to promote objective appraisal of jobs on the basis of the work to be performed.
2. The methods to be followed in this appraisal may be decided upon by the authorities responsible for the determination of rates of remuneration, or, where such rates are determined by collective agreements, by the parties thereto.
3. Differential rates between workers which correspond, without regard to sex, to differences, as determined by such objective appraisal, in the work to be performed shall not be considered as being contrary to the principle of equal remuneration for men and women workers for work of equal value.

Article 4

Each Member shall co-operate as appropriate with the employers' and workers' organisations concerned for the purpose of giving effect to the provisions of this Convention.

Article 5

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 6

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 7

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate —
 - a. the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
 - b. the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - c. the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - d. the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 8

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 9, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 9

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 12

At such times as may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides -
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate

denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

b. as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 14

The English and French versions of the text of this Convention are equally authoritative.

International Labour Organisation (ILO), Forced Labour Convention (1930, Geneva, Switzerland)

The General Conference of the International Labour Organisation,

HAVING BEEN CONVENED at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and

HAVING DECIDED upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and

HAVING DETERMINED that these proposals shall take the form of an international Convention,

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.
2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.
3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include—
 - a. any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - b. any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - c. any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;
 - d. any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
 - e. minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 3

For the purposes of this Convention the term competent authority shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

Article 4

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.
2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the

International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

Article 5

1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade.
2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

Article 6

Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations.

Article 7

1. Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.
2. Chiefs who exercise administrative functions may, with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of Article 10 of this Convention.
3. Chiefs who are duly recognised and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

Article 8

1. The responsibility for every decision to have recourse to forced or compulsory labour shall rest with the highest civil authority in the territory concerned.
2. Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in Article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of Government stores.

Article 9

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself—

- a. that the work to be done or the service to be rendered is of important direct interest for the community called upon to do work or render the service;
- b. that the work or service is of present or imminent necessity;
- c. that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and
- d. that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.
2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself—
 - a. that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
 - b. that the work or the service is of present or imminent necessity;
 - c. that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;
 - d. that the work or service will not entail the removal of the workers from their place of habitual residence;
 - e. that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

Article 11

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article

10 of this Convention, the following limitations and conditions shall apply:

- a. whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;
 - b. exemption of school teachers and pupils and officials of the administration in general;
 - c. the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;
 - d. respect for conjugal and family ties.
2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

Article 12

1. The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of twelve months shall not exceed sixty days, including the time spent in going to and from the place of work.
2. Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

Article 13

1. The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.
2. A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

Article 14

1. With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.
2. In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.
3. The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.
4. For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.
5. Nothing in this Article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

Article 15

1. Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependants of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.
2. In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

Article 16

1. Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.
2. In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation

which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.

3. When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.
4. In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

Article 17

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself—

1. that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory;
2. that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers;
3. that the journeys of the workers to and from the workplaces are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;
4. that, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration;
5. that any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expense to himself.

Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, inter alia, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.
2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.
3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

Article 19

1. The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.
2. Nothing in this Article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis by virtue of law or custom and where the produce or any profit accruing from the sale thereof remain the property of the community, to perform the work demanded by the community by virtue of law or custom.

Article 20

Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

Article 21

Forced or compulsory labour shall not be used for work underground in mines.

Article 22

The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of Article 22 of the Constitution of the International Labour Organisation, on the measures they have taken to give effect to the provisions of this Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

Article 23

1. To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.
2. These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

Article 24

Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.

Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

Article 26

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of article 35 of the Constitution of the International Labour Organisation, it shall append to its ratification a declaration stating—
 - 1) the territories to which it intends to apply the provisions of this Convention without modification;
 - 2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;
 - 3) the territories in respect of which it reserves its decision.
2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

Article 27

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

Article 28

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.
2. It shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which the ratification has been registered.

Article 29

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

Article 30

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the

International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

Article 31

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 32

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention shall ipso jure involve denunciation of this Convention without any requirement of delay, notwithstanding the provisions of Article 30 above, if and when the new revising Convention shall have come into force.
2. As from the date of the coming into force of the new revising Convention, the present Convention shall cease to be open to ratification by the Members.
3. Nevertheless, this Convention shall remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising convention.

Article 33

The French and English texts of this Convention shall both be authentic.

International Labour Organisation (ILO), Freedom of Association and Protection of the Right to Organise Convention (1948, San Francisco, USA)

The General Conference of the International Labour Organisation,

HAVING BEEN CONVENED at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948;

HAVING DECIDED to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;

CONSIDERING that the Preamble to the Constitution of the International Labour Organisation declares “recognition of the principle of freedom of association” to be a means of improving conditions of labour and of establishing peace;

CONSIDERING that the Declaration of Philadelphia reaffirms that “freedom of expression and of association are essential to sustained progress”;

CONSIDERING that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;

CONSIDERING that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;

adopts this ninth day of July of the year one thousand nine hundred and forty eight

the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

PART I. FREEDOM OF ASSOCIATION

Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.
2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

Article 4

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

Article 5

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

Article 6

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

Article 7

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

Article 8

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

Article 9

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 10

In this Convention the term organisation means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

PART II. PROTECTION OF THE RIGHT TO ORGANISE

Article 11

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

PART III. MISCELLANEOUS PROVISIONS

Article 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating:
 - a. the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
 - b. the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - c. the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - d. the territories in respect of which it reserves its decision.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 13

1. Where the subject-matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.
2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:
 - a. by two or more Members of the Organisation in respect of any territory which is under their joint authority; or
 - b. by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.
3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.
4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General

a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

PART IV. FINAL PROVISIONS

Article 14

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 15

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 16

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 17

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 18

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 19

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 21

The English and French versions of the text of this Convention are equally authoritative.

International Labour Organisation (ILO), Minimum Age Convention (1973, Geneva, Switzerland)

The General Conference of the International Labour Organisation,

HAVING BEEN CONVENED at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

HAVING DECIDED upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

NOTING the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

CONSIDERING that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

HAVING DETERMINED that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973:

Article 1

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.
5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement—
 - a. that its reason for doing so subsists; or
 - b. that it renounces its right to avail itself of the provisions in question as from a stated date.

Article 3

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.
2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.
3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of

the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

Article 4

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.
2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.
3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

Article 5

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.
2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.
3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.
4. Any Member which has limited the scope of application of this Convention in pursuance of this Article—
 - a. shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;
 - b. may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

Article 6

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of—

- a. a course of education or training for which a school or training institution is primarily responsible;
- b. a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or
- c. a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

Article 7

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is—
 - a. not likely to be harmful to their health or development; and
 - b. not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.
2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in subparagraphs (a) and (b) of paragraph 1 of this Article.
3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

Article 8

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.
2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.
2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

Article 10

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.
2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.
3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.
4. When the obligations of this Convention are accepted—
 - a. by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
 - b. in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall ipso jure involve the immediate denunciation of that Convention,
 - c. in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, by a Member which is a party to that Convention, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,
 - d. in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall ipso jure involve the immediate denunciation of that Convention,
 - e. in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall ipso jure involve the immediate denunciation of that Convention,
 - f. by a Member which is a party to the Minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention, if and when this Convention shall have come into force.
5. Acceptance of the obligations of this Convention—
 - a. shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,
 - b. in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,

- c. in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof, if and when this Convention shall have come into force.

Article 11

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 12

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

Article 13

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 14

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 15

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 16

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 18

The English and French versions of the text of this Convention are equally authoritative.

International Labour Organisation (ILO), Right to Organise and Collective Bargaining Convention (1949, Geneva, Switzerland)

The General Conference of the International Labour Organisation,

HAVING BEEN convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and

HAVING DECIDED upon the adoption of certain proposals concerning the application of the principles of the right to organise and to bargain collectively, which is the fourth item on the agenda of the session, and

HAVING DETERMINED that these proposals shall take the form of an international Convention,

adopts this first day of July of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Right to Organise and Collective Bargaining Convention, 1949:

Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
2. Such protection shall apply more particularly in respect of acts calculated to—
 - a. make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
 - b. cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.
2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

Article 3

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

Article 4

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

Article 5

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.
2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

Article 6

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

Article 7

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 8

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 9

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate —
 - a. the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;
 - b. the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
 - c. the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
 - d. the territories in respect of which it reserves its decision pending further consideration of the position.
2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.
3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.
4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

Article 10

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.
2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.
3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

Article 11

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.
2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

Article 14

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 16

The English and French versions of the text of this Convention are equally authoritative.

International Labour Organisation (ILO), Worst Forms of Child Labour Convention (1999, Geneva, Switzerland)

The General Conference of the International Labour Organization,

HAVING BEEN CONVENED at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

CONSIDERING the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

CONSIDERING that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and

RECALLING the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

RECOGNIZING that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

RECALLING the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

RECALLING the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

RECALLING that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

HAVING DECIDED upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

HAVING DETERMINED that these proposals shall take the form of an international Convention;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term the worst forms of child labour comprises:

- a. all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- b. the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- c. the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- d. work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.

2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

Article 5

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

Article 7

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.
2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:
 - a. prevent the engagement of children in the worst forms of child labour;
 - b. provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;
 - c. ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;
 - d. identify and reach out to children at special risk; and
 - e. take account of the special situation of girls.
3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

Article 9

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 10

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.
2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

Article 11

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention

shall come into force.

Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

Article 14

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides —
 - a. the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;
 - b. as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.
2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 16

The English and French versions of the text of this Convention are equally authoritative.

International Monetary Fund (IMF), Code of Good Practices on Transparency in Monetary and Financial Policies: Declaration of Principles (1999)

Introduction

1. In the context of strengthening the architecture of the international monetary and financial system, the Interim Committee in its April and October 1998 Communiqués called on the Fund to develop a code of transparency practices for monetary and financial policies, in cooperation with appropriate institutions. The Fund, working together with the Bank for International Settlements, and in consultation with a representative group of central banks, financial agencies, other relevant international and regional organizations,¹ and selected academic experts, has developed a Code of Good Practices on Transparency in Monetary and Financial Policies. The Code parallels the Code of Good Practices in Fiscal Transparency developed by the Fund and endorsed by the Interim Committee in April 1998.
2. The Code of Good Practices on Transparency in Monetary and Financial Policies identifies desirable transparency practices for central banks in their conduct of monetary policy and for central banks and other financial agencies in their conduct of financial policies. The definitions of “central bank,” “financial agencies,” “financial policies,” and “government” as used in this Code are given in the attached Annex.
3. For purposes of the Code, transparency refers to an environment in which the objectives of policy, its legal, institutional, and economic framework, policy decisions and their rationale, data and information related to monetary and financial policies, and the terms of agencies’ accountability, are provided to the public on an understandable, accessible and timely basis. Thus, the transparency practices listed in the Code focus on: 1) clarity of roles, responsibilities and objectives of central banks and financial agencies; 2) the processes for formulating and reporting of monetary policy decisions by the central bank and of financial policies by financial agencies; (3) public availability of information on monetary and financial policies; and (4) accountability and assurances of integrity by the central bank and financial agencies.
4. The case for transparency of monetary and financial policies is based on two main premises. First, the effectiveness of monetary and financial policies can be strengthened if the goals and instruments of policy are known to the public and if the authorities can make a credible commitment to meeting them. In making available more information about monetary and financial policies, good transparency practices promote the potential efficiency of markets. Second, good governance calls for central banks and financial agencies to be accountable, particularly where the monetary and financial authorities are granted a high degree of autonomy. In cases when conflicts might arise between or within government units (e.g., if the central bank or a financial agency acts as both owner and financial supervisor of a financial institution or if the responsibilities for monetary and foreign exchange policy are shared), transparency in the mandate and clear rules and procedures in the operations of the agencies can help in their resolution, strengthen governance, and facilitate policy consistency.
5. In making the objectives of monetary policy public, the central bank enhances the public’s understanding of what it is seeking to achieve, and provides a context for articulating its own policy choices, thereby contributing to the effectiveness of monetary policy. Further, by providing the private sector with a clear description of the considerations guiding monetary policy decisions, transparency about the policy process makes the monetary policy transmission mechanism generally more effective, in part by ensuring that market expectations can be formed more efficiently. By providing the public with adequate information about its activities, the central bank can establish a mechanism for strengthening its credibility by matching its actions to its public statements.
6. Transparency by financial agencies, particularly in clarifying their objectives, should also contribute to policy effectiveness by enabling financial market participants to assess better the context of financial policies, thereby reducing uncertainty in the decisionmaking of market participants. Moreover, by enabling market participants and the general public to understand and evaluate financial policies, transparency is likely to be conducive to good policy-making. This can help to promote financial as well as systemic stability. Transparent descriptions of the policy formulation process provide the public with an understanding of the rules of the game. The release of adequate information to the public on the activities of financial agencies provides an additional mechanism for enhancing the credibility of their actions. There may also be circumstances when public accountability of decisions by financial agencies can reduce the potential for moral hazard.
7. The benefits for countries adopting good transparency practices in monetary and financial policies have to be weighed against the potential costs. In situations where increased transparency in monetary and financial policies could endanger the effectiveness of policies, or be potentially harmful to market stability or the legitimate interests of supervised and other entities, it may be appropriate to limit the extent of such transparency. Limiting transparency in selected areas needs to be seen, however, in the context of a generally transparent environment.

8. In the case of monetary policy, the rationale for limiting some types of disclosure arises because it could adversely affect the decision-making process and the effectiveness of policies. Similarly, exchange rate policy considerations, notably, but not exclusively, in countries with fixed exchange rate regimes, may provide justification for limiting certain disclosure practices. For example, extensive disclosure requirements about internal policy discussion on money and exchange market operations might disrupt markets, constrain the free flow of discussion by policymakers, or prevent the adoption of contingency plans. Thus, it might be inappropriate for central banks to disclose internal deliberations and documentation, and there are circumstances in which it would not be appropriate for central banks to disclose their near-term monetary and exchange rate policy implementation tactics and provide detailed information on foreign exchange operations. Similarly, there may be good reasons for the central bank (and financial agencies) not to make public their contingency plans, including possible emergency lending.
9. Additional concerns could be posed by some aspects of the transparency of financial policies. Moral hazard, market discipline, and financial market stability considerations may justify limiting both the content and timing of the disclosure of some corrective actions and emergency lending decisions, and information pertaining to market and firmspecific conditions. In order to maintain access to sensitive information from market participants, there is also a need to safeguard the confidentiality and privacy of information on individual firms (commonly referred to as “commercial confidentiality”). Similarly, it may be inappropriate for financial authorities to make public their supervisory deliberations and enforcement actions related to individual financial institutions, markets, and individuals.
10. Transparency practices differ not only in substance, but also in form. With regard to informing the public about monetary and financial institutions and their policies, an important issue concerns the modalities that these public disclosures should take. In particular with regard to monetary policy, should transparency practices have a legislative basis in a central bank law, or be based in other legislation or regulation, or be adopted through other means? The Code takes a pragmatic approach to this issue and recognizes that a variety of arrangements can lead to good transparency practices. On matters pertaining to the roles, responsibilities, and objectives of central banks (and for principal financial regulatory agencies), it recommends that key features be specified in the authorizing legislation (e.g., a central bank law). Specifying some of these practices in legislation gives them particular prominence and avoids ad hoc and frequent changes to these important aspects of the operations of central banks and relevant financial agencies. Information about other transparency aspects, such as how policy is formulated and implemented and the provision of information, can be presented in a more flexible manner. However, it is important that such information be readily accessible, so that the public can with reasonable effort obtain and assimilate the information.
11. In the context of good governance and accountability, as well as the promotion of efficient markets, reference to the public in this code should ideally encompass all interested individuals and institutions. In some cases, particularly for financial policies, it may be expedient for the purposes of administering or implementing certain regulations and policies to define the concept of the public more narrowly to refer only to those individuals and institutions that are most directly affected by the regulations and policies in question.
12. The focus of the Code is on transparency. While good transparency practices for the formulation and reporting of monetary and financial policies help to contribute to the adoption of sound policies, the Code is not designed to offer judgments on the appropriateness or desirability of specific monetary or financial policies or frameworks that countries should adopt. Transparency is not an end in itself, nor is transparency a substitute for pursuing sound policies; rather, transparency and sound policies are better seen as complements. In the realm of financial policies, there are complements to this code that go beyond transparency to promote good policies, notably the Core Principles for Effective Banking Supervision formulated by the Basel Committee for Banking Supervision, the Objectives and Principles of Securities Regulation formulated by the International Organization of Securities Commissions (IOSCO), and standards being developed by the Committee on Payment and Settlement Systems (CPSS), the International Association of Insurance Supervisors (IAIS), and the International Accounting Standards Committee (IASC). As these and other financial sector groupings develop and make significant adjustments in their principles and standards as they relate to transparency practices for financial agencies (e.g., in data dissemination requirements for financial agencies), this Code may have to be adjusted accordingly.
13. The Code is directed at the transparency requirements of central banks and financial agencies, not at the transparency procedures relating to firms and individual institutions. However, the benefits of transparency for monetary and financial policies may be fostered by appropriate policies to promote transparency for markets in general, for the institutions that are being supervised, and for self regulatory organizations.
14. Monetary and financial policies are interrelated and often mutually reinforcing, with the health of the financial system affecting the conduct of monetary policy and vice versa. However, the institutional arrangements for these two types of policies differ considerably, particularly with regard to their roles, responsibilities, and objectives and their policy formulation and implementation processes. To take account of this, the Code is separated into two parts: good transparency practices for monetary policy by central banks; and good transparency practices for financial policies by financial agencies. The basic elements of transparency for both policies are, however, similar. It should be recognized that not all transparency practices are equally applicable to all financial agencies, and the transparency objectives among different financial sectors vary. For some, the

emphasis is on market efficiency considerations, for others the focus is on market and systemic stability, while for others the principal consideration is client-asset protection.

15. The operation of a country's payment system affects the conduct of monetary policies and the functioning of the financial system, and the design of payment systems has implications for systemic stability. The institutional structures of the payment system, however, are often significantly more complex than for monetary and other financial policies, and differ considerably across countries. In many instances, the operation of a country's payment system is split between the public and private sectors, including selfregulatory bodies. Nevertheless, most of the transparency practices listed in the Code for financial agencies are applicable for the roles and functions of central banks or other relevant public agencies exercising responsibility for overseeing the nation's payment systems. The coverage of transparency practices for financial policies in the Code includes those for the operation of systemically important components of the nation's payment system, and, where appropriate, makes allowance for the special nature of the payment system's operations (e.g., 5.3).
16. The Code is of sufficient breadth to span and be applied to a wide range of monetary and financial frameworks, and thus to the full range of the Fund membership. Elements of the Code are drawn from a review of good transparency practices used in a number of countries and discussed in the professional literature. The Code thus represents a distillation of concepts and practices that are already in use and for which there is a record of experience. The manner in which transparency is applied and achieved, however, may differ, reflecting different institutional arrangements with respect to monetary and financial policies and legal traditions. The good transparency practices contained in the Code will, therefore, have to be implemented flexibly and over time to take account of a country's particular circumstances. A number of Fund members currently lack sufficient resources and the institutional capacity to implement all of the good transparency practices listed in the Code. These practices are included in the Code in the anticipation that countries would aspire over time to introduce such good practices.

GOOD TRANSPARENCY PRACTICES FOR MONETARY POLICY BY CENTRAL BANKS

I. Clarity of Roles, Responsibilities and Objectives of Central Banks for Monetary Policy

1.1 The ultimate objective(s) and institutional framework of monetary policy should be clearly defined in relevant legislation or regulation, including, where appropriate, a central bank law.

- 1.1.1 The ultimate objective(s) of monetary policy should be specified in legislation and publicly disclosed and explained.
- 1.1.2 The responsibilities of the central bank should be specified in legislation.
- 1.1.3 The legislation establishing the central bank should specify that the central bank has the authority to utilize monetary policy instruments to attain the policy objective(s).
- 1.1.4 Institutional responsibility for foreign exchange policy should be publicly disclosed.
- 1.1.5 The broad modalities of accountability for the conduct of monetary policy and for any other responsibilities assigned to the central bank should be specified in legislation.
- 1.1.6 If, in exceptional circumstances, the government has the authority to override central bank policy decisions, the conditions under which this authority may be invoked and the manner in which it is publicly disclosed should be specified in legislation.
- 1.1.7 The procedures for appointment, terms of office, and any general criteria for removal of the heads and members of the governing body of the central bank should be specified in legislation.

1.2 The institutional relationship between monetary and fiscal operations should be clearly defined.²

- 1.2.1 If credits, advances, or overdrafts to the government by the central bank are permitted, the conditions when they are permitted, and any limits thereof, should be publicly disclosed.
- 1.2.2 The amounts and terms of credits, advances, or overdrafts to the government by the central bank and those of deposits of the government with the central bank should be publicly disclosed.
- 1.2.3 The procedures for direct central bank participation in the primary markets for government securities, where permitted, and in the secondary markets, should be publicly disclosed.
- 1.2.4 Central bank involvement in the rest of the economy (e.g., through equity ownership, membership on governing boards, procurement, or provision of services for fee) should be conducted in an open and public manner on the basis of clear principles and procedures.
- 1.2.5 The manner in which central bank profits are allocated and how capital is maintained should be publicly disclosed.

1.3 Agency roles performed by the central bank on behalf of the government should be clearly defined.

- 1.3.1 Responsibilities, if any, of the central bank in (i) the management of domestic and external public debt and foreign exchange reserves, (ii) as banker to the government, (iii) as fiscal agent of the government, and (iv) as advisor on economic and financial policies and in the field of international cooperation, should be publicly disclosed.
- 1.3.2 The allocation of responsibilities among the central bank, the ministry of finance, or a separate public

agency,³ for the primary debt issues, secondary market arrangements, depository facilities, and clearing and settlement arrangements for trade in government securities, should be publicly disclosed.

II. Open Process for Formulating and Reporting Monetary Policy Decisions

2.1 The framework, instruments, and any targets that are used to pursue the objectives of monetary policy should be publicly disclosed and explained.

2.1.1 The procedures and practices governing monetary policy instruments and operations should be publicly disclosed and explained.

2.1.2 The rules and procedures for the central bank's relationships and transactions with counter parties in its monetary operations and in the markets where it operates should be publicly disclosed.

2.2 Where a permanent monetary policy-making body meets to assess underlying economic developments, monitor progress toward achieving its monetary policy objective(s), and formulate policy for the period ahead, information on the composition, structure, and functions of that body should be publicly disclosed.

2.2.1 If the policy-making body has regularly scheduled meetings to assess underlying economic developments, monitor progress toward achieving its monetary policy objective(s), and formulate policy for the period ahead, the advance meeting schedule should be publicly disclosed.

2.3 Changes in the setting of monetary policy instruments (other than finetuning measures) should be publicly announced and explained in a timely manner.

2.3.1 The central bank should publicly disclose, with a preannounced maximum delay, the main considerations underlying its monetary policy decisions.

2.4 The central bank should issue periodic public statements on progress toward achieving its monetary policy objective(s) as well as prospects for achieving them. The arrangements could differ depending on the monetary policy framework, including the exchange rate regime.

2.4.1 The central bank should periodically present its monetary policy objectives to the public, specifying, inter alia, their rationale, quantitative targets and instruments where applicable, and the key underlying assumptions.

2.4.2 The central bank should present to the public on a specified schedule a report on the evolving macroeconomic situation, and their implications for its monetary policy objective(s).

2.5 For proposed substantive technical changes to the structure of monetary regulations, there should be a presumption in favor of public consultations, within an appropriate period.

2.6 The regulations on data reporting by financial institutions to the central bank for monetary policy purposes should be publicly disclosed.

III. Public Availability of Information on Monetary Policy

3.1 Presentations and releases of central bank data should meet the standards related to coverage, periodicity, timeliness of data and access by the public that are consistent with the International Monetary Fund's data dissemination standards.

3.2 The central bank should publicly disclose its balance sheet on a preannounced schedule and, after a predetermined interval, publicly disclose selected information on its aggregate market transactions.

3.2.1 Summary central bank balance sheets should be publicly disclosed on a frequent and preannounced schedule. Detailed central bank balance sheets prepared according to appropriate and publicly documented accounting standards should be publicly disclosed at least annually by the central bank.

3.2.2 Information on the central bank's monetary operations, including aggregate amounts and terms of refinance or other facilities (subject to the maintenance of commercial confidentiality) should be publicly disclosed on a preannounced schedule.

3.2.3 Consistent with confidentiality and privacy of information on individual firms, aggregate information on emergency financial support by the central bank should be publicly disclosed through an appropriate central bank statement when such disclosure will not be disruptive to financial stability.

3.2.4 Information about the country's foreign exchange reserve assets, liabilities and commitments by the monetary authorities should be publicly disclosed on a preannounced schedule, consistent with the International Monetary Fund's Data Dissemination Standards.

3.3 The central bank should establish and maintain public information services.

3.3.1 The central bank should have a publications program, including an Annual Report.

3.3.2 Senior central bank officials should be ready to explain their institution's objective(s) and performance to the public, and have a presumption in favor of releasing the text of their statements to the public.

3.4 Texts of regulations issued by the central bank should be readily available to the public.

IV. Accountability and Assurances of Integrity by the Central Bank

4.1 Officials of the central bank should be available to appear before a designated public authority to report on

the conduct of monetary policy, explain the policy objective(s) of their institution, describe their performance in achieving their objective(s), and, as appropriate, exchange views on the state of the economy and the financial system.

4.2 The central bank should publicly disclose audited financial statements of its operations on a preannounced schedule.

4.2.1 The financial statements should be audited by an independent auditor. Information on accounting policies and any qualification to the statements should be an integral part of the publicly disclosed financial statements.

4.2.2 Internal governance procedures necessary to ensure the integrity of operations, including internal audit arrangements, should be publicly disclosed.

4.3 Information on the expenses and revenues in operating the central bank should be publicly disclosed annually.

4.4 Standards for the conduct of personal financial affairs of officials and staff of the central bank and rules to prevent exploitation of conflicts of interest, including any general fiduciary obligation, should be publicly disclosed.

4.4.1 Information about legal protections for officials and staff of the central bank in the conduct of their official duties should be publicly disclosed.

GOOD TRANSPARENCY PRACTICES FOR FINANCIAL POLICIES BY FINANCIAL AGENCIES

V. Clarity of Roles, Responsibilities and Objectives of Financial Agencies Responsible for Financial Policies⁴

5.1 The broad objective(s) and institutional framework of financial agencies should be clearly defined, preferably in relevant legislation or regulation.

5.1.1 The broad objective(s) of financial agencies should be publicly disclosed and explained.

5.1.2 The responsibilities of the financial agencies and the authority to conduct financial policies should be publicly disclosed.

5.1.3 Where applicable, the broad modalities of accountability for financial agencies should be publicly disclosed.

5.1.4 Where applicable, the procedures for appointment, terms of office, and any general criteria for removal of the heads and members of the governing bodies of financial agencies should be publicly disclosed.

5.2 The relationship between financial agencies should be publicly disclosed.

5.3 The role of oversight agencies with regard to payment systems should be publicly disclosed.

5.3.1 The agencies overseeing the payment system should promote the timely public disclosure of general policy principles (including risk management policies) that affect the robustness of systemically important payment systems.

5.4 Where financial agencies have oversight responsibilities for self-regulatory organizations (e.g., payment systems), the relationship between them should be publicly disclosed.

5.5 Where self-regulatory organizations are authorized to perform part of the regulatory and supervisory process, they should be guided by the same good transparency practices specified for financial agencies.

VI. Open Process for Formulating and Reporting of Financial Policies

6.1 The conduct of policies by financial agencies should be transparent, compatible with confidentiality considerations and the need to preserve the effectiveness of actions by regulatory and oversight agencies

6.1.1 The regulatory framework and operating procedures governing the conduct of financial policies should be publicly disclosed and explained.

6.1.2 The regulations for financial reporting by financial institutions to financial agencies should be publicly disclosed.

6.1.3 The regulations for the operation of organized financial markets (including those for issuers of traded financial instruments) should be publicly disclosed.

6.1.4 Where financial agencies charge fees to financial institutions, the structure of such fees should be publicly disclosed.

6.1.5 Where applicable, formal procedures for information sharing and consultation between financial agencies (including central banks), domestic and international, should be publicly disclosed.

6.2 Significant changes in financial policies should be publicly announced and explained in a timely manner.

6.3 Financial agencies should issue periodic public reports on how their overall policy objectives are being pursued.

6.4 For proposed substantive technical changes to the structure of financial regulations, there should be a presumption in favor of public consultations, within an appropriate period.

VII. Public Availability of Information on Financial Policies

- 7.1** Financial agencies should issue a periodic public report on the major developments of the sector(s) of the financial system for which they carry designated responsibility.
- 7.2** Financial agencies should seek to ensure that, consistent with confidentiality requirements, there is public reporting of aggregate data related to their jurisdictional responsibilities on a timely and regular basis.
- 7.3** Where applicable, financial agencies should publicly disclose their balance sheets on a preannounced schedule and, after a predetermined interval, publicly disclose information on aggregate market transactions.
 - 7.3.1 Consistent with confidentiality and privacy of information on individual firms, aggregate information on emergency financial support by financial agencies should be publicly disclosed through an appropriate statement when such disclosure will not be disruptive to financial stability.
- 7.4** Financial agencies should establish and maintain public information services.
 - 7.4.1 Financial agencies should have a publications program, including a periodic public report on their principal activities issued at least annually.
 - 7.4.2 Senior financial agency officials should be ready to explain their institution's objective(s) and performance to the public, and have a presumption in favor of releasing the text of their statements to the public.
- 7.5** Texts of regulations and any other generally applicable directives and guidelines issued by financial agencies should be readily available to the public.
- 7.6** Where there are deposit insurance guarantees, policy-holder guarantees, and any other client asset protection schemes, information on the nature and form of such protections, on the operating procedures, on how the guarantee is financed, and on the performance of the arrangement, should be publicly disclosed.
- 7.7** Where financial agencies oversee consumer protection arrangements (such as dispute settlement processes), information on such arrangements should be publicly disclosed.

VIII. Accountability and Assurances of Integrity by Financial Agencies

- 8.1** Officials of financial agencies should be available to appear before a designated public authority to report on the conduct of financial policies, explain the policy objective(s) of their institution, describe their performance in pursuing their objective(s), and, as appropriate, exchange views on the state of the financial system.
- 8.2** Where applicable, financial agencies should publicly disclosed audited financial statements of their operations on a preannounced schedule.
 - 8.2.1 Financial statements, if any, should be audited by an independent auditor. Information on accounting policies and any qualification to the statements should be an integral part of the publicly disclosed financial statements.
 - 8.2.2 Internal governance procedures necessary to ensure the integrity of operations, including internal audit arrangements, should be publicly disclosed.
- 8.3** Where applicable, information on the operating expenses and revenues of financial agencies should be publicly disclosed annually.
- 8.4** Standards for the conduct of personal financial affairs of officials and staff of financial agencies and rules to prevent exploitation of conflicts of interest, including any general fiduciary obligation, should be publicly disclosed.
 - 8.4.1 Information about legal protections for officials and staff of financial agencies in the conduct of their official duties should be publicly disclosed.

Annex: Definitions of Certain Terms

To facilitate presentation, certain general terms are used to capture different institutional arrangements in a summary fashion. The following descriptive definitions are used in the Code.

Central Bank

The institutional arrangements for assigning responsibility for the conduct of a country's monetary policy differ among the Fund's membership. For most Fund members, this responsibility is assigned to the central bank or to a system of constituent national central banks in a multinational central bank arrangement. There are a number of countries, however, where this role is designated to a "monetary authority" or to a "currency board."

To facilitate presentation, the term "central bank" in the Code refers to the institution responsible for conducting monetary policy, which may or may not be a central bank.

Financial Agencies

A wide range of institutional arrangements prevail among Fund members with regard to which unit of government

carries exclusive or primary responsibility for the regulation, supervision, and oversight of the financial and payment systems. In a few countries, an agency has been established with responsibility for regulating and supervising an array of financial institutions (banking, insurance, and securities firms) and markets (securities, derivatives, and commodity futures). For most countries, the oversight responsibility for the financial sector is shared among several agencies. Thus, responsibility for the conduct of bank regulation and supervision or for bank deposit insurance policies in some countries is assigned to the central bank, or to an independent bank supervisory or deposit insurance agency, or split among several units of government. Similarly, responsibility for the conduct of policies related to the oversight of certain categories of financial institutions is assigned to the central bank or to a specialized agency. In some cases (e.g., payment systems) a public agency oversees the activities of private sector self-regulatory bodies. To facilitate presentation, the phrase “financial agencies” is used to refer to the institutional arrangements for the regulation, supervision, and oversight of the financial and payment systems, including markets and institutions, with the view to promoting financial stability, market efficiency, and client-asset and consumer protection. (Where the central bank carries responsibility for financial policies, some of the good transparency practices listed for financial agencies in Sections V-VIII of the Code are already specified in the transparency practices listed for central banks in Sections I-IV of the Code.)

Financial Policies

The term “financial policies” in the Code refers to policies related to the regulation, supervision, and oversight of the financial and payment systems, including markets and institutions, with the view to promoting financial stability, market efficiency, and client-asset and consumer protection.

Government

Unless a particular unit of government is specifically identified in the Code, reference to “government” in the Code refers either to the executive branch of government or to a particular ministry or public agency, depending on the issue at hand or the established tradition of government in particular countries.

Notes

- 1 In addition to the Bank for International Settlements, the following international and regional organizations and international financial sector groupings were consulted: Basel Committee on Bank Supervision (BCBS), Center for Latin American Monetary Studies (CEMLA), Committee on Payment and Settlement Systems (CPSS), European Central Bank, International Association of Insurance Supervisors (IAIS), International Finance Corporation, International Organization of Securities Commissions (IOSCO), Organization for Economic Cooperation and Development (OECD), and the World Bank.
- 2 The practices in this area should be consistent with the principles of the International Monetary Fund’s Code of Good Practices on Fiscal Transparency.
- 3 The principles for transparency procedures listed in this Code, where applicable and adjusted as necessary, apply where a separate public agency has been designated to manage the country’s public debt.
- 4 Refer to the Annex for definitions of financial agencies and financial policies. Revised Code of Good Practices on Fiscal Transparency.

International Monetary Fund (IMF), Revised Code of Good Practices on Fiscal Transparency (2001, Washington DC, USA)

I. Clarity of Roles and Responsibilities

- 1.1 The government sector should be distinguished from the rest of the public sector and from the rest of the economy, and policy and management roles within the public sector should be clear and publicly disclosed.**
 - 1.1.1 The structure and functions of government should be clearly specified.
 - 1.1.2 The responsibilities of different levels of government, and of the executive branch, the legislative branch, and the judiciary, should be well defined.
 - 1.1.3 Clear mechanisms for the coordination and management of budgetary and extrabudgetary activities should be established.
 - 1.1.4 Relations between the government and nongovernment public sector agencies (i.e., the central bank, public financial institutions, and nonfinancial public enterprises) should be based on clear arrangements.
 - 1.1.5 Government involvement in the private sector (e.g., through regulation and equity ownership) should be conducted in an open and public manner, and on the basis of clear rules and procedures that are applied in a nondiscriminatory way.
- 1.2 There should be a clear legal and administrative framework for fiscal management.**
 - 1.2.1 Any commitment or expenditure of public funds should be governed by comprehensive budget laws and openly available administrative rules.
 - 1.2.2 Taxes, duties, fees, and charges should have an explicit legal basis. Tax laws and regulations should be easily accessible and understandable, and clear criteria should guide any administrative discretion in their application.
 - 1.2.3 Ethical standards of behavior for public servants should be clear and well publicized.

II. Public Availability of Information

- 2.1 The public should be provided with full information on the past, current, and projected fiscal activity of government.**
 - 2.1.1 The budget documentation, final accounts, and other fiscal reports for the public should cover all budgetary and extrabudgetary activities of the central government, and the consolidated fiscal position of the central government should be published.
 - 2.1.2 Information comparable to that in the annual budget should be provided for the outturns of the two preceding fiscal years, together with forecasts of the main budget aggregates for two years following the budget.
 - 2.1.3 Statements describing the nature and fiscal significance of central government contingent liabilities and tax expenditures, and of quasi-fiscal activities, should be part of the budget documentation.
 - 2.1.4 The central government should publish full information on the level and composition of its debt and financial assets.
 - 2.1.5 Where subnational levels of government are significant, their combined fiscal position and the consolidated fiscal position of the general government should be published.
- 2.2 A commitment should be made to the timely publication of fiscal information.**
 - 2.2.1 The publication of fiscal information should be a legal obligation of government.
 - 2.2.2 Advance release date calendars for fiscal information should be announced.

III. Open Budget Preparation, Execution, and Reporting

- 3.1 The budget documentation should specify fiscal policy objectives, the macroeconomic framework, the policy basis for the budget, and identifiable major fiscal risks.**
 - 3.1.1 A statement of fiscal policy objectives and an assessment of fiscal sustainability should provide the framework for the annual budget.
 - 3.1.2 Any fiscal rules that have been adopted (e.g., a balanced budget requirement or borrowing limits for subnational levels of government) should be clearly specified.
 - 3.1.3 The annual budget should be prepared and presented within a comprehensive and consistent quantitative macroeconomic framework, and the main assumptions underlying the budget should be provided.

- 3.1.4 New policies being introduced in the annual budget should be clearly described.
- 3.1.5 Major fiscal risks should be identified and quantified where possible, including variations in economic assumptions and the uncertain costs of specific expenditure commitments (e.g., financial restructuring).

3.2 Budget information should be presented in a way that facilitates policy analysis and promotes accountability.

- 3.2.1 Budget data should be reported on a gross basis, distinguishing revenue, expenditure, and financing, with expenditure classified by economic, functional, and administrative category. Data on extrabudgetary activities should be reported on the same basis.
- 3.2.2 A statement of objectives to be achieved by major budget programs (e.g., improvement in relevant social indicators) should be provided.
- 3.2.3 The overall balance of the general government should be a standard summary indicator of the government's fiscal position. It should be supplemented where appropriate by other fiscal indicators for the general government (e.g., the operational balance, the structural balance, or the primary balance).
- 3.2.4 The public sector balance should be reported when nongovernment public sector agencies undertake significant quasi-fiscal activities.

3.3 Procedures for the execution and monitoring of approved expenditure and for collecting revenue should be clearly specified.

- 3.3.1 There should be a comprehensive, integrated accounting system which provides a reliable basis for assessing payment arrears.
- 3.3.2 Procurement and employment regulations should be standardized and accessible to all interested parties.
- 3.3.3 Budget execution should be internally audited, and audit procedures should be open to review.
- 3.3.4 The national tax administration should be legally protected from political direction and should report regularly to the public on its activities.

3.4 There should be regular fiscal reporting to the legislature and the public.

- 3.4.1 A mid-year report on budget developments should be presented to the legislature. More frequent (at least quarterly) reports should also be published.
- 3.4.2 Final accounts should be presented to the legislature within a year of the end of the fiscal year.
- 3.4.3 Results achieved relative to the objectives of major budget programs should be presented to the legislature annually.

IV. Assurances of Integrity

4.1 Fiscal data should meet accepted data quality standards.

- 4.1.1 Budget data should reflect recent revenue and expenditure trends, underlying macroeconomic developments, and well-defined policy commitments.
- 4.1.2 The annual budget and final accounts should indicate the accounting basis (e.g., cash or accrual) and standards used in the compilation and presentation of budget data.
- 4.1.3 Specific assurances should be provided as to the quality of fiscal data. In particular, it should be indicated whether data in fiscal reports are internally consistent and have been reconciled with relevant data from other sources.

4.2 Fiscal information should be subjected to independent scrutiny.

- 4.2.1 A national audit body or equivalent organization, which is independent of the executive, should provide timely reports for the legislature and public on the financial integrity of government accounts.
- 4.2.2 Independent experts should be invited to assess fiscal forecasts, the macroeconomic forecasts on which they are based, and all underlying assumptions.
- 4.2.3 A national statistics agency should be provided with the institutional independence to verify the quality of fiscal data.

International Monetary Fund (IMF) and World Bank, Guidelines for Public Debt Management (2001)

*Prepared by the Staffs of the International Monetary Fund and the World Bank
March 21, 2001*

I. WHAT IS PUBLIC DEBT MANAGEMENT AND WHY IS IT IMPORTANT?

1. Sovereign debt management is the process of establishing and executing a strategy for managing the government's debt in order to raise the required amount of funding, achieve its risk and cost objectives, and to meet any other sovereign debt management goals the government may have set, such as developing and maintaining an efficient market for government securities.
2. In a broader macroeconomic context for public policy, governments should seek to ensure that both the level and rate of growth in their public debt is fundamentally sustainable, and can be serviced under a wide range of circumstances while meeting cost and risk objectives. Sovereign debt managers share fiscal and monetary policy advisors' concerns that public sector indebtedness remains on a sustainable path and that a credible strategy is in place to reduce excessive levels of debt. Debt managers should ensure that the fiscal authorities are aware of the impact of government financing requirements and debt levels on borrowing costs.¹ Examples of indicators that address the issue of debt sustainability include the public sector debt service ratio, and ratios of public debt to GDP and to tax revenue.
3. Poorly structured debt in terms of maturity, currency, or interest rate composition and large and unfunded contingent liabilities have been important factors in inducing or propagating economic crises in many countries throughout history. For example, irrespective of the exchange rate regime, or whether domestic or foreign currency debt is involved, crises have often arisen because of an excessive focus by governments on possible cost savings associated with large volumes of short-term or floating rate debt. This has left government budgets seriously exposed to changing financial market conditions, including changes in the country's creditworthiness, when this debt has to be rolled over. Foreign currency debt also poses particular risks, and excessive reliance on foreign currency debt can lead to exchange rate and/or monetary pressures if investors become reluctant to refinance the government's foreign-currency debt. By reducing the risk that the government's own portfolio management will become a source of instability for the private sector, prudent government debt management, along with sound policies for managing contingent liabilities, can make countries less susceptible to contagion and financial risk.
4. A government's debt portfolio is usually the largest financial portfolio in the country. It often contains complex and risky financial structures, and can generate substantial risk to the government's balance sheet and to the country's financial stability. As noted by the Financial Stability Forum's Working Group on Capital Flows, "recent experience has highlighted the need for governments to limit the build-up of liquidity exposures and other risks that make their economies especially vulnerable to external shocks."² Therefore, sound risk management by the public sector is also essential for risk management by other sectors of the economy "because individual entities within the private sector typically are faced with enormous problems when inadequate sovereign risk management generates vulnerability to a liquidity crisis." Sound debt structures help governments reduce their exposure to interest rate, currency and other risks. Many governments seek to support these structures by establishing, where feasible, portfolio benchmarks related to the desired currency composition, duration, and maturity structure of the debt to guide the future composition of the portfolio.
5. Several debt market crises have highlighted the importance of sound debt management practices and the need for an efficient and sound capital market. Although government debt management policies may not have been the sole or even the main cause of these crises, the maturity structure, and interest rate and currency composition of the government's debt portfolio, together with substantial obligations in respect of contingent liabilities have often contributed to the severity of the crisis. Even in situations where there are sound macroeconomic policy settings, risky debt management practices increase the vulnerability of the economy to economic and financial shocks. Sometimes these risks can be readily addressed by relatively straightforward measures, such as by lengthening the maturities of borrowings and paying the associated higher debt servicing costs (assuming an upward sloping yield curve), by adjusting the amount, maturity, and composition of foreign exchange reserves, and by reviewing criteria and governance arrangements in respect of contingent liabilities.
6. Risky debt structures are often the consequence of inappropriate economic policies – fiscal, monetary and exchange rate – but the feedback effects undoubtedly go in both directions. However, there are limits to what sound debt management policies can deliver. Sound debt management policies are no panacea or substitute

¹ Excessive levels of debt that result in higher interest rates can have adverse effects on real output. See for example: A. Alesina, M. de Broeck, A. Prati, and G. Tabellini, "Default Risk on Government Debt in OECD Countries," in *Economic Policy: A European Forum* (October 1992), pp. 428-463.

² Financial Stability Forum, "Report of the Working Group on Capital Flows," April 5, 2000, p. 2.

for sound fiscal and monetary management. If macroeconomic policy settings are poor, sound sovereign debt management may not by itself prevent any crisis. Sound debt management policies reduce susceptibility to contagion and financial risk by playing a catalytic role for broader financial market development and financial deepening. Experience supports the argument, for example, that developed domestic debt markets can substitute for bank financing (and vice versa) when this source dries up, helping economies to weather financial shocks.³

II. PURPOSE OF THE GUIDELINES

7. The Guidelines are designed to assist policymakers in considering reforms to strengthen the quality of their public debt management and reduce their country's vulnerability to international financial shocks. Vulnerability is often greater for smaller and emerging market countries because their economies may be less diversified, have a smaller base of domestic financial savings and less developed financial systems, and be more susceptible to financial contagion through the relative magnitudes of capital flows. As a result, the Guidelines should be considered within a broader context of the factors and forces affecting a government's liquidity more generally, and the management of its balance sheet. Governments often manage large foreign exchange reserves portfolios, their fiscal positions are frequently subject to real and monetary shocks, and they can have large exposures to contingent liabilities and to the consequences of poor balance sheet management in the private sector.

However, irrespective of whether financial shocks originate within the domestic banking sector or from global financial contagion, prudent government debt management policies, along with sound macroeconomic and regulatory policies, are essential for containing the human and output costs associated with such shocks.

8. The Guidelines cover both domestic and external public debt and encompass a broad range of financial claims on the government. They seek to identify areas in which there is broad agreement on what generally constitutes sound practices in public debt management. The Guidelines endeavor to focus on principles applicable to a broad range of countries at different stages of development and with various institutional structures of national debt management. They should not be viewed as a set of binding practices or mandatory standards or codes. Nor should they suggest that a unique set of sound practices or prescriptions exists, which would apply to all countries in all situations. Building capacity in sovereign debt management can take several years and country situations and needs vary widely. These Guidelines are mainly intended to assist policymakers by disseminating sound practices adopted by member countries in debt management strategy and operations. Their implementation will vary from country to country, depending on each country's circumstances, such as its state of financial development.
9. Each country's capacity building needs in sovereign debt management are different. Their needs are shaped by the capital market constraints they face, the exchange rate regime, the quality of their macroeconomic and regulatory policies, the institutional capacity to design and implement reforms, the country's credit standing, and its objectives for public debt management. Capacity building and technical assistance therefore must be carefully tailored to meet stated policy goals, while recognizing the policy settings, institutional framework and the technology and human and financial resources that are available. The Guidelines should assist policy advisors and decision makers involved in designing debt management reforms as they raise public policy issues that are relevant for all countries. This is the case whether the public debt comprises marketable debt or debt from bilateral or multilateral official sources, although the specific measures to be taken will differ, to take into account a country's circumstances.
10. Every government faces policy choices concerning debt management objectives, its preferred risk tolerance, which part of the government balance sheet those managing debt should be responsible for, how to manage contingent liabilities, and how to establish sound governance for public debt management. On many of these issues, there is increasing convergence on what are considered prudent sovereign debt management practices that can also reduce vulnerability to contagion and financial shocks. These include: recognition of the benefits of clear objectives for debt management; weighing risks against cost considerations; the separation and coordination of debt and monetary management objectives and accountabilities; a limit on debt expansion; the need to carefully manage refinancing and market risks and the interest costs of debt burdens; and the necessity of developing a sound institutional structure and policies for reducing operational risk, including clear delegation of responsibilities and associated accountabilities among government agencies involved in debt management.
11. Debt management needs to be linked to a clear macroeconomic framework, under which governments seek to ensure that the level and rate of growth in public debt are sustainable. Public debt management problems often find their origins in the lack of attention paid by policymakers to the benefits of having a prudent debt management strategy and the costs of weak macroeconomic management. In the first case, authorities should pay greater attention to the benefits of having a prudent debt management strategy, framework, and policies that are coordinated with a sound macro policy framework. In the second, inappropriate fiscal, monetary, or exchange rate policies generate uncertainty in financial markets regarding the future returns available on local

³ See, for example, Remarks by Chairman Alan Greenspan before the World Bank Group and the International Monetary Fund, Program of Seminars, Washington, D.C., September 27, 1999.

currency-denominated investments, thereby inducing investors to demand higher risk premiums. Particularly in developing and emerging markets, borrowers and lenders alike may refrain from entering into longer-term commitments, which can stifle the development of domestic financial markets, and severely hinder debt managers' efforts to protect the government from excessive rollover and foreign exchange risk. A good track record of implementing sound macropolicies can help to alleviate this uncertainty. This should be combined with building appropriate technical infrastructure – such as a central registry and payments and settlement system – to facilitate the development of domestic financial markets.

III. SUMMARY OF THE DEBT MANAGEMENT GUIDELINES

1. Debt Management Objectives and Coordination

1.1 Objectives

The main objective of public debt management is to ensure that the government's financing needs and its payment obligations are met at the lowest possible cost over the medium to long run, consistent with a prudent degree of risk.

1.2 Scope

Debt management should encompass the main financial obligations over which the central government exercises control.

1.3 Coordination with monetary and fiscal policies

Debt managers, fiscal policy advisors, and central bankers should share an understanding of the objectives of debt management, fiscal, and monetary policies given the interdependencies between their different policy instruments. Debt managers should convey to fiscal authorities their views on the costs and risks associated with government financing requirements and debt levels. Where the level of financial development allows, there should be a separation of debt management and monetary policy objectives and accountabilities. Debt management, fiscal, and monetary authorities should share information on the government's current and future liquidity needs.

2. Transparency and Accountability

2.1 Clarity of roles, responsibilities and objectives of financial agencies responsible for debt management

The allocation of responsibilities among the ministry of finance, the central bank, or a separate debt management agency, for debt management policy advice, and for undertaking primary debt issues, secondary market arrangements, depository facilities, and clearing and settlement arrangements for trade in government securities, should be publicly disclosed. The objectives for debt management should be clearly defined and publicly disclosed, and the measures of cost and risk that are adopted should be explained.

2.2 Open process for formulating and reporting of debt management policies

Materially important aspects of debt management operations should be publicly disclosed.

2.3 Public availability of information on debt management policies

The public should be provided with information on the past, current, and projected budgetary activity, including its financing, and the consolidated financial position of the government. The government should regularly publish information on the stock and composition of its debt and financial assets, including their currency, maturity, and interest rate structure.

2.4 Accountability and assurances of integrity by agencies responsible for debt management

Debt management activities should be audited annually by external auditors.

3. Institutional Framework

3.1 Governance

The legal framework should clarify the authority to borrow and to issue new debt, invest, and undertake transactions on the government's behalf. The organizational framework for debt management should be well specified, and ensure that mandates and roles are well articulated.

3.2 Management of internal operations

Risks of government losses from inadequate operational controls should be managed according to sound business practices, including well-articulated responsibilities for staff, and clear monitoring and control policies and reporting arrangements. Debt management activities should be supported by an accurate and comprehensive management information system with proper safeguards. Staff involved in debt management should be subject to a code-of-conduct and conflict-of-interest guidelines regarding the management of their personal financial affairs. Sound business recovery procedures should be in place to mitigate the risk that debt management activities might be severely disrupted by natural disasters, social unrest, or acts of terrorism.

4. Debt Management Strategy

The risks inherent in the structure of the government's debt should be carefully monitored and evaluated. These risks should be mitigated to the extent feasible by modifying the debt structure, taking into account the cost of doing so. In order to help guide borrowing decisions and reduce the government's risk, debt managers should consider the financial and other risk characteristics of the government's cash flows. Debt managers should carefully assess and

manage the risks associated with foreign-currency and short-term or floating rate debt.

There should be cost-effective cash management policies in place to enable the authorities to meet with a high degree of certainty their financial obligations as they fall due.

5. Risk Management Framework

A framework should be developed to enable debt managers to identify and manage the tradeoffs between expected cost and risk in the government debt portfolio. To assess risk, debt managers should regularly conduct stress tests of the debt portfolio on the basis of the economic and financial shocks to which the government – and the country more generally – are potentially exposed.

5.1 Scope for active management

Debt managers who seek to manage actively the debt portfolio to profit from expectations of movements in interest rates and exchange rates, which differ from those implicit in current market prices, should be aware of the risks involved and accountable for their actions.

5.2 Contingent liabilities

Debt managers should consider the impact that contingent liabilities have on the government's financial position, including its overall liquidity, when making borrowing decisions.

6. Development and Maintenance of an Efficient Market for Government Securities

In order to minimize cost and risk over the medium to long run, debt managers should ensure that their policies and operations are consistent with the development of an efficient government securities market.

6.1 Portfolio diversification and instruments

The government should strive to achieve a broad investor base for its domestic and foreign obligations, with due regard to cost and risk, and should treat investors equitably.

6.2 Primary market

Debt management operations in the primary market should be transparent and predictable. To the extent possible, debt issuance should use market-based mechanisms, including competitive auctions and syndications.

6.3 Secondary market

Governments and central banks should promote the development of resilient secondary markets that can function effectively under a wide range of market conditions. The systems used to settle and clear financial market transactions involving government securities should reflect sound practices.

IV. DISCUSSION OF THE GUIDELINES

1. Debt Management Objectives and Coordination

1.1 Objectives

12. **The main objective of public debt management is to ensure that the government's financing needs and its payment obligations are met at the lowest possible cost over the medium to long run, consistent with a prudent degree of risk.** Prudent risk management to avoid dangerous debt structures and strategies (including monetary financing of the government's debt) is crucial, given the severe macroeconomic consequences of sovereign debt default, and the magnitude of the ensuing output losses. These costs include business and banking insolvencies as well as the diminished long-term credibility and capability of the government to mobilize domestic and foreign savings. Box 1 provides a list of the main risks encountered in sovereign debt management.

Governments should try to minimize expected debt servicing costs and the cost of holding liquid assets, subject to an acceptable level of risk, over a medium- to long-term horizon.⁴

Minimizing cost, while ignoring risk, should not be an objective. Transactions that appear to lower debt servicing costs often embody significant risks for the government and can limit its capacity to repay lenders. Developed countries, which typically have deep and liquid markets for their government's securities, often focus primarily on market risk, and, together with stress tests, may use sophisticated portfolio models for measuring this risk. In contrast, emerging market countries, which have only limited (if any) access to foreign capital markets and which also have relatively undeveloped domestic debt markets, should give higher priority to rollover risk. Where appropriate, debt management policies to promote the development of the domestic debt market should also be included as a prominent government objective. This objective is particularly relevant for countries where market constraints are such that short-term debt, floating rate debt, and foreign currency debt may, in the short-run at least, be the only viable alternatives to monetary financing.

⁴ In addition to their concerns as to the real costs of financial crises, governments' desire to avoid excessively risky debt structures reflects their concern over the possible effects of losses on their fiscal position and access to capital, and the fact that losses could ultimately lead to higher tax burdens and political risks.

1.2 Scope

13. **Debt management should encompass the main financial obligations over which the central government exercises control.** These obligations typically include both marketable debt and non-market debt, such as concessional financing obtained from bilateral and multilateral official sources. In a number of countries, the scope of debt management operations has broadened in recent years. Nevertheless, the public sector debt, which is included or excluded from the central government's mandate over debt management, will vary from country to country, depending on the nature of the political and institutional frameworks.⁵

Box 1. Risks Encountered in Sovereign Debt Management	
Risk	Description
Market Risk	Refers to the risks associated with changes in market prices, such as interest rates, exchange rates, commodity prices, on the cost of the government's debt servicing. For both domestic and foreign currency debt, changes in interest rates affect debt servicing costs on new issues when fixed-rate debt is refinanced, and on floating-rate debt at the rate reset dates. Hence, short- duration debt (shortterm or floating-rate) is usually considered to be more risky than long-term, fixed rate debt. (Excessive concentration in very long-term, fixed rate debt also can be risky as future financing requirements are uncertain.) Debt denominated in or indexed to foreign currencies also adds volatility to debt servicing costs as measured in domestic currency owing to exchange rate movements. Bonds with embedded put options can exacerbate market and rollover risks.
Rollover Risk	The risk that debt will have to be rolled over at an unusually high cost or, in extreme cases, cannot be rolled over at all. To the extent that rollover risk is limited to the risk that debt might have to be rolled over at higher interest rates, including changes in credit spreads, it may be considered a type of market risk. However, because the inability to roll over debt and/or exceptionally large increases in government funding costs can lead to, or exacerbate, a debt crisis and thereby cause real economic losses, in addition to the purely financial effects of higher interest rates, it is often treated separately. Managing this risk is particularly important for emerging market countries.
Liquidity Risk	There are two types of liquidity risk. One refers to the cost or penalty investors face in trying to exit a position when the number of transactors has markedly decreased or because of the lack of depth of a particular market. This risk is particularly relevant in cases where debt management includes the management of liquid assets or the use of derivatives contracts. The other form of liquidity risk, for a borrower, refers to a situation where the volume of liquid assets can diminish quickly in the face of unanticipated cash flow obligations and/or a possible difficulty in raising cash through borrowing in a short period of time.
Credit Risk	The risk of non performance by borrowers on loans or other financial assets or by a counterparty on financial contracts. This risk is particularly relevant in cases where debt management includes the management of liquid assets. It may also be relevant in the acceptance of bids in auctions of securities issued by the government as well as in relation to contingent liabilities, and in derivative contracts entered into by the debt manager.
Settlement Risk	Refers to the potential loss that the government, as a counterparty, could suffer as a result of failure to settle, for whatever reason other than default, by another counterparty.
Operational Risk	This includes a range of different types of risks, including transaction errors in the various stages of executing and recording transactions; inadequacies or failures in internal controls, or in systems and services; reputation risk; legal risk; security breaches; or natural disasters that affect business activity.

14. Domestic and foreign currency borrowings are now typically coordinated. Moreover, debt management often encompasses the oversight of liquid financial assets and potential exposures due to off-balance sheet claims on the central government, including contingent liabilities such as state guarantees. In establishing and implementing a strategy for managing the central government's debt in order to achieve its cost and risk objectives and any other sovereign debt management goals, the central government should monitor and review the potential exposures that may arise from guaranteeing the debts of sub-central governments and state-owned enterprises, and, whenever possible, be aware of the overall financial position of public- and private-sector borrowers. And, the borrowing calendars of the central and sub-central government borrowers may need to be coordinated to ensure that auctions of new issues are appropriately spaced.

⁵ These guidelines may also offer useful insights for other levels of government with debt management responsibilities.

1.3 Coordination with monetary and fiscal policies

15. **Debt managers, fiscal policy advisors, and central bankers should share an understanding of the objectives of debt management, fiscal, and monetary policies given the interdependencies between their different policy instruments. Debt managers should convey to fiscal authorities their views on the costs and risks associated with government financing requirements and debt levels.** Policymakers should understand the ways in which the different policy instruments operate, their potential to reinforce one another, and how policy tensions can arise.⁶ Prudent debt management, fiscal and monetary policies can reinforce one another in helping to lower the risk premia in the structure of longterm interest rates. Monetary authorities should inform the fiscal authorities of the effects of government debt levels on the achievement of their monetary objectives. Borrowing limits and sound risk management practices can help to protect the government's balance sheet from debt servicing shocks. In some cases, conflicts between debt management and monetary policies can arise owing to the different purposes – debt management focuses on the cost/risk trade-off, while monetary policy is normally directed towards achieving price stability. For example, some central banks may prefer that the government issue inflation-indexed debt or borrow in foreign currency to bolster the credibility of monetary policy. Debt managers may believe that the market for such inflation-indexed debt has not been fully developed and that foreign currency debt introduces greater risk onto the government's balance sheet. Conflicts can also arise between debt managers and fiscal authorities, for example, on the cash flows inherent in a given debt structure (e.g., issuing zero-coupon debt to transfer the debt burden to future generations). For this reason, it is important that coordination take place in the context of a clear macroeconomic framework.
16. **Where the level of financial development allows, there should be a separation of debt management and monetary policy objectives and accountabilities.** Clarity in the roles and objectives for debt management and monetary policy minimizes potential conflicts. In countries with well-developed financial markets, borrowing programs are based on the economic and fiscal projections contained in the government budget, and monetary policy is carried out independently from debt management. This helps ensure that debt management decisions are not perceived to be influenced by inside information on interest rate decisions, and avoids perceptions of conflicts of interest in market operations. A goal of cost minimization over time for the government's debt, subject to a prudent level of risk, should not be viewed as a mandate to reduce interest rates, or to influence domestic monetary conditions. Neither should the cost/risk objective be seen as a justification for the extension of low-cost central bank credit to the government, nor should monetary policy decisions be driven by debt management considerations.
17. **Debt management, fiscal, and monetary authorities should share information on the government's current and future liquidity needs.** Since monetary operations are often conducted using government debt instruments and markets, the choice of monetary instruments and operating procedures can have an impact on the functioning of government debt markets, and potentially on the financial condition of dealers in these markets. By the same token, the efficient conduct of monetary policy requires a solid understanding of the government's short- and longer-term financial flows. As a result, debt management and fiscal and monetary officials often meet to discuss a wide range of policy issues. At the operational level, debt management, fiscal, and monetary authorities generally share information on the government's current and future liquidity needs. They often coordinate their market operations so as to ensure that they are not both operating in the same market segment at the same time. Nevertheless, achieving separation between debt management and monetary policy might be more difficult in countries with less-developed financial markets, since debt management operations may have correspondingly larger effects on the level of interest rates and the functioning of the local capital market. Consideration needs to be given to the sequencing of reforms to achieve this separation.

2. Transparency and Accountability⁷

18. As outlined in the *Code of Good Practices on Transparency in Monetary and Financial Policies: Declaration of Principles* (MFP Transparency Code), the case for transparency in debt management operations is based on two main premises: first, their effectiveness can be strengthened if the goals and instruments of policy are known to the public (financial markets) and if the authorities can make a credible commitment to meeting them; second, transparency can enhance good governance through greater accountability of central banks, finance ministries, and other public institutions involved in debt management.

2.1 Clarity of roles, responsibilities and objectives of financial agencies responsible for debt management

19. **The allocation of responsibilities among the ministry of finance, the central bank, or a separate debt management agency, for debt management policy advice and for undertaking primary debt issues, secondary market arrangements, depository facilities, and clearing and settlement arrangements for trade in government securities, should be publicly disclosed.**⁸ Transparency in the mandates and clear rules

⁶ For further information on coordination issues, see V. Sundararajan, Peter Dattels, and Hans J. Blommestein, eds., *Coordinating Public Debt and Monetary Management*, (Washington, D.C.: International Monetary Fund), 1997.

⁷ This section draws upon the aspects of the *Code of Good Practices on Fiscal Transparency – Declaration on Principles* (henceforth FT Code), and the *Code of Good Practices on Transparency in Monetary and Financial Policies: Declaration of Principles* that pertain to debt management operations. Subsections in this chapter follow the section headings of the MFP Transparency Code.

⁸ See MFP Transparency Code, 1.2, 1.3, and 5.2.

and procedures in the operations of the central bank and ministry of finance can help resolve conflicts between monetary and debt management policies and operations. Transparency and simplicity in debt management operations and in the design of debt instruments can also help issuers reduce transaction costs and meet their portfolio objectives. They may also reduce uncertainty among investors, lower their transaction costs, encourage greater investor participation, and over time help governments lower their debt servicing costs.

20. **The objectives for debt management should be clearly defined and publicly disclosed, and the measures of cost and risk that are adopted should be explained.**⁹ Some sovereign debt managers also publicly disclose their portfolio benchmarks for cost and risk, although this practice is not universal. Experience suggests that such disclosure enhances the credibility of the debt management program and helps achieve debt management goals. Complementary objectives, such as domestic financial market development, should also be publicly disclosed. Their relationship with the primary objective should be clearly explained.
21. Clear debt management objectives are essential in order to reduce uncertainty as to the government's willingness to trade off cost and risk. Unclear objectives often lead to poor decisions on how to manage the existing debt and what types of debt to issue, particularly during times of market instability, resulting in a potentially risky and expensive debt portfolio for the government and adding to its vulnerability to a crisis. Lack of clarity with respect to objectives also creates uncertainty within the financial community. This can increase government debt servicing costs because investors incur costs in attempting to monitor and interpret the government's objectives and policy framework, and may require higher risk premia because of this uncertainty.

2.2 Open process for formulating and reporting of debt management policies

22. **Materially important aspects of debt management operations should be publicly disclosed.** The Code of Good Practices on Fiscal Transparency – Declaration on Principles highlights the importance and need for a clear legal and administrative framework for debt management, including mechanisms for the coordination and management of budgetary and extrabudgetary activities.
23. Regulations and procedures for the primary distribution of government securities, including the auction format and rules for participation, bidding, and allocation should be clear to all participants. Rules covering the licensing of primary dealers (if engaged) and other officially designated intermediaries in government securities, including the criteria for their choice and their rights and obligations should also be publicly disclosed.¹⁰ Regulations and procedures covering secondary market operations in government securities should be publicly disclosed, including any intervention undertaken by the central bank as agent for the government's debt management operations.¹¹

2.3 Public availability of information on debt management policies

24. **The public should be provided with information on the past, current, and projected budgetary activity, including its financing, and the consolidated financial position of the government.** Disclosure of information on the flow and stock of government debt (if possible on a cash and accrual basis) is important.¹² Liberalized capital markets react swiftly to new information and developments, and in the most efficient of these markets, participants react to information whether published or not. Market participants will attempt to infer information that is not disclosed, and there is probably no long-term advantage to the issuer from withholding materially important information on, for example, the estimated size and timing of new debt issuance. Most debt managers therefore regularly publish projected domestic borrowing programs. Some adhere to set patterns of new issuance, while retaining flexibility to fix the amounts and maturities of instruments that will be auctioned until one or two weeks prior to the auction.
25. **The government should regularly publish information on the stock and composition of its debt and financial assets, including their currency, maturity, and interest rate structure.**¹³ The financial position of the public sector should be regularly disclosed.¹⁴ Where contingent liabilities exist (for example, through explicit deposit insurance schemes sponsored by the government), information on their cost and risk aspects should be disclosed whenever possible in the public accounts.¹⁵ It is also important that the tax treatment of public securities be clearly disclosed when they are first issued. The objectives and fiscal costs of tax preferences, if any, for government securities should also be disclosed.
26. Transparency and sound policies can be seen as complements. *The Code of Good Practices on Transparency in Monetary and Financial Policies*: Declaration of Principles recognizes, however, that there may exist circumstances under which it may be appropriate to limit the extent of such transparency.¹⁶ For example, a government may not wish to publicize its pricing strategy prior to debt repurchase operations in order to avoid having prices move against it. However, in general, such limitations would be expected to apply on relatively few occasions with respect to debt management operations.

9 See MFP Transparency Code, 1.3 and 5.1.

10 See MFP Transparency Code, 6.1.3.

11 See MFP Transparency Code, 1.3.

12 See FT Code, Section II and MFP Code, Section VII.

13 See FT Code, 2.2.

14 See the IMF's Government Finance Statistics Manual (Second edition, Draft, December 2000) for details on how to present such information. In addition, the Inter-Agency Task Force on Finance Statistics (TFFS) is developing a framework for the presentation of external debt statistics. See External Debt Statistics: Guide for Compilers and Users (TFFS, March Draft 2000).

15 The disclosure of contingent liabilities is discussed further in Section 5.2.

16 See MFP Transparency Code, Introduction.

2.4 Accountability and assurances of integrity by agencies responsible for debt management

27. **Debt management activities should be audited annually by external auditors.** the accountability framework for debt management can be strengthened by public disclosure of audit reviews of debt management operations.¹⁷ Audits of government financial statements should be conducted regularly and publicly disclosed on a preannounced schedule, including information on the operating expenses and revenues.¹⁸ A national audit body, like the agency responsible for auditing government operations, should provide timely reports on the financial integrity of the central government accounts. In addition, there should be regular audits of debt managers' performance, and of systems and control procedures.

3. Institutional Framework

3.1 Governance

28. **The legal framework should clarify the authority to borrow and to issue new debt, invest, and undertake transactions on the government's behalf.** The authority to borrow should be clearly defined in legislation.¹⁹ Sound governance practices are an important component of sovereign debt management, given the size of government debt portfolios.
29. The soundness and credibility of the financial system can be supported by assurances that the government debt portfolio is being managed prudently and efficiently. Moreover, counterparties need assurances that the sovereign debt managers have the legal authority to represent the government, and that the government stands behind any transactions its sovereign debt managers enter into. An important feature of the legal framework is the authority to issue new debt, which is normally stipulated in the form of either borrowing authority legislation with a preset limit or a debt ceiling.
30. **The organizational framework for debt management should be well specified, and ensure that mandates and roles are well articulated.**²⁰ Legal arrangements should be supported by delegation of appropriate authority to debt managers. Experience suggests that there is a range of institutional alternatives for locating the sovereign debt management functions across one or more agencies, including in one or more of the following: the ministry of finance, central bank, autonomous debt management agency, and central depository.²¹ Regardless of which approach is chosen, the key requirement is to ensure that the organizational framework surrounding debt management is clearly specified, there is coordination and sharing of information, and that the mandates of the respective players are clear.²²
31. Many debt managers file an annual debt management report, which reviews the previous year's activities, and provides a broad overview of borrowing plans for the current year based on the annual budget projections. These reports increase the accountability of the government debt managers. They also assist financial markets by disclosing the criteria used to guide the debt program, the assumptions and trade-offs underlying these criteria, and the managers' performance in meeting them.

3.2 Management of internal operations

32. **Risks of government losses from inadequate operational controls should be managed according to sound business practices, including well-articulated responsibilities for staff, and clear monitoring and control policies and reporting arrangements.** Operational risk, due to inadequate controls and policy breaches, can entail large losses to the government and tarnish the reputation of debt managers. Sound risk monitoring and control practices are essential to reduce operational risk.
33. Operational responsibility for debt management is generally separated into front and back offices with distinct functions and accountabilities, and separate reporting lines. The front office is typically responsible for executing transactions in financial markets, including the management of auctions and other forms of borrowing, and all other funding operations. It is important to ensure that the individual executing a market transaction and the one responsible for entering the transaction into the accounting system are different people. The back office handles the settlement of transactions and the maintenance of the financial records. In a number of cases, a separate middle or risk management office has also been established to undertake risk analysis and monitor and report on portfolio-related risks, and to assess the performance of debt managers against any strategic benchmarks. This separation helps to promote the independence of those setting and monitoring the risk management framework and assessing performance from those responsible for executing market transactions. Where debt management services are provided by the central bank (e.g., registry and auction services) on behalf of the government's debt managers, the responsibilities and accountabilities of each party and agreement on service standards can be formalized through an agency agreement between the central bank and the government debt managers.

17 See MFP Transparency Code, 1.2, 1.3, Sections IV and VIII.

18 The audit process may differ depending on the institutional structure of debt management operations.

19 See also FT Code, 1.2.

20 See also Section 2.1 of the Guidelines, and MFP Transparency Code, 5.2.

21 A few countries have privatized elements of debt management within clearly defined limits including, for example, some back-office functions and the management of the foreign currency debt stock.

22 If the central bank is charged with the primary responsibility for debt management, the clarity of, and separation between, debt management and monetary policy objectives especially needs to be maintained.

34. Government debt management requires staff with a combination of financial market skills (such as portfolio management and risk analysis) and public policy skills. Regardless of the institutional structure, the ability to attract and retain skilled debt management staff is crucial for mitigating operational risk. This can be a major challenge for many countries, especially where there is a high demand for such staff in the private sector, or an overall shortage of such skills generally. Investment in training can help alleviate these problems, but where large salary differentials persist between the public and private sector for such staff, government debt managers often find it difficult to retain these skills.
35. **Debt management activities should be supported by an accurate and comprehensive management information system with proper safeguards.** Countries who are beginning the process of building capacity in government debt management need to give a high priority to developing accurate debt recording and reporting systems. This is required not only for producing debt data and ensuring timely payment of debt service, but also for improving the quality of budgetary reporting and the transparency of government financial accounts. The management information system should capture all relevant cash flows, and should be fully integrated into the government's accounting system. While such systems are essential for debt management and risk analysis, their introduction often poses major challenges for debt managers in terms of expense and management time. However, the costs and complexities of the system should be appropriate to the organization's needs.
36. **Staff involved in debt management should be subject to a code-of-conduct and conflict-of-interest guidelines regarding the management of their personal financial affairs.** This will help to allay concerns that staff's personal financial interests may undermine sound debt management practices.
37. **Sound business recovery procedures should be in place to mitigate the risk that debt management activities might be severely disrupted by natural disasters, social unrest, or acts of terrorism.** Given that government debt issuance is increasingly based on efficient and secure electronic book-entry systems, comprehensive business recovery procedures, including back-up systems and controls, are essential to ensure the continuing operation of the government's debt management, maintain the integrity of the ownership records, and to provide full confidence to debt holders on the safety of their investments.

4. Debt Management Strategy

38. **The risks inherent in the government's debt structure should be carefully monitored and evaluated. These risks should be mitigated to the extent feasible by modifying the debt structure, taking into account the cost of doing so.** Box 2 summarizes some of the pitfalls encountered in sovereign debt management. A range of policies and instruments can be engaged to help manage these risks.
39. Identifying and managing market risk involves examining the financial characteristics of the revenues and other cash flows available to the government to service its borrowings, and choosing a portfolio of liabilities which matches these characteristics as much as possible. When they are available, hedging instruments can be used to move the cost and risk profile of the debt portfolio closer to the preferred portfolio composition.

Box 2. Some Pitfalls in Debt Management

1. Increasing the vulnerability of the government's financial position by increasing risk, even though it may lead to lower costs and a lower deficit in the short run. Debt managers should avoid exposing their portfolios to risks of large or catastrophic losses, even with low probabilities, in an effort to capture marginal cost savings that would appear to be relatively "low risk."
 - Maturity structure. A government faces an intertemporal tradeoff between short-term and long-term costs that should be managed prudently. For example, excessive reliance on short-term or floating-rate paper to take advantage of lower short-term interest rates may leave a government vulnerable to volatile and possibly increasing debt service costs if interest rates increase, and the risk of default in the event that a government cannot roll over its debts at any cost. It could also affect the achievement of a central bank's monetary objectives.
 - Excessive unhedged foreign exchange exposures. This can take many forms, but the predominant is directly issuing excessive amounts of foreign currency denominated debt and foreign exchange indexed debt. This practice may leave governments vulnerable to volatile and possibly increasing debt service costs if their exchange rates depreciate, and the risk of default if they cannot roll over their debts.
 - Debt with embedded put options. If poorly managed, these increase uncertainty to the issuer, effectively shortening the portfolio duration, and creating greater exposure to market/rollover risk.
 - Implicit contingent liabilities, such as implicit guarantees provided to financial institutions. If poorly managed, they tend to be associated with significant moral hazard.
2. Debt management practices that distort private vs. government decisions, as well as understate the true interest cost.
 - Debt collateralized by shares of state-owned enterprises (SOE) or other assets. In addition to understating the underlying interest cost, they may distort decisions regarding asset management.

Box 2. Some Pitfalls in Debt Management

- Debt collateralized by specific sources of future tax revenue. If a future stream of revenue is committed for specific debt payments, a government may be less willing to undertake changes, which affect this revenue, even if the changes would improve the tax system.
 - Tax-exempt or reduced tax debt. This practice is used to encourage the placement of government debt. The impact on the deficit is ambiguous, since it will depend upon the taxation of competing assets and whether the after-tax rate of return on taxable and tax-exempt government paper are equalized.
3. Misreporting of contingent or guaranteed debt liabilities. This may understate the actual level of the government's liabilities.
 - Inadequate coordination or procedures with regard to borrowings by lower levels of government, which may be guaranteed by the central government, or by state-owned enterprises.
 - Repeated debt forgiveness for lower levels of government or for state-owned enterprises.
 - Guaranteeing loans, which have a high probability of being called (without appropriate budgetary provisions).
 4. Use of non-market financing channels. In some cases the practice can be unambiguously distortionary.
 - Special arrangements with the central bank for concessional credit, including zero/low interest overdrafts or special treasury bills.
 - Forced borrowing from suppliers either through expenditure arrears or through the issuance of promissory notes, and tied borrowing arrangements. These practices tend to raise the price of government expenditures.
 - Creating a captive market for government securities. For example, in some countries the government pension plan is required to buy government securities. In other cases, banks are required to acquire government debt against a certain percentage of their deposits. While some forms of liquid asset ratios can be a useful prudential tool for liquidity management, they can have distortionary effects on debt servicing costs, as well as on financial market development.
 5. Improper oversight and/or recording of debt contracting and payment, and/or of debt holders. Government control over the tax base and/or the supply of outstanding debt is reduced.
 - Failing to record implicit interest on zero-interest long-term debt. While helping the cash position of the government, if the implicit interest is not recorded, the true deficit is understated.
 - Too broad an authority to incur debt. This can be due to the absence of parliamentary reporting requirements on debt incurred, or the absence of a borrowing limit or debt ceiling. However, the authority must ensure that existing debt service obligations are met.
 - Inadequate controls regarding the amount of debt outstanding. In some countries a breakdown in internal operations and poor documentation led to more debt being issued than had been officially authorized.
 - Onerous legal requirements with respect to certain forms of borrowing. In some countries, more onerous legal requirements with respect to long maturity borrowings (relative to short maturity borrowings) have led to disproportionate reliance on short-term borrowings, which compounds rollover risk.

40. Some emerging market governments would be well served to accept higher liquidity premia to keep rollover risks under control, since concentrating the debt in benchmark issues at key points along the yield curve may increase rollover risk. On the other hand, reopening previously issued securities to build benchmark issues can enhance market liquidity, thereby reducing the liquidity risk premia in the yields on government securities and lowering government debt service costs. Governments seeking to build benchmark issues often hold liquid financial assets, spread the maturity profile of the debt portfolio across the yield curve, and use domestic debt buybacks, conversions or swaps of older issues with new issues to manage the associated rollover risks.
41. Some debt managers also have treasury management responsibilities.²³ In countries where debt managers are also responsible for managing liquid assets, debt managers have adopted a multi-pronged approach to the management of credit risk inherent in their investments in liquid financial assets, and financial derivatives transactions.²⁴ In countries where credit ratings are widely available, debt managers should limit investments to those that have credit ratings from independent credit rating agencies that meet a preset minimum requirement. All governments, however, should set exposure limits for individual counterparties that take account of the government's actual and contingent consolidated financial exposures to that counterparty arising from debt and foreign exchange reserves management operations. Credit risk can also be managed by

²³ In some countries debt managers also have responsibility for the management of some foreign exchange reserve assets.

²⁴ Financial derivatives most commonly used by debt managers include interest rate swaps and cross-currency swaps. Interest rate swaps allow debt managers to adjust the debt portfolio's exposure to interest rates; for example, by synthetically converting a fixed-rate obligation into a floating-rate one. Similarly, a cross-currency swap can be used to synthetically change the currency exposure of a debt obligation. In addition, some countries have issued debt with embedded call or put options.

holding a diversified portfolio across a number of acceptable financial counterparties and also through collateral agreements. Settlement risk is controlled by having clearly documented settlement procedures and responsibilities, and often placing limits on the size of payments flowing through any one settlement bank.

42. **In order to help guide borrowing decisions and reduce the government's risk, debt managers should consider the financial and other risk characteristics of the government's cash flows.** Rather than simply examining the debt structure in isolation, several governments have found it valuable to consider debt management within a broader framework of the government's balance sheet and the nature of its revenues and cash flows. Irrespective of whether governments publish a balance sheet, conceptually all governments have such a balance sheet, and consideration of the financial and other risks of the government's assets can provide the debt manager with important insights for managing the risks of the government's debt portfolio. For example, a conceptual analysis of the government's balance sheet may provide debt managers with useful insights about the extent to which the currency structure of the debt is consistent with the revenues and cash flows available to the government to service that debt. In most countries, these mainly comprise tax revenues, which are usually denominated in local currency. In this case, the government's balance sheet risk would be reduced by issuing debt primarily in long-term, fixed rate, domestic currency securities. For countries without well-developed domestic debt markets, this may not be feasible, and governments are often faced with the choice between issuing short-term or indexed domestic debt and foreign currency debt. Issues such as crowding out of private sector borrowers and the difficulties of issuing domestic currency debt in highly dollarized economies should also be considered. But the financial analysis of the government's revenues and cash flows provides a sound basis for measuring the costs and risks of the feasible strategies for managing the government's debt portfolio. The asset and liability management approach is summarized in Box 3.
43. Some countries have extended this approach to include other government assets and liabilities. For example, in some countries where the foreign exchange reserves are funded by foreign currency borrowings, debt managers have reduced the government's balance sheet risk by ensuring that the currency composition of the debt that backs the reserves, after taking account of derivatives and other hedging transactions, reflects the currency composition of the reserves. However, other countries have not adopted this practice because of considerations relating to exchange rate objectives and the institutional framework, including intervention and issues related to the role and independence of the central bank.
44. **Debt managers should carefully assess and manage the risks associated with foreign-currency and short-term or floating rate debt.** Debt management strategies that include an over reliance on foreign currency or foreign currency-indexed debt and short-term or floating rate debt are very risky. For example, while foreign currency debt may appear, ex ante, to be less expensive than domestic currency debt of the same maturity (given that the latter may include higher currency risk and liquidity premia), it could prove to be costly in volatile capital markets or if the exchange rate depreciates. Debt managers should also be aware of the fact that the choice of exchange rate regime can affect the links between debt management and monetary policy. For example, foreign currency debt may appear to be cheaper in a fixed exchange rate regime because the regime caps exchange rate volatility. However, such debt can prove to be very risky if the exchange rate regime becomes untenable.
45. Short-term or floating rate debt (whether domestic or foreign currency-denominated), which may appear, ex ante, to be less expensive over the long run in a positively-sloped yield curve environment, can create substantial rollover risk for the government. It may also constrain the central bank from raising interest rates to address inflation or support the exchange rate because of concerns about the short-term impact on the government's financial position. However, such actions might be appropriate from the viewpoint of macroeconomic management and, by lowering risk premiums, may help to achieve lower interest rates in the longer run. Macro-vulnerabilities could be exacerbated if there is a sudden shift in market sentiment as to the government's ability to repay, or when contagion effects from other countries lead to markedly higher interest rates. Many emerging market governments have too much short-term and floating-rate debt. However, over reliance on longer-term fixed rate financing also carries risks if, in some circumstances, it tempts governments to deflate the value of such debt in real terms by initiating surprise inflation. Any such concerns would be reflected in current and future borrowing costs. Also, unexpected disinflation would increase the ex-post debt-servicing burden in real terms. This could create strains in countries, which because of an already heavy debt burden, have to pay a higher risk premium.

Box 3. Asset and Liability Management

Some governments are seeking to learn from companies that have successfully managed their core business and financial risks. Financial intermediaries, for example, seek to manage their business and financial risks by matching the financial characteristics of their liabilities to their assets (off- as well as on-balance sheet), given their core business objectives. This approach is known as asset and liability management (ALM). For example, a life insurance company is in the business of selling life insurance policies, which have a relatively stable expected long-term payment structure as determined by actuarial tables of expected mortality. To minimize its financial risk, a life insurance company will invest the proceeds of its policy sales in long-term assets to match the expected payout on its policies.

Box 3. Asset and Liability Management

In some ways a government resembles a company. It receives revenues from taxpayers and other sources, and uses them to pay operating expenses, make transfer payments, purchase foreign exchange, invest in public infrastructure and state-owned enterprises, and meet debt-servicing costs. A government may also make loans and provide guarantees, both explicit and implicit. These various government operations may be undertaken to fulfill a broad range of macroeconomic, regulatory, national defense, and social policy objectives. However, in the process a government incurs financial and credit risks, which can be managed by considering the types of risks associated with both its assets and liabilities.

There are also important differences between the role of the government and that of private companies. While some governments have attempted to produce a balance sheet quantifying the value of their assets and liabilities, and more governments may attempt this in the future, this is not essential for the ALM approach. Instead, the objective of the ALM approach is to consider the various types of assets and obligations the government manages and explore whether the financial characteristics associated with those assets can provide insights for managing the cost and risk of the government's liabilities. This analysis involves examining the financial characteristics of the asset cash flows, and selecting, to the extent possible, liabilities with matching characteristics in order to help smooth the budgetary impact of shocks on debt servicing costs. If full matching is not possible, or is too costly, the analysis of cash flows also provides a basis for measuring the risks of the liability portfolio and measuring cost/risk tradeoffs.

Using a conceptual ALM framework for the debt management problem can be a useful approach for several reasons. At a minimum, it grounds the cost/risk analysis of the government's debt portfolio into an analysis of the government's revenues which will be used to service that debt, which, in most cases are denominated by the government's tax revenues. It enables the government debt managers to consider the other types of assets and liability portfolios the government manages, besides its tax revenues and direct debt portfolio. Assessing the main risks around these portfolios can help a government design a comprehensive strategy to help reduce the overall risk in its balance sheet. The ALM approach also provides a useful framework for considering governance arrangements for managing the government's balance sheet. This could, for example, involve deciding whether the government should maintain an ownership interest in producing particular goods and services, and the best organizational structure for managing the assets it wishes to retain.

The ALM approach to managing the government's exposure to financial risks is discussed in more detail in the forthcoming World Bank publication *Sound Practice in Sovereign Debt Management*.

46. If a country lacks a well-developed market for domestic currency debt, a government may be unable to issue long-term, fixed-rate domestic currency debt at a reasonable cost, and consequently must choose between risky short-term or floating rate domestic currency debt and longer-term, but also risky, foreign currency debt. Even so, given the potential for sizeable economic losses if a government cannot roll over its debt, rollover risk should be given particular emphasis, and this risk can be reduced by lengthening the maturity of new debt issues. Options to lengthen maturities include issuing floating-rate debt, foreign currency or foreign currency-indexed debt and inflation indexed debt.²⁵ Over the mediumterm, a strategy for developing the domestic currency debt market can relieve this constraint and permit the issuance of a less risky debt structure, and this should be reflected in the overall debt management strategy. In this context, gradual increases in the maturity of new fixed rate domestic currency debt issues may raise cost in the short run, but they reduce rollover risk and often constitute important steps in developing domestic debt markets. However, debt structures which entail extremely "lumpy" cash flows should, to the extent possible, be avoided.
47. **There should be cost-effective cash management policies in place to enable the authorities to meet with a high degree of certainty their financial obligations as they fall due.** The need for cost-effective cash management recognizes that the window of opportunity to issue new securities does not necessarily match the timing of planned expenditures. In particular, for governments lacking secure access to capital markets, liquid financial assets and contingent credit lines can provide flexibility in debt and cash management operations in the event of temporary financial market disturbances. They enable governments to honor their obligations, and provide flexibility to absorb shocks where access to borrowing in capital markets is temporarily curtailed or very costly. However, liquid assets are a more secure source of funds than unconditional, contingent credit lines, since financial institutions called upon to provide funds under these lines may attempt to prevent their exposures from expanding by withdrawing other lines from the government. On the other hand, some governments that do have secure access to capital markets prefer to minimize their holdings of liquid financial assets and instead rely on short-term borrowings and overdraft facilities to manage day-to-day fluctuations in their revenues and cash flows. Sound cash management needs to be supported by efficient infrastructure for payments and settlements, which are often based on dematerialized securities and a centralized, book-entry register.
48. Sound cash management by its nature combines elements of debt management and monetary operations. Particularly in some developing countries where it is not given a high priority, poor or inadequate cash

²⁵ While rollover risk can be reduced through such longer maturity instruments, the short duration of floating rate and indexed debt still exposes the issuer to potential variability in debt service costs.

management practices have tended to hamper efficient debt management operations and the conduct of monetary policy.²⁶ Notwithstanding the desirability for a clear separation of debt management and monetary policy objectives and accountabilities, the search for liquidity creates a challenge for cash managers that might be more easily dealt with if debt and cash management functions are integrated in the same institution or work in close collaboration.²⁷ Where cash and debt management functions are separately managed, for example by the Central Bank and Treasury or Ministry of Finance, respectively, close coordination and information flows, in both directions, are of paramount importance to avoid short-run inconsistencies between debt and monetary operations. A clear delineation of institutional responsibilities, supported by a formal service agreement between the central bank, Treasury and debt management officials, as appropriate, can further promote sound cash management practices.

49. Appropriate policies related to official foreign exchange reserves can also play a valuable role in increasing a government's room for maneuver in meeting its financial obligations in the face of economic and financial shocks. Box 4 summarizes some macroeconomic indicators that can be used as a starting point for assessing a country's external vulnerability.²⁸ More broadly, the level of foreign exchange reserves should be set in accordance with the government's access to capital markets, the exchange rate regime, the country's economic fundamentals and its vulnerability to economic and financial shocks, the cost of carrying reserves, and the amount of short-term foreign currency debt outstanding. Governments lacking secure access to international capital markets could consider holding reserves that bear an appropriate relationship to their country's short-term external debt, regardless of whether that debt is held by residents or nonresidents. In addition, there are some indicators specific to the government's debt situation that governments and debt managers need to consider. Ratios of debt to GDP and to tax revenue, for example, would seem to be very relevant for public debt management, as would indicators such as the debt service ratio, the average interest rate, various maturity indicators, and indicators of the composition of the debt.

5. Risk Management Framework

50. **A framework should be developed to enable debt managers to identify and manage the trade-offs between expected cost and risk in the government debt portfolio.** The cost of government debt includes two components: (1) the financial cost, which typically is considered to be the cost of servicing the debt over the medium- to long-run (and may be measured in terms of its impact on the government's fiscal position), and (2) the potential cost of real economic losses that may result from a financial crisis if a government has a particular strategy for managing the portfolio, debt servicing costs can be projected forward over the medium- to long-term, based on assumptions of future interest and exchange rates and future borrowing needs. To minimize bias in choosing among different strategies, some governments use "market neutral" assumptions of future interest and exchange rates; e.g. based on market measures of forward rates, or on simple assumptions that rates will remain unchanged, etc. The expected cost can be evaluated both in terms of the projected financial impact on the government's budget or other measure of its fiscal position, as well as for possible real costs if the projected debt service is potentially unsustainable in terms of its impact on future tax rates or government programs, or if there is a potential for default.

Box 4. Overview of Indicators of External Vulnerability

Indicators of Reserve Adequacy	Description
Ratio of Reserves to Short-Term External Debt	Single most important indicator of reserve adequacy in countries with significant but uncertain access to capital markets. Should be based on measure of reserves consistent with the Balance of Payments Manual, Fifth Edition and operational guidelines for Special Data Dissemination Standard reserves template, and a comprehensive measure of short-term debt of the public and private sectors on a remaining maturity basis.
Ratio of Reserves to Imports	Useful measure for reserve needs for countries with limited access to capital markets; effectively scales the level of reserves to the size and degree of openness of the economy.
Ratio of Reserves to Broad Money	Measure of the potential impact of a loss of confidence in the domestic currency, leading to capital flight by residents. Particularly useful if the banking sector is weak and/or credibility of the exchange rate regime remains to be established. There are, however, other potential sources of capital flight as well.
Debt-Related Indicators	Debt-related indicators should generally be used in conjunction with medium-term scenarios, which permit the analysis of debt sustainability over time, and under a variety of alternative assumptions.

²⁶ Payment arrears are one common example of poor cash management – see Box 2.

²⁷ See Guideline 1.3.

²⁸ Additional information on the motivations for holding foreign exchange reserves and factors influencing the adequacy of reserves under different exchange rate regimes can be found in "Debt- and Reserve-Related Indicators of External Vulnerability" (SM/00/65, March 23, 2000)

Box 4. Overview of Indicators of External Vulnerability

Indicators of Reserve Adequacy	Description
Ratio of External Debt to Exports	Useful indicator of trend in debt that is closely related to the repayment capacity of the country.
Ratio of External Debt to GDP	Useful indicator of relating debt to resource base (reflecting the potential of shifting production to exports or import substitutes so as to enhance repayment capacity).
Average Interest Rate on External Debt	Useful indicator of borrowing terms. In conjunction with debt/GDP and debt/export ratios and growth outlook, a key indicator for assessing debt sustainability.
Average Maturity	Useful for homogeneous categories such as nonconcessional public sector debt, to track shortening of maturities or efforts to limit future vulnerabilities.
Share of Foreign Currency External Debt in Total External Debt	Useful indicator of the impact of exchange rate changes on debt (balance sheet effect), especially in conjunction with information on derivatives that transform the effective currency composition.

Source: "Debt- and Reserve-Related Indicators of External Vulnerability" (SM/00/65), IMF, 2000.

51. Market risk is then measured in terms of potential increases in debt servicing costs from changes in interest or exchange rates relative to the expected costs. The potential real economic losses that may result from such increases in costs or if the government cannot roll over its debt should also be considered. Sovereign debt managers typically manage several other types of risk, as summarized in Box 1. An important role of the debt manager is to identify these risks, assess to the extent possible their magnitude, and develop a preferred strategy for managing the trade-off between expected cost and risk. Following government approval, the debt manager also is normally responsible for the implementation of the portfolio management and risk management policies. To carry out these responsibilities, debt managers should have access to a range of financial and macroeconomic projections. Where available, debt managers should also have access to an accounting of official assets and liabilities, on a cash or accrual basis. They also require complete information on the schedule of future coupon and principal payments and other characteristics of the government's debt obligations, together with budget projections of future borrowing requirements.
52. **To assess risk, debt managers should regularly conduct stress tests of the debt portfolio on the basis of the economic and financial shocks to which the government – and the country more generally – are potentially exposed.** This assessment is often conducted using financial models ranging from simple scenario-based models, to more complex models involving highly sophisticated statistical and simulation techniques.²⁹ When constructing such assessments, debt managers need to factor in the risk that the government will not be able to roll over its debt and be forced to default, which has costs that are broader than just to the government's budget. Moreover, debt managers should consider the interactions between the government's financial situation and those of the financial and nonfinancial sectors in times of stress in order to ensure that the government's debt management activities do not exacerbate risks in the private sector.³⁰ In general, models used should enable government debt managers to undertake the following types of risk analysis:
- Project expected future debt servicing costs over a medium- to long-term horizon based on assumptions regarding factors affecting debt-servicing capability, such as: new financing requirements; the maturity profile of the debt stock; interest rate and currency characteristics of new debt; assumptions for future interest rates and exchange rates and the behavior of relevant non-financial variables (e.g. commodity prices for some countries);
 - Generate a "debt profile," consisting of key risk indicators of the existing and projected debt portfolio over the projected horizon;³¹
 - Calculate the risk of future debt servicing costs in both financial and real terms by summarizing the results of stress tests that are formulated on the basis of the economic and financial shocks to which the government and the country more generally are potentially exposed. Risks are typically measured as the potential increase in debt servicing costs under the risk scenarios relative to the expected cost; and

²⁹ Complex simulation models should be used with caution. Data constraints may significantly impair the usefulness of these models, and the results obtained may be strongly model-dependent and sensitive to the parameters used. For example, some parameters may behave differently in extreme situations or be influenced by policy responses.

³⁰ Of course, governments should also take corrective measures, such as eliminating policy biases that may encourage excessive risk-taking by the private sector.

³¹ A typical profile will include such indicators as the share of short-term to long-term debt, the share of foreign currency to domestic debt, the currency composition of the foreign currency debt, the average maturity of the debt, and the profile of maturing debts.

- Summarize the costs and risks of alternative strategies for managing the government's debt portfolio as a basis for making informed decisions on future financing alternatives.
53. The appropriate strategy depends on the government's tolerance for risk. The degree of risk a government is willing to take may evolve over time depending on the size of the government debt portfolio, and the government's vulnerability to economic and financial shocks. In general, the larger the debt portfolio and the vulnerability of the country to economic shocks, the larger the potential risk of loss from financial crisis or government default, and the greater the emphasis should be on reducing risks rather than costs. Such strategies include selecting maturities, currencies and interest rate terms to lower risk, as well as fiscal authorities placing more stringent limits on debt issuance. The latter approach may be the only option available to countries with limited access to market-based debt instruments, such as those that rely primarily on concessional financing from bilateral or multilateral creditors.
 54. Debt managers in well-developed financial markets typically follow one of two courses: periodically determine a desired debt structure to guide new debt issuance for the subsequent period, or set strategic benchmarks to guide the day-to-day management of the government's debt portfolio. Such portfolio benchmarks typically are expressed as numerical targets for key portfolio risk indicators, such as the share of short-term to long-term debt, and the desired currency composition and interest rate duration of the debt. The key distinction between these two approaches is the extent to which debt managers operate in financial markets on a regular basis to adhere to the "benchmark." However, the use of a strategic benchmark may be less applicable for countries with less-developed markets for their debt, since a lack of market liquidity may limit their opportunities to issue debt with the desired characteristics on a regular basis. Even so, many emerging market countries have found it useful to establish somewhat less stringent "guidelines" for new debt in terms of the desired maturities, interest rate structure, and currency composition. These guidelines often incorporate the government's strategy for developing the domestic debt market.
 55. For those governments that frequently adjust their debt stock, strategic portfolio benchmarks can be powerful management tools because they represent the portfolio structure that the government would prefer to have, based on its preferences with respect to expected cost and risk. As such, they can help guide sovereign debt managers in their portfolio and risk management decisions, for example, by requiring that debt management decisions move the actual portfolio closer to the strategic benchmark portfolio.³² Governments should strive to ensure that the design of their strategic portfolio benchmarks is supported by a risk management framework that ensures the risks are well specified and managed, and that the overall risk of their debt portfolios is within acceptable tolerances. Where markets are well developed, debt managers should try to ensure that their desired debt structures or strategic benchmarks are clear and consistent with the objectives for debt management, and publicly disclosed and explained.

5.1 Scope for active management

56. **Debt managers who seek to manage actively the debt portfolio to profit from expectations of movements in interest rates and exchange rates, which differ from those implicit in current market prices, should be aware of the risks involved and accountable for their actions.** These risks include possible financial losses, as well as conflicts of interest, and adverse signaling with respect to monetary and fiscal policies. In order to be able to lower borrowing costs without increasing risk by taking market views, debt managers require information or judgment that is superior to that of other market participants (and must also be able to transact in an efficient manner).
57. Debt managers may have better information on financial flows in the domestic market and the financial condition of market participants due to the government's privileged role as supervisor or regulator of the financial system. However, most governments consider it unwise and unethical to try and capitalize on such inside information, especially in the domestic market. In particular, debt managers and policymakers should not engage in tactical trading on the basis of inside information with respect to future fiscal or monetary policy actions. This is because the government is usually the dominant issuer of debt in the domestic market, and it risks being perceived as manipulating the market, if it buys and sells its own securities or uses derivatives for the purpose of trying to generate additional income. Moreover, if the debt managers adopt interest rate or currency positions, their actions could also be interpreted as signaling a government view on the desired future direction of interest rates or the exchange rate, thereby making the central bank's task more difficult.
58. In foreign capital markets, debt managers generally have little or no information on the nature of financial flows beyond that available in the market generally. Even so, some governments actively manage their foreign currency debt in the hope of generating risk-adjusted returns, or to enable their portfolio managers to accumulate greater market knowledge, in an attempt to generate cost savings on major borrowings. Many governments do not consider it appropriate to undertake such tactical trading. In cases where such trading is permitted, it should be conducted under clearly defined portfolio guidelines with respect to position and loss limits, compliance procedures, and performance reporting. In countries where government debt managers undertake tactical trading, it normally comprises only a small fraction of a government's portfolio management activities.

³² However, debt managers should be mindful of the transaction costs associated with continuously rebalancing the debt portfolio to mirror the benchmark, as well as the costs associated with making a major shift in the structure of the portfolio over a short period of time. Common practice is therefore to express the benchmark characteristics as a range for currency composition, interest rate duration, and level of refinancing.

5.2 Contingent liabilities

59. **Debt managers should consider the impact that contingent liabilities have on the government's financial position, including its overall liquidity, when making borrowing decisions.** Contingent liabilities represent potential financial claims against the government which have not yet materialized, but which could trigger a firm financial obligation or liability under certain circumstances. They may be explicit (such as government guarantees on foreign exchange borrowings by certain domestic borrowers, government insurance schemes with respect to crop failures or natural disasters, and instruments such as put options on government securities) or implicit, where the government does not have a contractual obligation to provide assistance, but (ex post) decides to do so because it believes the cost of not intervening is unacceptable. (Examples could include possible bailouts of the financial sector, state-owned enterprises, or sub-central governments). Unlike most government financial obligations, however, contingent liabilities have a degree of uncertainty – they may be exercised only if certain events occur, and the size of the fiscal payout depends on the structure of the undertaking. Experience indicates that these contingent liabilities can be very large, particularly when they involve recapitalization of the banking system by the government or government obligations that arise from poorly designed programs for privatization of government assets. If structured without appropriate incentives or controls, contingent liabilities are often associated with moral hazard for the government, since making allowances ahead of time can increase the probability of these liabilities being realized. As a result, governments need to balance the benefits of disclosure with the moral hazard consequences that may arise with respect to contingent liabilities.
60. Governments should monitor the risk exposures they are entering into through their explicit contingent liabilities, and ensure that they are well informed of the associated risks of such liabilities. They should also be conscious of the conditions that could trigger implicit contingent liabilities, such as policy distortions which can lead to poor asset and liability management practices in the banking sector. Some governments have found it useful to centralize this monitoring function. In all cases, the debt managers should be aware of the explicit contingent liabilities that the government has entered into.
61. The fiscal authorities should also consider making budget allowances for expected losses from explicit contingent liabilities. In cases where it is not possible to derive reliable cost estimates, the available information on the cost and risk of contingent liabilities or a liquidity drain can be summarized in the notes to the budget tables or the government's financial accounts, since contingent liabilities may represent a significant balance sheet risk for a government.
62. Governments can also do a great deal to reduce the risks associated with contingent liabilities by strengthening prudential supervision and regulation, introducing appropriate deposit insurance schemes, undertaking sound governance reforms of public sector enterprises, and improving the quality of their macroeconomic management and regulatory policies.

6. Development and Maintenance of an Efficient Market for Government Securities

63. **In order to minimize cost and risk over the medium to long run, debt managers should ensure that their policies and operations are consistent with the development of an efficient government securities market.** An efficient market for securities provides the government with a mechanism to finance its expenditures in a way that alleviates the need to rely on the central bank to finance budget deficits. Moreover, by promoting the development of a deep and liquid market for its securities, debt managers, in tandem with central banks and supervisors and regulators of financial institutions, and market participants (see Box 5) can achieve lower debt service costs over the medium- to long-term as liquidity premia embedded in the yields on government debt wane.³³ In addition, where they have low credit risks, the yields on government securities serve as a benchmark in pricing other financial assets, thereby serving as a catalyst for the development of deep and liquid money and bond markets generally. This helps to buffer the effects of domestic and international shocks on the economy by providing borrowers with readily accessible domestic financing, and it is especially valuable in times of global financial instability, when lower quality credits may find it particularly difficult to obtain foreign funding. Governments should exercise particular care in borrowing in external markets.

Box 5. Relevant Conditions for Developing an Efficient Government Securities Market

In most countries, the development of a government securities market has been pivotal in helping to create a liquid and efficient domestic debt market. Although countries have adopted different approaches in the timing and sequencing of measures to develop these markets, the main elements of many of these programs are summarized below. One important prerequisite for building investor confidence is a track record of a sound macroeconomic environment. This includes implementing appropriate fiscal and monetary policies, coupled with a viable balance of payments position and exchange rate regime. In addition, developing a domestic securities market involves addressing, even in the nascent stages, securities market regulation, market infrastructure, the demand for securities, and the supply of securities.

³³ Some governments are finding that declining government financing requirements have led to reduced liquidity in their government debt markets. This has triggered a debate regarding the benefits of rapidly paying down the debt stock. Partly as an alternative to extensive debt buybacks, a few governments are continuing to issue some debt to build or maintain liquid financial markets. Similarly, the absence of sustained fiscal deficits in some countries has prevented the natural development of a government debt market. Some of them have nevertheless decided to issue debt to stimulate the development of a domestic fixed-income market.

Box 5. Relevant Conditions for Developing an Efficient Government Securities Market

Early steps in developing securities market regulation to support the issuance and trading of government securities include:

- establishing a legal framework for securities issuance;
- developing a regulatory environment to foster market development and enable sound supervisory practices to be enforced; and
- introducing appropriate accounting, auditing, and disclosure practices for financial sector reporting.

Market infrastructure to help build market liquidity and reduce systemic risk can be developed over time by:

- introducing trading arrangements suitable for the size of the market, which include efficient and safe custody, clearing, and settlement procedures;
- encouraging the development of a system of market-makers to enable buyers and sellers to transact efficiently at prices reflecting fair value;
- removing any tax or other regulatory impediments, which may hamper trading in government securities;
- fostering, at a later stage, the scope for other money market and risk management instruments, such as repos and interest rate futures and swaps; and
- Central bank operations to manage market liquidity.

Strengthening the demand for government securities involves acting on a broad front to build the potential investor base through measures such as:

- removing regulatory and fiscal distortions, which inhibit the development of institutional investors (e.g., pension reform);
- eliminating below-market-rate funding through captive investor sources; and
- implementing appropriate rules and regulatory regime affecting participation by foreign investors in the domestic market.

In developing the supply of government securities the key elements for establishing an efficient primary market include:

- establishing clear objectives for security issuance and debt management;
- developing basic projections of the government's liquidity needs;
- creating safe and efficient channels for the distribution of securities (e.g., auctions, syndication, possible use of primary dealers) targeted to investor needs and thereby lowering transaction costs;
- progressively extending the maturity of government securities;
- consolidating the number of debt issues and creating standardized securities with conventional maturities with a view to eventually provide market benchmarks; and
- moving towards a predictable and transparent debt management operation, e.g., with pre-announced issuance calendars, and greater disclosure of funding needs and auction outcomes.

The development of government securities markets is discussed in more detail in Handbook on Development of Government Bond Markets, World Bank in cooperation with the International Monetary Fund (forthcoming).

64. Experience suggests there is no single optimal approach for developing an efficient market for government securities. OECD countries, for example, have established government securities markets using a wide range of approaches involving different sequencing of reforms and speed of deregulation. But, experiences in developing these markets in many countries demonstrate the importance of having a sound macroeconomic policy framework, well-designed reforms to adopt and develop market-based monetary policy instruments, and careful sequencing in removing regulations around the capital account.

6.1 Portfolio diversification and instruments

65. **The government should strive to achieve a broad investor base for its domestic and foreign obligations, with due regard to cost and risk, and should treat investors equitably.** Debt issuers can support this objective by diversifying the stock of debt across the yield curve or through a range of market instruments. Such actions could be particularly beneficial to emerging market countries seeking to minimize rollover risk. At the same time, issuers need to be mindful of the cost of doing this and the market distortions that might arise, since investors may favor particular segments of the yield curve, or specific types of instruments. And, in less-developed markets, the nominal yield curve may extend only to relatively short-term securities. Attempting to extend the yield curve quickly beyond that point may be impractical or infeasible. This has led some emerging market countries to issue large amounts of longer-term inflation-indexed debt and floating-rate debt, since such debt may be attractive to investors in countries where government indebtedness is high, and the credibility of the monetary authorities is low.

66. As investors seek to diversify their risks through buying a range of securities and investments, debt managers should attempt to diversify the risks in their portfolios of liabilities by issuing securities at different points along the yield curve (different maturity dates), issuing securities at different points during the year (rather than issuing a large amount of securities in a single offering), offering securities with different cash flow characteristics (for example, fixed coupon or floating-rate, nominal or indexed) and securities targeted at specific investors (for example, wholesale or retail investors, or in certain circumstances, domestic and foreign investors).³⁴ In so doing, debt managers should strive to treat investors equitably and, where possible, develop the overall liquidity of their debt instruments. This would increase their attractiveness to investors, and reduce the liquidity premium that investors demand, as well as reduce the risk that the pricing of government securities could be significantly affected by the actions of a small number of market participants. A well-balanced approach aimed at broadening the investor base and spreading rollover risks, while at the same time recognizing the benefits of building liquid benchmark issues, should contribute to the objective of lowering debt costs over the long run.
67. Offering a range of debt management instruments with standardized features in the domestic market helps make financial markets more complete, which enables all participants to better hedge their financial commitments and exposures, thus contributing to reduced risks premia and vulnerability in the economy more generally.
68. Where appropriate, issuing instruments with embedded options (such as savings bonds, which are redeemable by the bondholder on demand) may also contribute to instrument diversification. However, even where valid reasons exist for issuing such securities, debt managers should exercise considerable caution to ensure that the risks inherent in embedded options and other derivative instruments are integrated in the risk management framework, and that the instruments and risks are well understood by the issuer and other market participants.

6.2 Primary market

69. **Debt management operations in the primary market should be transparent and predictable.** Regardless of the mechanism used to raise funds, experience suggests that borrowing costs are typically minimized and the market functions most efficiently when government operations are transparent – for example, by publishing borrowing plans well in advance and acting consistently when issuing new securities – and when the issuer creates a level playing field for investors. The terms and conditions of new issues should be publicly disclosed and clearly understood by investors. The rules governing new issues should treat investors equitably. And, debt managers should maintain an ongoing dialogue with market participants and monitor market developments so that they are in a position to react quickly when circumstances require.
70. **To the extent possible, debt issuance should use market-based mechanisms, including competitive auctions and syndications.** In the primary market for government securities, best practice suggests that governments typically strive, where feasible, to use market-based mechanisms to raise funds. For domestic currency borrowings, this typically involves auctions of government securities, although syndications have been successfully used by borrowers that do not have a need to raise funds on a regular basis, or are introducing a new instrument to the market.³⁵ Governments should rarely cancel auctions because of market conditions, or cut off the amounts awarded below the preannounced tender amount in order to achieve short-run debt service cost objectives. Experience has shown that such practices affect credibility and damage the integrity of the auction process, causing risk premia to rise, hampering market development, and causing long-run debt service costs to increase.

6.3 Secondary market

71. **Governments and central banks should promote the development of resilient secondary markets that can function effectively under a wide range of market conditions.** In many countries, debt managers and central banks work closely with financial sector regulators and market participants in this regard. This includes supporting market participants in their efforts to develop codes of conduct for trading participants, and working with them to ensure that trading practices and systems continuously evolve and reflect best practices. It can also include promoting the development of an active repo market, in order to enhance liquidity in the underlying securities, and minimize credit risk through collateralization.³⁶
72. A government can promote the development and maintenance of an efficient secondary market for its securities by removing both taxation and regulatory impediments that hinder investors' willingness to trade securities. These include removing possible regulations that provide captive funding from financial intermediaries to the government at low interest rates, and modifying tax policies that distort investment in and trading of financial and nonfinancial assets. In addition, government approaches to regulating financial markets and market participants often include a wide range of disclosure and supervision requirements to reduce the risk of fraud, and limit the risk that market participants may adopt imprudent asset and liability management practices that could increase the risk of insolvency and systemic failure in the financial system.

³⁴ Some countries are considering attaching renegotiation or collective action clauses to their debt instruments, such as majority voting rules.

³⁵ Some governments have found that introducing a network of market makers can be a useful mechanism for distributing securities and fostering deep and liquid markets. Some countries have used primary dealers for this role, while others have sought to encourage a more open financial marketplace. Where primary dealers operate, the incentives and obligations, as well as eligibility criteria to become a primary dealer, need to be defined and disclosed.

³⁶ Committee on the Global Financial System, "How Should We Design Deep and Liquid Markets? The Case of Government Securities," Bank for International Settlements, Basel, October 1999.

73. Central banks play a crucial role in promoting the development and maintenance of efficient markets for government securities through the pursuit of sound monetary policies. By conducting monetary policy in a way that is consistent with their stated monetary policy objectives, central banks help to increase the willingness of market participants to engage in transactions across the yield curve. Central banks are increasingly implementing monetary policy using indirect instruments that involve transactions in government securities. Proper design and use of such instruments have typically played an important role in contributing to deep and liquid markets for these securities. For example, day-to-day open market operations to implement monetary policy can foster adequate market liquidity, thereby contributing to well-functioning financial markets.
74. **The systems used to settle and clear financial market transactions involving government securities should reflect sound practices.**³⁷ Sound and efficient payments, settlement, and clearing systems help to minimize transaction costs in government securities markets and contain system risk in the financial system, thereby contributing to lower financing costs for the government. Agencies responsible for the payments, settlement and clearing systems for financial transactions normally work closely with market participants to ensure that these systems are able to function well under a wide range of trading conditions.
- Tax-exempt or reduced tax debt. This practice is used to encourage the placement of government debt. the impact on the deficit is ambiguous, since it will depend upon the taxation of competing assets and whether the after-tax rate of return on taxable and tax-exempt government paper are equalized.
3. Misreporting of contingent or guaranteed debt liabilities. This may understate the actual level of the government's liabilities.
- Inadequate coordination or procedures with regard to borrowings by lower levels of government, which may be guaranteed by the central government, or by state-owned enterprises.
 - Repeated debt forgiveness for lower levels of government or for state-owned enterprises.
 - Guaranteeing loans, which have a high probability of being called (without appropriate budgetary provisions).
4. Use of non-market financing channels. In some cases the practice can be unambiguously distortionary.
- Special arrangements with the central bank for concessional credit, including zero/low interest overdrafts or special treasury bills.
 - Forced borrowing from suppliers either through expenditure arrears or through the issuance of promissory notes, and tied borrowing arrangements. These practices tend to raise the price of government expenditures.
 - Creating a captive market for government securities. For example, in some countries the government pension plan is required to buy government securities. In other cases, banks are required to acquire government debt against a certain percentage of their deposits. While some forms of liquid asset ratios can be a useful prudential tool for liquidity management, they can have distortionary effects on debt servicing costs, as well as on financial market development.
5. Improper oversight and/or recording of debt contracting and payment, and/or of debt holders. Government control over the tax base and/or the supply of outstanding debt is reduced.
- Failing to record implicit interest on zero-interest long-term debt. While helping the cash position of the government, if the implicit interest is not recorded, the true deficit is understated.
 - Too broad an authority to incur debt. This can be due to the absence of parliamentary reporting requirements on debt incurred, or the absence of a borrowing limit or debt ceiling. However, the authority must ensure that existing debt service obligations are met.
 - Inadequate controls regarding the amount of debt outstanding. In some countries a breakdown in internal operations and poor documentation led to more debt being issued than had been officially authorized.
 - Onerous legal requirements with respect to certain forms of borrowing. In some countries, more onerous legal requirements with respect to long maturity borrowings (relative to short maturity borrowings) have led to disproportionate reliance on short-term borrowings, which compounds rollover risk.
40. Some emerging market governments would be well served to accept higher liquidity premia to keep rollover risks under control, since concentrating the debt in benchmark issues at key points along the yield curve may increase rollover risk. On the other hand, reopening previously issued securities to build benchmark issues can

37 Relevant work in this area includes: The Group of Thirty (G30) recommendations on clearance and settlement of securities transactions (1989), which cover nine general principles including such aspects as central depositories, netting schemes, delivery versus payment systems, settlement conventions, and securities lending; the Disclosure Framework for Securities Settlement Systems published by the Committee on Payment and Settlement Systems (CPSS) and the International Organization of Securities Commissions (IOSCO), 1997; the CPSS Core Principles for Systemically Important Payment Systems, 2001; and the CPSS-IOSCO Joint Task Force consultative report, Recommendations for Securities Settlement Systems (2001).

enhance market liquidity, thereby reducing the liquidity risk premia in the yields on government securities and lowering government debt service costs. Governments seeking to build benchmark issues often hold liquid financial assets, spread the maturity profile of the debt portfolio across the yield curve, and use domestic debt buybacks, conversions or swaps of older issues with new issues to manage the associated rollover risks.

41. Some debt managers also have treasury management responsibilities.²³ In countries where debt managers are also responsible for managing liquid assets, debt managers have adopted a multi-pronged approach to the management of credit risk inherent in their investments in liquid financial assets, and financial derivatives transactions.²⁴ In countries where credit ratings are widely available, debt managers should limit investments to those that have credit ratings from independent credit rating agencies that meet a preset minimum requirement. All governments, however, should set exposure limits for individual counterparties that take account of the government's actual and contingent consolidated financial exposures to that counterparty arising from debt and foreign exchange reserves management operations. Credit risk can also be managed by holding a diversified portfolio across a number of acceptable financial counterparties and also through collateral agreements. Settlement risk is controlled by having clearly documented settlement procedures and responsibilities, and often placing limits on the size of payments flowing through any one settlement bank.
42. **In order to help guide borrowing decisions and reduce the government's risk, debt managers should consider the financial and other risk characteristics of the government's cash flows.** Rather than simply examining the debt structure in isolation, several governments have found it valuable to consider debt management within a broader framework of the government's balance sheet and the nature of its revenues and cash flows. Irrespective of whether governments publish a balance sheet, conceptually all governments have such a balance sheet, and consideration of the financial and other risks of the government's assets can provide the debt manager with important insights for managing the risks of the government's debt portfolio. For example, a conceptual analysis of the government's balance sheet may provide debt managers with useful insights about the extent to which the currency structure of the debt is consistent with the revenues and cash flows available to the government to service that debt. In most countries, these mainly comprise tax revenues, which are usually denominated in local currency. In this case, the government's balance sheet risk would be reduced by issuing debt primarily in long-term, fixed rate, domestic currency securities. For countries without well-developed domestic debt markets, this may not be feasible, and governments are often faced with the choice between issuing short-term or indexed domestic debt and foreign currency debt. Issues such as crowding out of private sector borrowers and the difficulties of issuing domestic currency debt in highly dollarized economies should also be considered. But the financial analysis of the government's revenues and cash flows provides a sound basis for measuring the costs and risks of the feasible strategies for managing the government's debt portfolio. The asset and liability management approach is summarized in Box 3.
43. Some countries have extended this approach to include other government assets and liabilities. For example, in some countries where the foreign exchange reserves are funded by foreign currency borrowings, debt managers have reduced the government's balance sheet risk by ensuring that the currency composition of the debt that backs the reserves, after taking account of derivatives and other hedging transactions, reflects the currency composition of the reserves. However, other countries have not adopted this practice because of considerations relating to exchange rate objectives and the institutional framework, including intervention and issues related to the role and independence of the central bank.
44. **Debt managers should carefully assess and manage the risks associated with foreign-currency and short-term or floating rate debt.** Debt management strategies that include an over reliance on foreign currency or foreign currency-indexed debt and short-term or floating rate debt are very risky. For example, while foreign currency debt may appear, ex ante, to be less expensive than domestic currency debt of the same maturity (given that the latter may include higher currency risk and liquidity premia), it could prove to be costly in volatile capital markets or if the exchange rate depreciates. Debt managers should also be aware of the fact that the choice of exchange rate regime can affect the links between debt management and monetary policy. For example, foreign currency debt may appear to be cheaper in a fixed exchange rate regime because the regime caps exchange rate volatility. However, such debt can prove to be very risky if the exchange rate regime becomes untenable.
45. Short-term or floating rate debt (whether domestic or foreign currency-denominated), which may appear, ex ante, to be less expensive over the long run in a positively-sloped yield curve environment, can create substantial rollover risk for the government. It may also constrain the central bank from raising interest rates to address inflation or support the exchange rate because of concerns about the short-term impact on the government's financial position. However, such actions might be appropriate from the viewpoint of macroeconomic management and, by lowering risk premiums, may help to achieve lower interest rates in the longer run. Macro-vulnerabilities could be exacerbated if there is a sudden shift in market sentiment as to the government's ability to repay, or when contagion effects from other countries lead to markedly higher interest rates. Many emerging market governments have too much short-term and floating-rate debt. However, over reliance on longer-term fixed rate financing also carries risks if, in some circumstances, it tempts governments to deflate the value of such debt in real terms by initiating surprise inflation. Any such concerns would be reflected in current and future borrowing costs. Also, unexpected disinflation would increase the ex-post debt-servicing burden in real terms. This could create strains in countries, which because of an already heavy debt burden, have to pay a higher risk premium.

King Committee, King Committee Report on Corporate Governance for South Africa (2002, Johannesburg, South Africa)

The King Committee Report on Corporate Governance for South Africa has not been included due to copyright regulations. It can be purchased from:

The Institute of Directors in Southern Africa
2nd Floor, 15 Wellington Road
Parktown 2193
South Africa
(P.O. Box 908, Parklands 2121, South Africa)
Telephone: +27 (0) 11 643-8086
Telefacsimile +27 (0) 11 484-1416
E-mail: iodsa@iodsa.co.za
Website: www.iodsa.co.za

Organisation of African Unity (OAU), African Charter on Human and Peoples' Rights (1981, Nairobi, Kenya)

Also called the "Banjul Charter", the African Charter was adopted in Nairobi, Kenya on 27 June 1981 and entered into force on 21 October 1986. CAB/LEG/67/3/Rev 5

PREAMBLE

The African states member of the Organization of African Unity, parties to the present Convention entitled "African Charter on Human and Peoples' Rights";

RECALLING Decision 115(XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of "a preliminary draft on an African Charter on Human and Peoples' Rights providing inter alia for the establishment of bodies to promote and protect human and peoples' rights";

CONSIDERING the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";

REAFFIRMING the pledge they solemnly made in article 2 of the said Charter to eradicate all forms of colonialism from Africa, to co-ordinate and intensify their co-operation and efforts to achieve a better life for the peoples of Africa and to promote international co-operation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights;

TAKING INTO CONSIDERATION the virtues of their historical tradition and the values of African civilisation which should inspire and characterise their reflection on the concept of human and peoples' rights;

RECOGNISING on the one hand, that fundamental human rights stem from the attributes of human beings, which justifies their international protection and on the other hand, that the reality and respect of peoples' rights should necessarily guarantee human rights;

CONSIDERING that the enjoyment of rights and freedom also implies the performance of duties on the part of everyone;

CONVINCED that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights;

CONSCIOUS of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neo-colonialism, apartheid, zionism, and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, colour, sex, language, religion or political opinion;

REAFFIRMING their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations;

FIRMLY CONVINCED of their duty to promote and protect human and peoples' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa;

Have agreed as follows:

PART I: RIGHTS AND DUTIES

CHAPTER I Human and Peoples' Rights

Article 1

The member states of the Organization of African Unity parties to the present Charter shall recognise the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them.

Article 2

Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7

1. Every individual shall have the right to have his cause heard. This comprises:
 - a. the right to an appeal to competent national organs against acts violating his fundamental rights as recognised and guaranteed by conventions, laws, regulation and customs in force;
 - b. the right to be presumed innocent until proved guilty by a competent court or tribunal;
 - c. the right to defence, including the right to be defended by counsel of his choice;
 - d. the right to be tried within a reasonable time by an impartial court or tribunal.
2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

Article 9

1. Every individual shall have the right to receive information.
2. Every individual shall have the right to express and disseminate his opinions within the law.

Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in article 29, no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a state provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions provided for by law for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a state party to the present Charter, may only be expelled from it by virtue of a decision taken in accordance with the law.
5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

Article 13

1. Every citizen shall have the right to participate freely in the Government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.
3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

Article 14

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions and shall receive equal pay for equal work.

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. State parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 17

1. Every individual shall have the right to education.
2. Every individual may freely take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognised by the community shall be the duty of the state.

Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the state which shall take care of its physical and moral health.
2. The state shall have the duty to assist the family which is the custodian of morals and traditional values recognised by the community.
3. The state shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 20

1. All peoples shall have right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonised or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognised by the international community.
3. All peoples shall have the right to the assistance of the state parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.
2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.
3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic co-operation based on mutual respect, equitable exchange and the principles of international law.
4. State parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
5. State parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practised by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between states.
2. For the purpose of strengthening peace, solidarity and friendly relations, state parties to the present Charter shall ensure that:
 - a. any individual enjoying the right of asylum under article 12 of the present Charter shall not engage in

- subversive activities against his country of origin or any other state party to the present Charter;
- b. their territories shall not be used as bases for subversive or terrorist activities against the people of any other state party to the present Charter.

Article 24

All people shall have the right to a general satisfactory environment favourable to their development.

Article 25

State parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

State parties to the present Charter shall have the duty to guarantee the independence of the courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

CHAPTER II Duties**Article 27**

1. Every individual shall have duties towards his family and society, the state and other legally recognised communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the state whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

PART II: MEASURES OF SAFEGUARD**CHAPTER I Establishment and Organisation of the African Commission on Human and Peoples' Rights****Article 30**

An African Commission on Human and Peoples' Rights, hereinafter called "the Commission", shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.

Article 31

1. The Commission shall consist of eleven members chosen from amongst African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience.
2. The members of the Commission shall serve in their personal capacity.

Article 32

The Commission shall not include more than one national of the same state.

Article 33

The members of the Commission shall be elected by secret ballot by the Assembly of Heads of State and Government, from a list of persons nominated by the state parties to the present Charter.

Article 34

Each state party to the present Charter may not nominate more than two candidates. The candidates must have the nationality of one of the state parties to the present Charter. When two candidates are nominated by a state, one of them may not be a national of that state.

Article 35

1. The Secretary-General of the Organization of African Unity shall invite state parties to the present Charter at least four months before the elections to nominate candidates.
2. The Secretary-General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

Article 36

The members of the Commission shall be elected for a six-year period and shall be eligible for reelection. However, the term of office of four of the members elected at the first election shall terminate after two years and the term of office of the three others, at the end of four years.

Article 37

Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to decide the names of those members referred to in article 36.

Article 38

After their election, the members of the Commission shall make a solemn declaration to discharge their duties impartially and faithfully.

Article 39

1. In case of death or resignation of a member of the Commission, the Chairman of the Commission shall immediately inform the Secretary-General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.
2. If, in the unanimous opinion of other members of the Commission, a member has stopped discharging his duties for any reason other than a temporary absence, the Chairman of the Commission shall inform the Secretary-General of the Organization of African Unity, who shall then declare the seat vacant.
3. In each of the cases anticipated above, the Assembly of Heads of State and Government shall replace the member whose seat became vacant for the remaining period of his term unless the period is less than six months.

Article 40

Every member of the Commission shall be in office until the date his successor assumes office.

Article 41

The Secretary-General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the costs of the staff and services.

Article 42

1. The Commission shall elect its Chairman and Vice-Chairman for a two-year period. They shall be eligible for re-election.
2. The Commission shall lay down its rules of procedure.
3. Seven members shall form a quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The Secretary-General may attend the meetings of the Commission. He shall neither participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

Article 43

In discharging their duties, members of the Commission shall enjoy diplomatic privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

Article 44

Provision shall be made for the emoluments and allowances of the members of the Commission in the Regular Budget of the Organization of African Unity.

CHAPTER II Mandate of the Commission

Article 45

The functions of the Commission shall be:

1. To promote human and peoples' rights and in particular:
 - a. To collect documents, undertake studies and research on African problems in the field of human and peoples' rights, organise seminars, symposia and conferences, disseminate information, encourage national and local institutions concerned with human and peoples' rights, and, should the case arise, give its views or make

recommendations to governments;

- b. To formulate and lay down principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African governments may base their legislations;
 - c. Co-operate with other African and international institutions concerned with the promotion and protection of human and peoples' rights.
2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter.
 3. Interpret all the provisions of the present Charter at the request of a state party, an institution of the Organization of African Unity or an African organisation recognised by the Organization of African Unity.
 4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

CHAPTER III Procedure of the Commission

Article 46

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary-General of the Organization of African Unity or any other person capable of enlightening it.

Communication from States

Article 47

If a state party to the present Charter has good reason to believe that another state party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that state to the matter. This communication shall also be addressed to the Secretary-General of the Organization of African Unity and to the Chairman of the Commission. Within three months of the receipt of the communication the state to which the communication is addressed shall give the enquiring state written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable and the redress already given or course of action available.

Article 48

If, within three months from the date on which the original communication is received by the state to which it is addressed, the issue is not settled to the satisfaction of the two states involved through bilateral negotiation or by any other peaceful procedure, either state shall have the right to submit the matter to the Commission through the Chairman and shall notify the other state involved.

Article 49

Notwithstanding the provisions of article 47, if a state party to the present Charter considers that another state party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary-General of the Organization of African Unity and the state concerned.

Article 50

The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

Article 51

1. The Commission may ask the states concerned to provide it with all relevant information.
2. When the Commission is considering the matter, states concerned may be represented before it and submit written or oral representation.

Article 52

After having obtained from the states concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of human and peoples' rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in article 48, a report stating the facts and its findings. This report shall be sent to the states concerned and communicated to the Assembly of Heads of State and Government.

Article 53

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

Article 54

The Commission shall submit to each ordinary session of the Assembly of Heads of State and Government a report on its activities.

Other Communications

Article 55

1. Before each session, the Secretary of the Commission shall make a list of the communications other than those of state parties to the present Charter and transmit them to the members of the Commission, who shall indicate

which communications should be considered by the Commission.

2. A communication shall be considered by the Commission if a simple majority of its members so decide.

Article 56

Communications relating to human and peoples' rights referred to in article 55, received by the Commission, shall be considered if they:

1. Indicate their authors even if the latter request anonymity;
2. Are compatible with the Charter of the Organization of African Unity or with the present Charter;
3. Are not written in disparaging or insulting language directed against the state concerned and its institutions or to the Organization of African Unity;
4. Are not based exclusively on news disseminated through the mass media;
5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter; and
7. Do not deal with cases which have been settled by the states involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

Article 57

Prior to any substantive consideration, all communications shall be brought to the knowledge of the state concerned by the Chairman of the Commission.

Article 58

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.
2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations.
3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

Article 59

1. All measures taken within the provisions of the present Charter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide.
2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.
3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

CHAPTER IV Applicable Principles

Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provision of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights, as well as from the provisions of various instruments adopted within the specialised agencies of the United Nations of which the parties to the present Charter are members.

Article 61

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or specialised international conventions laying down rules expressly recognised by member states of the Organization of African Unity, African practices consistent with international norms on human and peoples' rights, customs generally accepted as law, general principles of law recognised by African states, as well as legal precedents and doctrine.

Article 62

Each state party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognised and guaranteed by the present Charter.

Article 63

1. The present Charter shall be open to signature, ratification or adherence of the member states of the Organization of African Unity.
2. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary-General

of the Organization of African Unity.

3. The present Charter shall come into force three months after the reception by the Secretary-General of the instruments of ratification or adherence of a simple majority of the member states of the Organization of African Unity.

PART III: GENERAL PROVISIONS

Article 64

1. After the coming into force of the present Charter, members of the Commission shall be elected in accordance with the relevant articles of the present Charter.
2. The Secretary-General of the Organization of African Unity shall convene the first meeting of the Commission at the Headquarters of the Organization within three months of the constitution of the Commission. Thereafter, the Commission shall be convened by its Chairman whenever necessary but at least once a year.

Article 65

For each of the states that will ratify or adhere to the present Charter after its coming into force, the Charter shall take effect three months after the date of the deposit by that state of its instrument of ratification or adherence.

Article 66

Special protocols or agreements may, if necessary, supplement the provisions of the present Charter.

Article 67

The Secretary-General of the Organization of African Unity shall inform member states of the Organization of the deposit of each instrument of ratification or adherence.

Article 68

The present Charter may be amended if a state party makes a written request to that effect to the Secretary-General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the draft amendment after all the state parties have been duly informed of it and the Commission has given its opinion on it at the request of the sponsoring state. The amendment shall be approved by a simple majority of the state parties. It shall come into force for each state which has accepted it in accordance with its constitutional procedure three months after the Secretary-General has received notice of the acceptance.

Organisation of African Unity (OAU), African Charter on the Rights and Welfare of the Child (1999)

OAU Doc. CAB/LEG/24.9/49 (1990), entered into force Nov. 29, 1999.

PREAMBLE

The African Member States of the Organization of African Unity, Parties to the present Charter entitled 'African Charter on the Rights and Welfare of the Child',

CONSIDERING that the Charter of the Organization of African Unity recognizes the paramountcy of Human Rights and the African Charter on Human and People's Rights proclaimed and agreed that everyone is entitled to all the rights and freedoms recognized and guaranteed therein, without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status,

RECALLING the Declaration on the Rights and Welfare of the African Child (AHG/ST.4 Rev.I) adopted by the Assembly of Heads of State and Government of the Organization of African Unity, at its Sixteenth Ordinary Session in Monrovia, Liberia, from 17 to 20 July 1979, recognized the need to take appropriate measures to promote and protect the rights and welfare of the African Child,

NOTING WITH CONCERN that the situation of most African children, remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care,

RECOGNIZING that the child occupies a unique and privileged position in the African society and that for the full and harmonious development of his personality, the child should grow up in a family environment in an atmosphere of happiness, love and understanding,

RECOGNIZING that the child, due to the needs of his physical and mental development requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,

TAKING INTO CONSIDERATION the virtues of their cultural heritage, historical background and the values of the African civilization which should inspire and characterize their reflection on the concept of the rights and welfare of the child,

CONSIDERING that the promotion and protection of the rights and welfare of the child also implies the performance of duties on the part of everyone,

REAFFIRMING ADHERENCE to the principles of the rights and welfare of the child contained in the declaration, conventions and other instruments of the Organization of African Unity and in the United Nations and in particular the United Nations Convention on the Rights of the Child; and the OAU Heads of State and Government's Declaration on the Rights and Welfare of the African Child.

HAVE AGREED AS FOLLOWS:

PART 1: RIGHTS AND DUTIES

CHAPTER ONE: RIGHTS AND WELFARE OF THE CHILD

Article 1 Obligation of States Parties

1. Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake to the necessary steps, in accordance with their Constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.
2. Nothing in this Charter shall affect any provisions that are more conducive to the realization of the rights and welfare of the child contained in the law of a State Party or in any other international Convention or agreement in force in that State.
3. Any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged.

Article 2 Definition of a Child

For the tile purposes of this Charter. a child means every human being below the age of 18 years.

Article 3 Non-Discrimination

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

Article 4 Best Interests of the Child

1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.
2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, and opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

Article 5 Survival and Development

1. Every child has an inherent right to life. This right shall be protected by law.
2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child.
3. Death sentence shall not be pronounced for crimes committed by children.

Article 6 Name and Nationality

1. Every child shall have the right from his birth to a name.
2. Every child shall be registered immediately after birth.
3. Every child has the right to acquire a nationality.
4. States Parties to the present Charter shall undertake to ensure that their Constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.

Article 7 Freedom of Expression

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

Article 8 Freedom of Association

Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law.

Article 9 Freedom of Thought, Conscience and Religion

1. Every child shall have the right to freedom of thought conscience and religion.
2. Parents, and where applicable, legal guardians shall have a duty to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interests of the child.
3. States Parties shall respect the duty of parents and where applicable, legal guardians to provide guidance and direction in the enjoyment of these rights subject to the national laws and policies.

Article 10 Protection of Privacy

No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks.

Article 11 Education

1. Every child shall have the right to an education.
2. The education of the child shall be directed to:
 - a. the promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - b. fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;
 - c. the preservation and strengthening of positive African morals, traditional values and cultures;
 - d. the preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples ethnic, tribal and religious groups;
 - e. the preservation of national independence and territorial integrity;
 - f. the promotion and achievements of African Unity and Solidarity;
 - g. the development of respect for the environment and natural resources;
 - h. the promotion of the child's understanding of primary health care.
3. States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular:
 - a. provide free and compulsory basic education;
 - b. encourage the development of secondary education in its different forms and to progressively make it free and accessible to all;

- c. make the higher education accessible to all on the basis of capacity and ability by every appropriate means;
- d. take measures to encourage regular attendance at schools and the reduction of drop-out rates;
- e. take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.
- 4. States Parties to the present Charter shall respect the rights and duties of parents, and where applicable, of legal guardians to choose for their children's schools, other than those established by public authorities, which conform to such minimum standards may be approved by the State, to ensure the religious and moral education of the child in a manner with the evolving capacities of the child.
- 5. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to schools or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.
- 6. States Parties to the present Charter shall have all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.
- 7. No part of this Article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in paragraph 1 of this Article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States.

Article 12 Leisure, Recreation and Cultural Activities

- 1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
- 2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 13 Handicapped Children

- 1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the community.
- 2. States Parties to the present Charter shall ensure, subject to available resources, to a disabled child and to those responsible for his care, of assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his cultural and moral development.
- 3. The States Parties to the present Charter shall use their available resources with a view to achieving progressively the full convenience of the mentally and physically disabled person to movement and access to public highway buildings and other places to which the disabled may legitimately want to have access to.

Article 14 Health and Health Services

- 1. Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.
- 2. States Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures:
 - a. to reduce infant and child mortality rate;
 - b. to ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - c. to ensure the provision of adequate nutrition and safe drinking water;
 - d. to combat disease and malnutrition within the framework of primary health care through the application of appropriate technology;
 - e. to ensure appropriate health care for expectant and nursing mothers;
 - f. to develop preventive health care and family life education and provision of service;
 - g. to integrate basic health service programmes in national development plans;
 - h. to ensure that all sectors of the society, in particular, parents, children, community leaders and community workers are informed and supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of domestic and other accidents;
 - i. to ensure the meaningful participation of non-governmental organizations, local communities and the beneficiary population in the planning and management of a basic service programme for children;
 - j. to support through technical and financial means, the mobilization of local community resources in the development of primary health care for children.

Article 15 Child Labour

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.
2. States Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:
 - a. provide through legislation, minimum wages for admission to every employment;
 - b. provide for appropriate regulation of hours and conditions of employment;
 - c. provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;
 - d. promote the dissemination of information on the hazards of child labour to all sectors of the community.

Article 16 Protection Against Child Abuse and Torture

1. States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.
2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting referral investigation, treatment, and follow-up of instances of child abuse and neglect.

Article 17 Administration of Juvenile Justice

1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.
2. States Parties to the present Charter shall in particular:
 - a. ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment;
 - b. ensure that children are separated from adults in their place of detention or imprisonment;
 - c. ensure that every child accused in infringing the penal law:
 - i. shall be presumed innocent until duly recognized guilty;
 - ii. shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used;
 - iii. shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence;
 - iv. shall have the matter determined as speedily as possible by an impartial tribunal and if found guilty, be entitled to an appeal by a higher tribunal;
 - d. prohibit the press and the public from trial.
3. The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, re-integration into his or her family and social rehabilitation.
4. There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.

Article 18 Protection of the Family

1. The family shall be the natural unit and basis of society. it shall enjoy the protection and support of the State for its establishment and development.
2. States Parties to the present Charter shall take appropriate steps to ensure equality of rights and responsibilities of spouses with regard to children during marriage and in the even of its dissolution. In case of the dissolution, provision shall be made for the necessary protection of the child.
3. No child shall be deprived of maintenance by reference to the parents' marital status.

Article 19 Parent Care and Protection

1. Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law, that such separation is in the best interest of the child.
2. Every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.
3. Where separation results from the action of a State Party, the State Party shall provide the child, or if appropriate, another member of the family with essential information concerning the whereabouts of the absent member or members of the family. States Parties shall also ensure that the submission of such a request shall not entail any

adverse consequences for the person or persons in whose respect it is made.

4. Where a child is apprehended by a State Party, his parents or guardians shall, as soon as possible, be notified of such apprehension by that State Party.

Article 20 Parental Responsibilities

1. Parents or other persons responsible for the child shall have the primary responsibility of the upbringing and development the child and shall have the duty:
 - a. to ensure that the best interests of the child are their basic concern at all times-
 - b. to secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and
 - c. to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.
2. States Parties to the present Charter shall in accordance with their means and national conditions the all appropriate measures;
 - a. to assist parents and other persons responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health, education, clothing and housing;
 - b. to assist parents and others responsible for the child in the performance of child-rearing and ensure the development of institutions responsible for providing care of children; and
 - c. to ensure that the children of working parents are provided with care services and facilities.

Article 21 Protection against Harmful Social and Cultural Practices

1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:
 - a. those customs and practices prejudicial to the health or life of the child; and
 - b. those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

Article 22 Armed Conflicts

1. States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child.
2. States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain in particular, from recruiting any child.
3. States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife.

Article 23 Refugee Children

1. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.
2. States Parties shall undertake to cooperate with existing international organizations which protect and assist refugees in their efforts to protect and assist such a child and to trace the parents or other close relatives or an unaccompanied refugee child in order to obtain information necessary for reunification with the family.
3. Where no parents, legal guardians or close relatives can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason.
4. The provisions of this Article apply mutatis mutandis to internally displaced children whether through natural disaster, internal armed conflicts, civil strife, breakdown of economic and social order or howsoever caused.

Article 24 Adoption

States Parties which recognize the system of adoption shall ensure that the best interest of the child shall be the paramount consideration and they shall:

- a. establish competent authorities to determine matters of adoption and ensure that the adoption is carried out in conformity with applicable laws and procedures and on the basis of all relevant and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and guardians and that, if necessary, the appropriate persons concerned have given their informed consent to the adoption on the basis of appropriate counselling;
- b. recognize that inter-country adoption in those States who have ratified or adhered to the International

Convention on the Rights of the Child or this Charter, may, as the last resort, be considered as an alternative means of a child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

- c. ensure that the child affected by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- d. take all appropriate measures to ensure that in inter-country adoption, the placement does not result in trafficking or improper financial gain for those who try to adopt a child;
- e. promote, where appropriate, the objectives of this Article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework to ensure that the placement of the child in another country is carried out by competent authorities or organs;
- f. establish a machinery to monitor the well-being of the adopted child.

Article 25 Separation from Parents

1. Any child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance;
2. States Parties to the present Charter:
 - a. shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, foster placement, or placement in suitable institutions for the care of children;
 - b. shall take all necessary measures to trace and re-unite children with parents or relatives where separation is caused by internal and external displacement arising from armed conflicts or natural disasters.
3. When considering alternative family care of the child and the best interests of the child, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious or linguistic background.

Article 26 Protection Against Apartheid and Discrimination

1. States Parties to the present Charter shall individually and collectively undertake to accord the highest priority to the special needs of children living under Apartheid and in States subject to military destabilization by the Apartheid regime.
2. States Parties to the present Charter shall individually and collectively undertake to accord the highest priority to the special needs of children living under regimes practising racial, ethnic, religious or other forms of discrimination as well as in States subject to military destabilization.
3. States Parties shall undertake to provide whenever possible, material assistance to such children and to direct their efforts towards the elimination of all forms of discrimination and Apartheid on the African Continent.

Article 27 Sexual Exploitation

1. States Parties to the present Charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse and shall in particular take measures to prevent:
 - a. the inducement, coercion or encouragement of a child to engage in any sexual activity;
 - b. the use of children in prostitution or other sexual practices;
 - c. the use of children in pornographic activities, performances and materials.

Article 28 Drug Abuse

States Parties to the present Charter shall take all appropriate measures to protect the child from the use of narcotics and illicit use of psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the production and trafficking of such substances.

Article 29 Sale, Trafficking and Abduction

States Parties to the present Charter shall take appropriate measures to prevent:

- a. the abduction, the sale of, or traffick of children for any purpose or in any form, by any person including parents or legal guardians of the child;
- b. the use of children in all forms of begging.

Article 30 Children of Imprisoned Mothers

1. States Parties to the present Charter shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall in particular:
 - a. ensure that a non-custodial sentence will always be first considered when sentencing such mothers;
 - b. establish and promote measures alternative to institutional confinement for the treatment of such mothers;
 - c. establish special alternative institutions for holding such mothers;
 - d. ensure that a mother shall not be imprisoned with her child;
 - e. ensure that a death sentence shall not be imposed on such mothers;

- f. the essential aim of the penitentiary system will be the reformation, the integration of the mother to the family and social rehabilitation.

Article 31 Responsibility of the Child

Every child shall have responsibilities towards his family and society, the State and other legally recognized communities and the international community. The child, subject to his age and ability, and such limitations as may be contained in the present Charter, shall have the duty;

- a. to work for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need;
- b. to serve his national community by placing his physical and intellectual abilities at its service;
- c. to preserve and strengthen social and national solidarity;
- d. to preserve and strengthen African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and to contribute to the moral well-being of society;
- e. to preserve and strengthen the independence and the integrity of his country;
- f. to contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African Unity.

PART 2

CHAPTER TWO: ESTABLISHMENT AND ORGANIZATION OF THE COMMITTEE ON THE RIGHTS AND WELFARE OF THE CHILD

Article 32 The Committee

An African Committee of Experts on the Rights and Welfare of the Child hereinafter called 'the Committee' shall be established within the Organization of African Unity to promote and protect the rights and welfare of the child.

Article 33 Composition

1. The Committee shall consist of 11 members of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child.
2. The members of the Committee shall serve in their personal capacity.
3. The Committee shall not include more than one national of the same State.

Article 34 Election

As soon as this Charter shall enter into force the members of the Committee shall be elected by secret ballot by the Assembly of Heads of State and Government from a list of persons nominated by the States Parties to the present Charter.

Article 35 Candidates

Each State Party to the present Charter may nominate not more than two candidates. The candidates must have one of the nationalities of the States Parties to the present Charter. When two candidates are nominated by a State, one of them shall not be a national of that State.

Article 36

1. The Secretary-General of the Organization of African Unity shall invite States Parties to the present Charter to nominate candidates at least six months before the elections.
2. The Secretary-General of the Organization of African Unity shall draw up in alphabetical order, a list of persons nominated and communicate it to the Heads of State and Government at least two months before the elections.

Article 37 Term of Office

1. The members of the Committee shall be elected for a term of five years and may not be re-elected, however, the term of four of the members elected at the first election shall expire after two years and the term of six others, after four years.
2. Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to determine the names of those members referred to in subparagraph 1 of this Article.
3. The Secretary-General of the Organization of African Unity shall convene the first meeting of Committee at the Headquarters of the Organization within six months of the election of the members of the Committee, and thereafter the Committee shall be convened by its Chairman whenever necessary, at least once a year.

Article 38 Bureau

1. The Committee shall establish its own Rules of Procedure.
2. The Committee shall elect its officers for a period of two years.
3. Seven Committee members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The working languages of the Committee shall be the official languages of the OAU.

Article 39 Vacancy

If a member of the Committee vacates his office for any reason other than the normal expiration of a term, the State which nominated that member shall appoint another member from among its nationals to serve for the remainder of the term - subject to the approval of the Assembly.

Article 40 Secretariat

The Secretary-General of the Organization of African Unity shall appoint a Secretary for the Committee.

Article 41 Privileges and Immunities

In discharging their duties, members of the Committee shall enjoy the privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

CHAPTER THREE: MANDATE AND PROCEDURE OF THE COMMITTEE**Article 42 Mandate**

The functions of the Committee shall be:

- a. To promote and protect the rights enshrined in this Charter and in particular to:
 - i. collect and document information, commission inter-disciplinary assessment of situations on African problems in the fields of the rights and welfare of the child, organize meetings, encourage national and local institutions concerned with the rights and welfare of the child, and where necessary give its views and make recommendations to Governments;
 - ii. formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa;
 - iii. cooperate with other African, international and regional Institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.
- b. To monitor the implementation and ensure protection of the rights enshrined in this Charter.
- c. To interpret the provisions of the present Charter at the request of a State Party, an Institution of the Organization of African Unity or any other person or Institution recognized by the Organization of African Unity, or any State Party.
- d. Perform such other task as may be entrusted to it by the Assembly of Heads of State and Government, Secretary-General of the OAU and any other organs of the OAU or the United Nations.

Article 43 Reporting Procedure

1. Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights:
 - a. within two years of the entry into force of the Charter for the State Party concerned: and
 - b. and thereafter, every three years.
2. Every report made under this Article shall:
 - a. contain sufficient information on the implementation of the present Charter to provide the Committee with comprehensive understanding of the implementation of the Charter in the relevant country; and
 - b. shall indicate factors and difficulties, if any, affecting the fulfilment of the obligations contained in the Charter.
3. A State Party which has submitted a comprehensive first report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (a) of this Article, repeat the basic information previously provided.

Article 44 Communications

1. The Committee may receive communication, from any person, group or nongovernmental organization recognized by the Organization of African Unity, by a Member State, or the United Nations relating to any matter covered by this Charter.
2. Every communication to the Committee shall contain the name and address of the author and shall be treated in confidence.

Article 45 Investigations by the Committee

1. The Committee may, resort to any appropriate method of investigating any matter falling within the ambit of the present Charter, request from the States Parties any information relevant to the implementation of the Charter and may also resort to any appropriate method of investigating the measures the State Party has adopted to implement the Charter.
2. The Committee shall submit to each Ordinary Session of the Assembly of Heads of State and Government every two years, a report on its activities and on any communication made under Article [44] of this Charter.
3. The Committee shall publish its report after it has been considered by the Assembly of Heads of State and Government.
4. States Parties shall make the Committee's reports widely available to the public in their own countries.

CHAPTER FOUR: MISCELLANEOUS PROVISIONS

Article 46 Sources of Inspiration

The Committee shall draw inspiration from International Law on Human Rights, particularly from the provisions of the African Charter on Human and Peoples' Rights, the Charter of the Organization of African Unity, the Universal Declaration on Human Rights, the International Convention on the Rights of the Child, and other instruments adopted by the United Nations and by African countries in the field of human rights, and from African values and traditions.

Article 47 Signature, Ratification or Adherence

1. The present Charter shall be open to signature by all the Member States of the Organization of African Unity.
2. The present Charter shall be subject to ratification or adherence by Member States of the Organization of African Unity. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary-General of the Organization of African Unity.
3. The present Charter shall come into force 30 days after the reception by the Secretary-General of the Organization of African Unity of the instruments of ratification or adherence of 15 Member States of the Organization of African Unity.

Article 48 Amendment and Revision of the Charter

1. The present Charter may be amended or revised if any State Party makes a written request to that effect to the Secretary-General of the Organization of African Unity, provided that the proposed amendment is not submitted to the Assembly of Heads of State and Government for consideration until all the States Parties have been duly notified of it and the Committee has given its opinion on the amendment.
2. An amendment shall be approved by a simple majority of the States Parties.

Organisation of African Unity (OAU), Convention Governing the Specific Aspects of Refugee Problems in Africa (1969, Addis Ababa, Ethiopia)

PREAMBLE

We, the Heads of State and Government assembled in the city of Addis Ababa, from 6-10 September 1969,

1. NOTING with concern the constantly increasing numbers of refugees in Africa and desirous of finding ways and means of alleviating their misery and suffering as well as providing them with a better life and future,
2. RECOGNIZING the need for and essentially humanitarian approach towards solving the problems of refugees,
3. AWARE, however, that refugee problems are a source of friction among many Member States, and desirous of eliminating the source of such discord,
4. ANXIOUS to make a distinction between a refugee who seeks a peaceful and normal life and a person fleeing his country for the sole purpose of fomenting subversion from outside,
5. DETERMINED that the activities of such subversive elements should be discouraged, in accordance with the Declaration on the Problem of Subversion and Resolution on the Problem of Refugees adopted at Accra in 1965,
6. BEARING IN MIND that the Charter of the United Nations and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,
7. RECALLING Resolution 2312 (XXII) of 14 December 1967 of the United Nations General Assembly, relating to the Declaration on Territorial Asylum,
8. CONVINCED that all the problems of our continent must be solved in the spirit of the Charter of the Organization of African Unity and in the African context,
9. RECOGNIZING that the United Nations Convention of 28 July 1951, as modified by the Protocol of 31 January 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects the deep concern of States for refugees and their desire to establish common standards for their treatment,
10. RECALLING Resolutions 26 and 104 of the OAU Assemblies of Heads of State and Government, calling upon Member States of the Organization who had not already done so to accede to the United Nations Convention of 1951 and to the Protocol of 1967 relating to the Status of Refugees, and meanwhile to apply their provisions to refugees in Africa,
11. CONVINCED that the efficiency of the measures recommended by the present Convention to solve the problem of refugees in Africa necessitates close and continuous collaboration between the Organization of African Unity and the Office of the United Nations High Commissioner for Refugees,

Have agreed as follows:

Article 1 Definition of the term "Refugee"

1. For the purposes of this Convention, the term "refugee" shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.
2. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.
3. In the case of a person who has several nationalities, the term "a country of which he is a national" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.
4. This Convention shall cease to apply to any refugee if:
 - a. he has voluntarily re-availed himself of the protection of the country of his nationality, or,
 - b. having lost his nationality, he has voluntarily reacquired it, or,
 - c. he has acquired a new nationality, and enjoys the protection of the country of his new nationality, or,
 - d. he has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution, or,
 - e. he can no longer, because the circumstances in connection with which he was recognized as a refugee have

- ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality, or,
- f. he has committed a serious non-political crime outside his country of refuge after his admission to that country as a refugee, or,
 - g. he has seriously infringed the purposes and objectives of this Convention.
5. The provisions of this Convention shall not apply to any person with respect to whom the country of asylum has serious reasons for considering that:
 - a. he has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - b. he committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
 - c. he has been guilty of acts contrary to the purposes and principles of the Organization of African Unity;
 - d. he has been guilty of acts contrary to the purposes and principles of the United Nations.
 6. For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee.

Article 2 Asylum

1. Member States of the OAU shall use their best endeavours consistent with their respective legislations to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.
2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.
3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraphs 1 and 2.
4. Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the OAU, and such other Member States shall in the spirit of African solidarity and international cooperation take appropriate measures to lighten the burden of the Member State granting asylum.
5. Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.
6. For reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.

Article 3 Prohibition of Subversive Activities

1. Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any Member State of the OAU.
2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the OAU, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio.

Article 4 Non-Discrimination

Member States undertake to apply the provisions of this Convention to all refugees without discrimination as to race, religion, nationality, membership of a particular social group or political opinions.

Article 5 Voluntary Repatriation

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.
2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.
3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.
4. Refugees who voluntarily return to their country shall in no way be penalized for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the OAU, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.
5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and

international and intergovernmental organizations, to facilitate their return.

Article 6 Travel Documents

1. Subject to Article III, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the Schedule and Annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require. Member States may issue such a travel document to any other refugee in their territory.
2. Where an African country of second asylum accepts a refugee from a country of first asylum, the country of first asylum may be dispensed from issuing a document with a return clause.
3. Travel documents issued to refugees under previous international agreements by States Parties thereto shall be recognized and treated by Member States in the same way as if they had been issued to refugees pursuant to this Article.

Article 7 Co-operation of the National Authorities with the Organization of African Unity

In order to enable the Administrative Secretary-General of the Organization of African Unity to make reports to the competent organs of the Organization of African Unity, Member States undertake to provide the Secretariat in the appropriate form with information and statistical data requested concerning:

- a. the condition of refugees;
- b. the implementation of this Convention, and
- c. laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 8 Cooperation with the Office of the United Nations High Commissioner for Refugees

1. Member States shall co-operate with the Office of the United Nations High Commissioner for Refugees.
2. The present Convention shall be the effective regional complement in Africa of the 1951 United Nations Convention on the Status of Refugees.

Article 9 Settlement of Disputes

Any dispute between States signatories to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the Commission for Mediation, Conciliation and Arbitration of the Organization of African Unity, at the request of any one of the Parties to the dispute.

Article 10 Signature and Ratification

1. This Convention is open for signature and accession by all Member States of the Organization of African Unity and shall be ratified by signatory States in accordance with their respective constitutional processes. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organization of African Unity.
2. The original instrument, done if possible in African languages, and in English and French, all texts being equally authentic, shall be deposited with the Administrative Secretary-General of the Organization of African Unity.
3. Any independent African State, Member of the Organization of African Unity, may at any time notify the Administrative Secretary-General of the Organization of African Unity of its accession to this Convention.

Article 11 Entry into force

This Convention shall come into force upon deposit of instruments of ratification by one third of the Member States of the Organization of African Unity.

Article 12 Amendment

This Convention may be amended or revised if any member State makes a written request to the Administrative Secretary-General to that effect, provided however that the proposed amendment shall not be submitted to the Assembly of Heads of State and Government for consideration until all Member States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two-thirds of the Member States Parties to the present Convention.

Article 13 Denunciation

1. Any Member State Party to this Convention may denounce its provisions by a written notification to the Administrative Secretary-General.
2. At the end of one year from the date of such notification, if not withdrawn, the Convention shall cease to apply with respect to the denouncing State.

Article 14

Upon entry into force of this Convention, the Administrative Secretary-General of the OAU shall register it with the Secretary-General of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

Article 15 Notifications by the Administrative Secretary-General of the Organization of African Unity

The Administrative Secretary-General of the Organization of African Unity shall inform all Members of the Organization: (a) of signatures, ratifications and accessions in accordance with Article X; (b) of entry into force, in

accordance with Article XI; (c) of requests for amendments submitted under the terms of Article XII; (d) of denunciations, in accordance with Article XIII.

IN WITNESS WHEREOF WE, the Heads of African State and Government, have signed this Convention.

DONE in the City of Addis Ababa this 10th day of September 1969.

Organisation of African Unity (OAU), Declaration and Plan of Action for the Promotion and Protection of Human Rights (1999, Grand Bay, Mauritius)

The First OAU Ministerial Conference on Human Rights, meeting from 12 to 16 April, 1999 in Grand Bay, Mauritius; CONSIDERING that the promotion and protection of Human Rights is a matter of priority for Africa, and that the Conference provides a unique opportunity to carry out a comprehensive analysis and reflection on the mechanisms for the protection of Human Rights to guarantee Human Rights for accelerated development of the Continent;

RECALLING the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World adopted by the Assembly of Heads of State and Government of the OAU in 1990, as well as the Declaration establishing within the OAU, a Mechanism for Conflict Prevention, Management and Resolution adopted by the Assembly of Heads of State and Government of the OAU in Cairo (Egypt) in June 1993;

ACKNOWLEDGING that observance of human rights is a key tool for promoting collective security, durable peace and sustainable development as enunciated in the Cairo Agenda for Action on relaunching Africa's socio-economic transformation adopted by the extraordinary session of the Council of Ministers held in Cairo, Egypt, from 25 to 28 March, 1995;

TAKING NOTE of the growing recognition that violations of human rights may constitute a burden for the international community;

REAFFIRMING its commitment to the purposes and principles contained in the OAU Charter, UN Charter, the Universal Declaration of Human Rights as well as the African Charter on Human and Peoples' Rights;

DEEPLY CONCERNED by acts of genocide and other crimes against humanity perpetuated in certain parts of Africa;

EMPHASIZING that respect for Human Rights is indispensable for the maintenance of regional and international peace and security and elimination of conflicts, and that it constitutes one of the fundamental bedrocks on which development efforts should be realized.

CONSIDERING the democratization processes taking place on the Continent and the expressed desires of African peoples to live in a state of law which secures the full enjoyment of Human Rights and fundamental freedoms for all peoples, regardless of their gender, race, place of origin, religion, social status, ethnic background, political opinions or language;

FURTHER CONSIDERING the importance of the right to development, the right to international peace and security and the principles of solidarity and friendly relations between States provided for in the African Charter on Human and Peoples' Rights;

RECALLING the determination of the collective leadership in Africa to establish conditions which will ensure social justice and progress and thus enable African peoples to enjoy better standards of living in greater freedom and in the spirit of tolerance towards all;

REITERATING the need to constructively examine Human Rights issues in a spirit of justice, impartiality and non-selectivity, avoiding their use for political purposes;

RECOGNIZING the progress achieved by African States in the domain of Human Rights and the significant contribution of the African Continent to the universalization of these rights;

FURTHER RECOGNIZING the contribution made by African NGOs to the promotion and protection of Human Rights in Africa;

RECALLING the recommendations made by the Second Conference of National Human Rights Institutions held in Durban in 1998;

DETERMINED to consolidate the gains made in Africa in the promotion and protection of Human and Peoples' Rights;

SOLEMNLY ADOPTS THE GRAND BAY (MAURITIUS) DECLARATION AND PLAN OF ACTION

1. The Ministerial Conference affirms the principle that Human Rights are universal, indivisible, interdependent and inter-related and urges governments, in their policies, to give parity to economic, social and cultural rights as well as civil and political rights.
2. The Conference also affirms that the right to development, the right to a generally satisfactory healthy environment and the right to national and international peace and security are universal and inalienable rights which form an integral part of fundamental Human Rights.
3. The Conference further affirms the interdependence of the principles of good governance, the Rule of Law, democracy and development.
4. The Conference recognizes that the development of the rule of law, democracy and Human Rights calls for an independent, open, accessible and impartial judiciary, which can deliver justice promptly and at an affordable

cost. To this end, such a system requires a body of professional and competent judges enjoying conducive conditions.

5. The Conference recognises that the core Values on which Human Rights are founded, particularly (a) respect for the sanctity of life and human dignity (b) tolerance of differences (c) desire for liberty, order, fairness, prosperity and stability, are shared across all cultures. In this connection, integrating positive traditional and cultural values of Africa into the Human Rights debate will be useful in ensuring their transmission to future generations.
6. The Conference notes that Women and Children's rights issues remain of concern to all. Therefore it welcomes the decision to elaborate a Protocol to the African Charter for the more effective protection of Women's rights and calls on the OAU to convene a meeting of Government experts to examine the instrument. It urges all African States to work assiduously towards the elimination of discrimination against women and the abolition of cultural practices which dehumanize or demean women and children. The Conference also recommends to States to take the necessary measures to stop the practice of child-soldiers and to reinforce the protection of civilian populations, particularly children in conflict situations. The Conference further recommends that States adopt measures to eradicate violence against women and children, child labour, sexual exploitation of children, trafficking in children and to protect children in conflict with the law as well as refugee children.
7. The Conference notes that the rights of people with disability and people living with HIV-AIDS, in particular women and children are not always observed and urges all African States to work towards ensuring the full respect of these rights.
8. The Conference is aware that violations of Human Rights in Africa are caused among others by:
 - a. Contemporary forms of slavery
 - b. Neo-colonialism, racism and religious intolerance
 - c. Poverty, disease, ignorance and illiteracy
 - d. Conflicts leading to refugee outflows and internal population displacement
 - e. Social dislocations which may arise from the implementation of certain aspects of structural adjustment programmes
 - f. The debt problem
 - g. Mismanagement, bad governance and corruption
 - h. Lack of accountability in the management of public affairs
 - i. Monopoly in the exercise of power
 - j. Harmful traditional practices
 - k. Lack of independence of the judiciary
 - l. Lack of independent human rights institutions
 - m. Lack of freedom of the press and association
 - n. Environmental degradation
 - o. Non-compliance with the provisions of the OAU Charter on territorial integrity and inviolability of colonial borders and the right to self-determination
 - p. Unconstitutional changes of governments
 - q. Terrorism
 - r. Nepotism
 - s. Exploitation of ethnicity.

There is therefore the need to adopt a multi-faceted approach to the task of eliminating the causes of human rights violations in Africa.
9. While welcoming the improvements which have taken place in addressing the refugee problem, the Conference believes that the high number of refugees, displaced persons and returnees in Africa constitutes an impediment to development. It recognizes the link between human rights violations and population displacement and calls for redoubled and concerted efforts by States and the OAU to address the problem.
10. The Conference recognizes that the development and energization of the civil society, the strengthening of the family unit as the basis of human society, the removal of harmful traditional practices and consultation with community leaders should all be seen as building blocs in the process of creating an environment conducive to human rights in Africa and as tools for fostering solidarity among her peoples.
11. Deeply concerned about the acts of genocide, crimes against humanity and other war crimes being perpetuated in certain parts of Africa, the Conference appeals to African States to ensure that such acts are definitively eradicated on the Continent and recommends that these serious acts of violation be adequately dealt with.
12. Also concerned by the scourge of terrorism as a source of serious Human Rights violation, especially the most basic of such rights - the right to life - the Conference urges African countries to formulate and implement an African Convention for Cooperation in combatting this scourge.
13. The Conference reaffirms the commitment of Africa to the promotion, protection and observance of Human

Rights obligations. In this framework, the Conference requests those states which have not yet done so to give consideration to the ratification of all major OAU and UN Human Rights Conventions, in particular –

- a. The African Charter on Human and Peoples' Rights;
 - b. The African Charter on the Rights and Welfare of the Child;
 - c. The Convention Governing Specific Aspects of Refugee Problems in Africa;
 - d. The Protocol on the Establishment of an African Court on Human and Peoples' Rights;
 - e. International Covenant on Economic, Social and Cultural Rights;
 - f. International Covenant on Civil and Political Rights;
 - g. United Nations Convention on the Rights of the Child;
 - h. United Nations Convention on Refugees and its Protocol;
 - i. Convention on the Elimination of All Forms of Discrimination Against Women;
 - j. The Four Geneva Conventions governing the Treatment of War Wounded, Prisoners of War and Civilians as well as the Two Additional Protocols;
 - k. UN Convention Against Torture;
 - l. UN Convention on the Elimination of All Forms of Racial Discrimination;
 - m. The Statute of the International Criminal Court.
14. The Conference recognizes the necessity for States to give effect to the African Charter, International Humanitarian Law and other major international Human Rights instruments which they have ratified, in their national legislations for wider effect throughout Africa.
 15. The Conference reiterates the fact that the primary responsibility for the promotion and protection of Human Rights lies with the State. It therefore urges States to establish national human rights institutions and to provide them with adequate financial resources and ensure their independence.
 16. The Conference recognizes that the reporting obligation of States Parties under the African Charter on Human and Peoples' Rights provides an important mechanism and an opportunity for African governments to engage in a process of continuous dialogue with the African Commission. Accordingly, the Conference recommends that States Parties take appropriate measures to meet their reporting obligations under the Charter.
 17. The Conference recognizes the importance of promoting an African Civil Society, particularly NGOs, rooted in the realities of the Continent and calls on African governments to offer their constructive assistance with the aim of consolidating democracy and durable development.
 18. The Conference calls upon all international organizations – governmental, inter-governmental and non-governmental – to cooperate and harmonize their initiatives with the OAU and its relevant organs as well as the various sub-regional blocs within Africa for a more co-ordinated approach to the implementation of Human Rights in Africa and for maximum effect of such programmes and initiatives.
 19. The Conference notes that the adoption of the UN Declaration on the Protection of Human Rights Defenders by the 54th Session of the UN Commission on Human Rights marks a significant turning point, and calls on African governments to take appropriate steps to implement the Declaration in Africa.
 20. The Conference appeals to the Secretary General of the OAU and the African Commission on Human and Peoples' Rights to develop appropriate strategies and take measures to sensitize and raise the awareness of African populations about Human Rights and International Humanitarian Law through formal and non-formal educational processes comprising among others, a special module in school curricula.
 21. The Conference recognizes that the media are important actors for building bridges between governments and peoples; it, therefore, urges States Parties to guarantee a free and independent press within their national borders to enable it play a role in the promotion of human rights in Africa. To this end, the Conference appeals to the Secretary General of the OAU to look into the possibility of providing assistance to media organizations on the Continent.
 22. To ensure that Human Rights considerations are integrated into all OAU activities, the Conference recognizes the need for Human Rights to be reflected in the programmes of the Continental Organization.
 23. The Conference noting that the working of the African Commission on Human and Peoples' Rights is critical to the due observance of Human Rights in Africa, believes that there is a need to evaluate the structure and functioning of the Commission and to ascertain the extent to which it is implementing the Mauritius Plan of Action during the period of 1996- 2001, and to assist it to remove all obstacles to the effective discharge of its functions. There is also an urgent need to provide the Commission with adequate human, material and financial resources.
 24. The Conference notes that, under the African Charter on Human and Peoples' Rights, it is the Assembly of Heads of State and Government that is authorized to take decisive action on the activity reports of the African Commission on Human and Peoples' Rights and expresses the hope that the Assembly would consider delegating this task to the Council of Ministers.
 25. The Conference underscores the fact that co-operation between the African Commission and national human

rights institutions will greatly enhance respect for Human Rights in Africa. In that regard, the Conference welcomes the decision by the African Commission on Human and Peoples' Rights to grant affiliated status to National Human Rights Institutions.

26. Concerned by the fact that the external debt burden is crippling the development efforts of Africa and undermining the fostering and sustenance of respect for Human Rights, the Conference appeals to the international community, especially multilateral financial agencies, to alleviate the external debt and take all steps necessary to reduce this burden on States to enable them to fully realize the economic emancipation of their peoples and enhance the maximum enjoyment of Human Rights by African peoples.
27. The Conference requests the Secretary General of the OAU to submit this Declaration to the Assembly of Heads of State and Government, all African national governments, the African Commission on Human and Peoples' Rights, the UN High Commissioner for Human Rights and other relevant UN organs and agencies and to examine the feasibility of making this conference a regular feature of OAU activities.
28. The conference recommends to States to formulate and adopt national action plans for the promotion and protection of human rights.
29. Finally, the Conference requests the Secretary General of the OAU to submit a Report to the next Session of the Council of Ministers on the outcome of this Conference.

Adopted at Grand Bay, Mauritius on 16 April, 1999.

Organisation of African Unity (OAU), Declaration and Plan of Action on Drug Control, Abuse and Illicit Drug Trafficking in Africa (1996, Yaoundé, Cameroon)

The features of the Plan of Action elaborated herewith comprise five sections - Section I, Declaration; Section II, Main Orientations; Section III, the Role of Regional Economic Communities; Section IV, The Organization of African Unity, Section V, Sources of Finance; and Section VI; Final Considerations.

SECTION I: DECLARATION

We, the Heads of State and Government of the Organization of African Unity,

AWARE that a variety of narcotic drugs and psychotropic substances are in illicit traffic in the continent of Africa and that large quantities of psychotropic substances are diverted into the countries of Africa;

AWARE that drug abuse and illicit trafficking have become worldwide phenomena;

AWARE that Africa is targeted by drug traffickers who are taking advantage of the socioeconomic and political difficulties besetting our different countries and who are converting the continent into an extension of their worldwide network and are in the process developing markets for drug consumption wherever possible, on the continent;

AWARE that drug abuse and illicit drug trafficking have increased significantly in the countries of Africa and that these problems require to be urgently addressed to prevent their further spread;

AWARE that the drug abuse problem is multi-faceted and requires a disciplinary approach for its resolution;

AWARE of the pervasiveness of drug abuse in many African countries and that abuse and misuse of drugs cut across social strata and that youth and school children are the most vulnerable members of our societies;

AWARE that international cooperation and mutual assistance are veritable instruments in the fight against drug abuse and trafficking;

AWARE that the international drug treaties are important instruments for effective drug control, that States should accede to these treaties as part of their commitment to effective international drug control efforts and that many States in Africa are yet to become parties to these international drug treaties;

AWARE that sufficiently trained and motivated personnel are a prerequisite for introduction of effective drug control measures;

AWARE that drug abuse and illicit trafficking constitute a major obstacle to the development of our societies to the fullest extent possible and that, furthermore, drug abuse and illicit trafficking affect the people of Africa by alienating human dignity and suppressing freedom of choice;

RECOGNIZING that it is important for States that are parties to the international drug treaties to harmonize their drug laws with the international drug treaties and that States that are not parties to the international drug treaties are also required to harmonize their national drug laws with the international drug treaties in the interest of international drug control;

RECOGNIZING that national drug laws are important instruments in the fight against illicit trafficking;

RECOGNIZING that illicit drug trafficking is a crime against national and international drug laws and that there is a link between illicit drug trafficking and organized crime;

RECOGNIZING that illicit drug traffic undermines civil authorities and governments and poses a threat to political stability;

RECOGNIZING that preventive action against non-medical use, misuse and abuse of drugs is cost effective;

CONCERNED about the socio-economic consequences of drug abuse because of their particular burden on national development, productivity and social services as drug abuse affects the society, family and individual;

CONCERNED that the proceeds from illicit drug trafficking when allowed to flow into the national financial institutions can lead to a rapid increase in the money supply and thus put inflationary pressure on the economics of States;

CONVINCED that to address the suppression of drug abuse and illicit trafficking in the continent requires a joint and concerted effort by all Member States so as to avoid any weak links in our collective endeavour to combat drug abuse and illicit trafficking;

CONVINCED that the successful control of narcotic drugs and psychotropic substances on the continent calls for a coordinated, comprehensive and integrated approach as well as the commitment of governments at the highest level possible;

ACKNOWLEDGING our indebtedness to the efforts of Member States thus far in combating the drug problem and convinced that a more systematic and collective effort is required in this regard.

We hereby agree to focus on the following:

- i. Ensuring coherence of our action in drug control at national, regional and continental levels;
- ii. Fostering cooperation among countries sharing the same problems, preferably in the same region;
- iii. Setting up appropriate institutions to address illicit drug trafficking and illicit drug demand in a balanced, integrated and timely manner;
- iv. Assessing the drug problem in its two aspects of supply and demand of illicit drugs as well as ensuring the capacity of countries to address the problem;
- v. Integrating drug demand reduction programmes into the national health and social policy and providing, where not available, infrastructures for treatment of drug addicts and their social integration;
- vi. Adopting the international drug conventions and legal instruments to deal with the problem;
- vii. Developing human resources;
- viii. Evaluating periodically the programmes that are being implemented; and
- ix. Mobilizing resources at national, regional, continental and international levels for carrying out the actions identified.

We also agree on the necessity to act on the basis of Plan of Action built around these key elements and which is aimed at the establishment of a framework for eradicating drug abuse and illicit trafficking,

To identify in concrete terms priority actions that Governments can take to eradicate drug abuse and illicit trafficking,

To develop cooperation among African countries on those priority actions so that a concerted and comprehensive approach to drug control can be adopted,

To mobilize the community and non-governmental organizations in eradicating drug abuse and illicit trafficking in Africa,

To provide a framework for a coordinated, comprehensive and concerted international approach to eradicating drug abuse and illicit trafficking in Africa, and

To raise the commitment of Governments to addressing the drug problem.

SECTION II. MAIN ORIENTATIONS

We shall take steps to carry out drug control activities having in mind the main orientations elaborated below.

a. Political Will and Commitment

We shall translate our political will and commitment by the active integration of drug control into national policies by allocating adequate resources for drug control activities;

This will entail the development, adoption and review of the adequacy of the administrative and regulatory mechanisms introduced for the prevention of drug abuse and illicit trafficking.

b. Assessment of the Drug Problem

Mechanisms for the collection and analysis of the drug problem are introduced to improve formulation of policies. In addition, remedial measures are introduced to combat drug abuse and illicit trafficking and to report adequately to the international organizations;

This will be achieved by collection and collation of data on drug seizures, drugs being abused, the extent of abuse, the trends in drug abuse and illicit trafficking and the profiles of illicit drug traffickers. The data obtained will be used in periodically reviewing measures that are introduced.

c. Institution Building

National administrations or focal points for drug control are established or strengthened and given adequate resources and authority for control of drugs in an integrated and comprehensive manner.

This will be achieved by establishing or strengthening national administrations for drug control and, where not possible, establish or strengthen inter-ministerial committees for coordinating and monitoring drug control activities. The national administrations, where and when established, are required to be adequately staffed with knowledgeable, competent and committed personnel. Where more than one agency or department exists for drug control activities, they will be encouraged to promote and foster inter/agency/inter/departamental cooperation in the control of drugs nationally. National administrations for drug control will be adequately equipped.

d. Human Resources Development

National administrations for drug control will be staffed by competent, committed and motivated staff. The national administrations will also have a reservoir of manpower for drug control activities.

This will be achieved by providing training for drug law enforcement officers to detect and interdict drugs in illicit traffic using up-to-date techniques, where possible. In addition, personnel for drug demand reduction programmes will be trained in all aspects of drug demand reduction, while recognizing the need for specialization. Also, the judiciary will be offered training on the laws specific to control of narcotic drugs and psychotropic substances.

Furthermore, regular in-service training will be provided to personnel for updating of skills, knowledge and exchange of experience. It is desirable that personnel of national drug administrations are regularly screened for commitment to the goals of the drug administrations.

e. Suppression of Illicit Drug Traffic

Suppression of illicit drug trafficking is achieved through the adoption and enforcement of adequate national legal systems, providing adequate security throughout the country and establishment of adequately equipped forensic laboratory for identification of substances seized in illicit traffic. Drug laws are enacted that are consistent with the international drug treaties, adequate number of personnel in drug law enforcement are employed, full time security coverage of ports, land borders and post offices are provided and the drug laws are enforced through arrests, prosecution of suspects and imposition of appropriate penal sanctions. The enhancement of the skills of drug law enforcement officers and the provision of adequate facilities to detect and interdict narcotic drugs and psychotropic substances in illicit traffic are considered a priority. In addition, the capacity of the judiciary to deal effectively with cases of illicit drug trafficking will be improved.

f. Reducing Illicit Demand for Drugs

Promotion of rational medicinal use of narcotic drugs and psychotropic substances; adoption of measures for preventing drug abuse and misuse and the provision of treatment and social reintegration to drug addicts are given priority consideration. This will mean the promotion of regulated drug distribution channels by introducing appropriate legislation and enforcing the laws. In addition, preventive education will be promoted through appropriately educating the public by mass education campaigns and the introduction of preventive education into the school curricula. Facilities for early detection of drug addicts, treatment and social reintegration of drug addicts are established.

g. International Cooperation

Faster improved cooperation among States and between States and relevant international and inter-governmental organizations. Bilateral and multilateral cooperation agreements are entered into with one another and with inter-governmental and international organizations as well as regional economic communities. Also, through cooperation agreements entered into technical assistance in respect of control of narcotic drugs and psychotropic substances can be sought.

h. Community Mobilization

Mobilization of communities and non-governmental organizations in drug demand reduction programmes are achieved National non-governmental organizations are encouraged to become involved in drug demand reduction programmes and their capacities strengthened to complement Government programmes.

SECTION IV. ROLE OF THE ORGANIZATION OF AFRICAN UNITY

The main orientations of the Plan of Action require to be translated into concrete actions. In this regard, Member States will need the support and cooperation of the OAU to achieve the desired goal, which is the reduction of vulnerability to the drug threat. The OAU should take necessary steps to formally enlarge its mandate to include consideration of drug control activities in view of Article 72 (2)(9) of the Treaty Establishing the African Economic Community, 1991, which states that the Community shall undertake to "harmonize their efforts to put an end to the illegal production, trafficking and use of narcotic drugs and psychotropic substances and formulate sensitization and rehabilitation programmes in this field". A focal point shall be established at the Secretariat for the coordination and monitoring of drug control activities at the continental level and promotion of accession to the international drug treaties by Member States.

This focal point should either function as an independent unit or as part of an existing unit such as the ESCAS Department. The focal point, which shall be staffed by competent personnel, should liaise with the Secretariats of other regional economic communities in respect of drug control activities. The focal point will also have the responsibility of preparing and presenting annual reports of current drug situation on the continent to the meetings of Foreign Affairs' Ministers and Heads of State and Government of the OAU. In addition, the focal point will be expected to review and make recommendations on the updating of plan of action for drug control.

The OAU Secretariat will be required to maintain an inventory of African experts in the field of drug control, collate information on institutions that provide relevant training in drug control and disseminate such information to Member States. In addition, it should promote the exchange of experts in drug control between Member States and whenever required, organize seminars/workshops for updating skills of personnel of Member States in drug control activities.

The OAU Secretariat should consider initiating discussions with international and intergovernmental organizations with a view to facilitate the exchange of information required for interdiction of drugs in illicit traffic on the Continent and for the arrest of suspected illicit drug traffickers.

The OAU will be expected to establish a forum for consultations by experts on drug demand reduction programmes as a way of improving knowledge and skills. The cooperation of international organizations such as the UNDCP, UNESCO, UNICEF, WHO and the ILO may be required in this respect. The OAU will consider using its facilities to promote international cooperation in the field of drug control. This can be achieved by the initiation and participation of the OAU at interregional and international meetings on drug control. The OAU can also promote cooperation for mutual assistance with other Member States, regional groupings outside Africa, and international

and inter-governmental organizations. In addition, the OAU will be expected to cooperate and collaborate with the UNDCP, UNECA, UNAFRI and other UN Agencies. With respect to the UNDCP, the Organization of African Unity has signed a Memorandum of Understanding which laid down the grounds for collaboration and cooperation.

SECTION V. SOURCES OF FINANCING

Governments will make adequate budgetary allocation for controlling narcotic drugs and psychotropic substances to reflect the priority they place in devising programmes insupport of the Plan of Action.

Governments, regional economic communities and the OAU should examine existing external sources of funding.

Governments should produce a suitable framework for drug control, in line with this Plan of Action to enable them to seek assistance from these external sources. Based on the framework, the regional economic communities and the OAU can play the catalytic role in this regard.

SECTION VI. FINAL CONSIDERATION

The present Plan of Action covers the period 1997 -2001. The Secretariat of OAU is given the responsibility of monitoring its implementation and to report to the Assembly of Heads of State and Government. As provided for in paragraph 31, the report should, if necessary, contain proposals to update the Plan of Action based on the experience gained from its implementation.

By endorsing this Declaration and Plan of Action, a milestone has been reached in effectively addressing the drug problem in Africa.

Organisation of African Unity (OAU), Declaration of the Assembly of Heads of State and Government on the Establishment within the OAU of a Mechanism for Conflict Prevention, Management and Resolution (1993, Cairo, Egypt)

We, the Heads of State and Government of the Organization of African Unity, meeting in our Twenty-ninth Ordinary Session in Cairo, Egypt, from 28 - 30 June 1993, having considered the situations of conflict in our Continent and recalling the Declaration we adopted on 11th July 1990, on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, declare as follows:

1. In May 1963, when the Founding Fathers met in Addis Ababa, Ethiopia, to found the Organization of African Unity, they were guided by their collective conviction that freedom, equality, justice and dignity are legitimate aspirations of the African peoples, and by their desire to harness the natural and human resources for the advancement of the Continent in all spheres of human endeavour. The Founding Fathers were inspired by an equally common determination to promote understanding between the African peoples and co-operation among the African States, and to rekindle the aspirations of the African people for brotherhood and solidarity in a larger unity transcending linguistic, ideological, ethnic and national differences.
2. The Founding Fathers were fully convinced that to achieve these lofty objectives, conditions for peace and security must be established and maintained.
3. It was with this overriding conviction, and guided also by the Charter of the United Nations and the Universal Declaration of Human Rights, that our countries began on the arduous task of meeting the triple challenge of decolonization, economic development and maintenance of peace and security.
4. Today, thirty years later, we can look back with pride at the achievements which the Organization of African Unity has been able to make against heavy odds and the many obstacles it has had to surmount.
5. The ranks of independent countries have been strengthened; and the membership of the OAU has increased from thirty-two at its founding to fifty-two today. The frontiers of freedom in Africa have been pushed to the doors of Apartheid South Africa. And even there, significant progress has been made; and we have reasonable cause for optimism that we shall soon see the total eradication of the remaining vestiges of colonialism, racism, racial discrimination and apartheid.
6. We, however, continue to be faced by the daunting dual challenge of economic development and democratic transformation. Our countries have made tremendous efforts both individually and collectively to arrest and reverse the decline in our economies. Notwithstanding the many serious difficulties they have encountered, and the magnitude of what remains to be done, appreciable progress has been made in the social and economic fields.
7. The socio-economic situation in our Continent remains nonetheless in a precarious state. Factors including the poverty, the deterioration of the terms of trade, plummeting prices of the commodities we produce, the excruciating external indebtedness and the resultant reverse flow of resources have combined to undermine the ability of our countries to provide for the basic needs of our people. In some cases, this situation has been further compounded by external political factors.
8. We do recognise, however, that there have also been certain internal human factors and policies which have negatively contributed to the present state of affairs on the Continent.
9. No single internal factor has contributed more to the present socio-economic problems in the Continent than the scourge of conflicts in and among our countries. They have brought about death and human suffering, engendered hate and divided nations and families. Conflicts have forced millions of our people into a drifting life as refugees and displaced persons, deprived of their means of livelihood, human dignity and hope. Conflicts have gobbled-up scarce resources, and undermined the ability of our countries to address the many compelling needs of our people.
10. While reaffirming our commitment to the Declaration on the Political and Socio-Economic situation in Africa and the Fundamental Changes Taking Place in the World which we adopted during the 26th Session of our Assembly, in Addis Ababa, in July 1990, we renew our determination to work in concert in the search for speedy and peaceful resolution to all the conflicts in Africa.
11. In June last year at the Twenty-eighth meeting of our Assembly in Dakar, Senegal, we decided in principle to establish within the OAU, and in keeping with the principles and objectives of the Charter of the Organization,

a Mechanism for Conflict Prevention, Management and Resolution. We took that decision against the background of the history of many prolonged and destructive conflicts in our continent and of our limited success at finding lasting solutions to them, notwithstanding the many efforts we and our predecessors expended. In so doing, we were also guided by our determination to ensure that Africa through the Organization of African Unity plays a central role in bringing about peace and stability in the Continent.

12. We saw in the establishment of such a mechanism the opportunity to bring to the processes of dealing with conflicts in our continent a new institutional dynamism, enabling speedy action to prevent or manage and ultimately resolve conflicts when and where they occur.
13. Now, having considered the report on the Mechanism prepared by the Secretary General pursuant to our decision on the principle of its creation, we hereby establish, within the OAU, a Mechanism for preventing, managing and resolving conflicts in Africa.
14. The Mechanism will be guided by the objectives and principles of the OAU Charter; in particular, the sovereign equality of Member States, noninterference in the internal affairs of States, the respect of the sovereignty and territorial integrity of Member States, their inalienable right to independent existence, the peaceful settlement of disputes as well as the inviolability of borders inherited from colonialism. It will also function on the basis of the consent and the co-operation of the parties to a conflict.
15. The Mechanism will have as a primary objective, the anticipation and prevention of conflicts. In circumstances where conflicts have occurred, it will be its responsibility to undertake peace-making and peace-building functions in order to facilitate the resolution of these conflicts. In this respect, civilian and military missions of observation and monitoring of limited scope and duration may be mounted and deployed. In setting these objectives, we are fully convinced that prompt and decisive action in these spheres will, in the first instance, prevent the emergence of conflicts, and where they do inevitably occur, stop them from degenerating into intense or generalised conflicts. Emphasis on anticipatory and preventive measures, and concerted action in peacemaking and peace-building will obviate the need to resort to the complex and resource demanding peacekeeping operations, which our countries will find difficult to finance.
16. However, in the event that conflicts degenerate to the extent of requiring collective international intervention and policing, the assistance or where appropriate the services of the United Nations will be sought under the general terms of its Charter. In this instance, our respective countries will examine ways and modalities through which they can make practical contribution to such a United Nations undertaking and participate effectively in the peacekeeping operations in Africa.
17. The Mechanism will be built around a Central Organ with the Secretary General and the Secretariat as its operational arm.
18. The Central Organ of the Mechanism shall be composed of the States members of the Bureau of the Assembly of Heads of State and Government elected annually, bearing in mind the principles of equitable regional representation and rotation. In order to ensure continuity, the States of the outgoing Chairman and (where known) the incoming Chairman shall also be members of the Central Organ. In between Ordinary Sessions of the Assembly, it will assume overall direction and co-ordinate the activities of the Mechanism.
19. The Central Organ shall function at the level of Heads of State as well as that of Ministers and Ambassadors accredited to the OAU or duly authorized representatives. It may, where necessary, seek the participation of other OAU Member States in its deliberations particularly, the neighbouring countries. It may also seek, from within the Continent, such military, legal and other forms of expertise as it may require in the performance of its functions.
20. The proceedings of the Central Organ shall be governed by the pertinent Rules of Procedure of the Assembly of Heads of State and Government. The Central Organ shall be convened by the Chairman or at the request of the Secretary General or any Member State. It will meet at least once a year at the level of Heads of State and Government; twice a year at the ministerial level; and once a month at Ambassadorial and duly authorized representatives' level. The quorum of the Central Organ shall be two thirds of its members. In deciding on its recommendations and without prejudice to the decision-making methods provided for in the Rules of Procedure of the Assembly of Heads of State and Government, it shall generally be guided by the principle of consensus. The Central Organ shall report on its activities to the Assembly of Heads of State and Government.
21. The venue of its meetings shall ordinarily be at the Headquarters of the Organization. Meetings may also be held elsewhere if so decided through consultations among its members. The provisional agenda of the Central Organ shall be prepared by the Secretary General in consultation with the Chairman.
22. The Secretary General shall, under the authority of the Central Organ and in consultation with the parties involved in the conflict, deploy efforts and take all appropriate initiatives to prevent, manage and resolve conflicts. To this end, the Secretary General shall rely upon the human and material resources available at the General Secretariat. Accordingly, we direct the Council of Ministers, in consultation with the Secretary General, to examine ways and means in which the capacity within the General Secretariat can be built and brought to a level commensurate with the magnitude of the tasks at hand and the responsibilities expected of the organization. In his efforts, the Secretary General may also resort to eminent African personalities in consultation with the Authorities of their countries of origin. Where necessary, he may make use of other relevant expertise, send special envoys or special representatives as well as dispatch fact-finding missions to conflict areas.

23. A special Fund governed by the relevant OAU Financial Rules and Regulations shall be established for the purpose of providing financial resources to support exclusively the OAU operational activities relating to conflict management and resolution. It will be made up of financial appropriations from the regular budget of the OAU, voluntary contributions from Member States as well as from other sources within Africa. The Secretary General may, with the consent of the Central Organ, and in conformity with the principles and objectives of the OAU Charter, also accept voluntary contributions from sources outside Africa. Disbursement from the Special Fund shall be subject to the approval of the Central Organ.
24. Within the context of the Mechanism for Conflict Prevention, Management and Resolution, the OAU shall closely co-ordinate its activities with the African regional and sub-regional organizations and shall co-operate as may arise in the different subregions of the Continent.
25. The OAU shall also co-operate and work closely with the United Nations not only with regard to issues relating to peace-making but, and especially, also those relating to peace-keeping. Where necessary, recourse will be had to the United Nations to provide the necessary financial, logistical and military support for the OAU's activities in Conflict Prevention, Management and Resolution in Africa in keeping with the provisions of Chapter VIII of the UN Charter on the role of regional organizations, in the maintenance of international peace and security. In the like manner, the Secretary General of the OAU shall maintain close co-operation with other international organizations.

Organisation of African Unity (OAU), Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government (2000, Lomé, Togo)

We, Heads of State and Governments of the Organization of African Unity, meeting at the Thirty-sixth Ordinary Session of our Assembly in Lomé, Togo from 10 – 12 July, 2000 have undertaken a review of the Political Developments on the Continent and in particular the state of consolidating democracy in Africa.

We express our grave concern about the resurgence of coup d'état in Africa. We recognize that these developments are a threat to peace and security of the Continent and they constitute a very disturbing trend and serious set back to the on-going process of democratization in the Continent.

We recognize that the phenomenon of coup d'état has resulted in flagrant violations of the basic principles of our Continental Organization and of the United Nations. The phenomenon also contradicts and contravenes the position taken by our Organization in Harare in 1997 following the coup d'état in Sierra Leone, in which we unequivocally condemned and rejected any unconstitutional change of government. We reaffirm that coups are sad and unacceptable developments in our Continent, coming at a time when our people have committed themselves to respect of the rule of law based on peoples will expressed through the ballot and not the bullet.

We recall our Decision AHG/Dec.141 (XXXV), adopted during the Thirty-fifth Ordinary Session of our Assembly, in which we unanimously rejected any unconstitutional change as an unacceptable and anachronistic act, which is in contradiction of our commitment to promote democratic principles and conditions.

We recall further the mandate by the Seventieth Ordinary Session of the Council of Ministers, held in Algiers, in July 1997, to the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution to reactivate, as a matter of urgency, the sub-committee on unconstitutional change, in order to finalize its work in the light of the Harare discussions particularly, as regards the measures to apply in coup d'état situations occurring in Member States.

We reaffirm the provisions of the OAU Charter and the provisions of the African Charter on Human and Peoples' Rights.

We recognize that the principles of good governance, transparency and human rights are essential elements for building representative and stable governments and can contribute to conflict prevention.

Having reviewed the state of democracy in the Continent, and bearing in mind all our previous Decisions on this issue, as well as our strong determination to put an end to this unacceptable development.

We have agreed on the following elements of a Framework for an OAU response to Unconstitutional Changes of Government:

- a. a set of common values and principles for democratic governance;
- b. a definition of what constitutes an unconstitutional change; and
- c. measures and actions that the OAU would progressively take to respond to an Unconstitutional Change of Government; and
- d. an implementation Mechanism.

We are of the view that there is need to provide a solid underpinning to the OAU's agenda of promoting democracy and democratic institutions in Africa. Beyond invoking relevant Declarations issued by various sessions of our Assembly and the Council of Ministers, consideration could be given to the elaboration of a set of principles on democratic governance to be adhered to by all Member States of the OAU. These principles are not new; they are, as a matter of fact, contained in various documents adopted by our Organization. What is required here is to enumerate them in a coherent manner which will bear witness to our adherence to a common concept of democracy and will lay down the guiding principles for the qualification of a given situation as constituting an unconstitutional change. In this regard, and without being exhaustive, we have also agreed on the following principles as a basis for the articulation of common values and principles for democratic governance in our countries:

- i. adoption of a democratic Constitution: its preparation, content and method of revision should be in conformity with generally acceptable principles of democracy;
- ii. respect for the Constitution and adherence to the provisions of the law and other legislative enactments adopted by Parliament;
- iii. separation of powers and independence of the judiciary;
- iv. promotion of political pluralism or any other form of participatory democracy and the role of the African civil society, including enhancing and ensuring gender balance in the political process;
- v. the principle of democratic change and recognition of a role for the opposition;
- vi. organization of free and regular elections, in conformity with existing texts;

- vii. guarantee of freedom of expression and freedom of the press, including guaranteeing access to the media for all political stake-holders;
- viii. constitutional recognition of fundamental rights and freedoms in conformity with the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981;
- ix. guarantee and promotion of human rights.

We believe that the strict adherence to these principles and the strengthening of democratic institutions will considerably reduce the risks of unconstitutional change on our Continent. Indeed, experience has shown that unconstitutional changes are sometimes the culmination of a political and institutional crisis linked to non-adherence to the above common values and democratic principles. Our Organization should therefore support all efforts aimed at promoting adherence to these principles.

In order to give practical effect to the principles we have enunciated, we have agreed on the following definition of situations that could be considered as situations of unconstitutional change of government:

- i. military coup d'état against a democratically elected Government;
- ii. intervention by mercenaries to replace a democratically elected Government;
- iii. replacement of democratically elected Governments by armed dissident groups and rebel movements;
- iv. the refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.

We have also decided that:

Whenever an unconstitutional change as provided for in the definition of unconstitutional change above, takes place in a Member States, our Current Chairman of the OAU and our Secretary-General, on behalf of our Organization, should immediately and publicly condemn such a change and urge for the speedy return to constitutional order. The Current Chairman and the Secretary-General should also convey a clear and unequivocal warning to the perpetrators of the unconstitutional change that, under no circumstances, will their illegal action be tolerated or recognized by the OAU. In that regard, the Current Chairman and the Secretary-General should urge for consistency of action at the bilateral, inter-state, sub-regional and international levels. The Central Organ should thereafter convene, as a matter of urgency, to discuss the matter.

At the request of its Chairman, the Secretary-General or any OAU Member State, the Central Organ may be convened to consider any given situation that could be considered as constituting an unconstitutional change.

Following the initial response of condemning the unconstitutional change by the Central Organ:

- a. A period of up to six months should be given to the perpetrators of the unconstitutional change to restore constitutional order. During the six month period, the government concerned should be suspended from participating in the Policy Organs of the OAU. Apart from the sanctions provided for under Article 115 of the OAU Financial Rules and Regulations, the governments concerned should not participate in meetings of the Central Organ and Sessions of the Council of Ministers and the Assembly of Heads of State and Government. Its exclusion from participating in the OAU Policy Organs should not affect the country's membership in the OAU and therefore will not preclude it from honouring its basic obligations towards the Organization including financial contributions to the OAU regular budget;
- b. The Secretary-General should, during this period gather facts relevant to the unconstitutional change of Government and establish appropriate contacts with the perpetrators with a view to ascertaining their intentions regarding the restoration of 139 constitutional order in the country; the Secretary-General should seek the contribution of African leaders and personalities in the form of discreet moral pressure on the perpetrators of the unconstitutional change in order to get them to cooperate with the OAU and facilitate the restoration of constitutional order in the Member State concerned; the Secretary-General should speedily enlist the collaboration of the Regional Grouping to which the "country in crisis" belongs.

At the expiration of the six months suspension period, a range of limited and targeted sanctions against the regime that stubbornly refuses to restore constitutional order should be instituted, in addition to the suspension from participation in the OAU Policy Organs.

This could include visa denials for the perpetrators of an unconstitutional change, restrictions of government-to-government contacts, trade restrictions, etc. In implementing a sanctions regime, the OAU should enlist the cooperation of Member States, Regional Groupings and the wider International/Donor Communities. Careful attention should be exercised to ensure that the ordinary citizens of the concerned country do not suffer disproportionately on account of the enforcement of sanctions.

In order to give effect to these measures, we have decided that existing OAU mechanisms, particularly the Central Organ, at all its three levels, will be the instrument for implementing this Framework for an OAU response to unconstitutional changes in Africa. In this regard, we request our Secretary-General to explore how best to enhance the capacity of that Policy Organ to enable it implement in an effective and credible manner, the principles contained in the Framework.

We have agreed on the establishment of a Central Organ sanctions sub-committee of 5 members chosen on the basis of regional representation. The sub-committee will regularly monitor compliance with Decisions taken on situations of unconstitutional changes and recommend appropriate review measures to the Policy Organs of the OAU.

Organisation of African Unity (OAU), Declaration on the Principles Governing Democratic Elections in Africa (2002, Durban, South Africa)

I. PREAMBLE

We, the Heads of State and Government of the Organization of African Unity, meeting in Durban, South Africa, at the 38th Ordinary Session of the Assembly of the OAU, have considered the Report of the Secretary General on strengthening the role of the OAU in election observation and monitoring and the advancement of the democratization process.

CONSIDERING the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4;

REAFFIRMING the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU response to unconstitutional changes of government, which laid down a set of common values and principles for democratic governance;

CONSIDERING the CSSDCA Solemn Declaration adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa;

CONSIDERING the New African Initiative (NAI) now referred to as the New Partnership for the African's Development (NEPAD) adopted by the Assembly of the Heads of State and Government in Lusaka, Zambia, in July 2001, by which, through the Democracy and Political Governance Initiative, African Leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and subregional levels;

REAFFIRMING the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the International Covenant on Civil and Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government;

REAFFIRMING also the significance of the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, which recognized the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives;

RECALLING the Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-economic Situation in Africa and the Fundamental Changes Taking Place in the World, adopted in Addis Ababa, Ethiopia, in July 1990 wherein OAU Member States undertook to continue with the democratization of African societies and the consolidation of the democratic institutions;

RECALLING further the African Charter for Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, which emphasized the need to involve the people of Africa in the spheres of economic and political governance;

REFERRING to the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, which stressed the imperative of ensuring good governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience;

COGNIZANT of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy;

CONSIDERING the ever-growing role already played by the OAU in the observation/monitoring of elections and the need to strengthen the Organization's efforts in advancing democracy in Africa;

Agree and endorse the following Principles Governing Democratic Elections in Africa:

II. PRINCIPLES OF DEMOCRATIC ELECTIONS

1. Democratic elections are the basis of the authority of any representative government;
2. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
3. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;
4. Democratic elections should be conducted:
 - a. freely and fairly;
 - b. under democratic constitutions and in compliance with supportive legal instruments;

- c. under a system of separation of powers that ensures in particular, the independence of the judiciary;
- d. at regular intervals, as provided for in National Constitutions;
- e. by impartial, all-inclusive competent accountable electoral institutions staffed by well trained personnel and equipped with adequate logistics.

III. RESPONSIBILITIES OF THE MEMBER STATES

We commit our Governments to:

- a. take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;
- b. establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc would be addressed;
- c. establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- d. safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;
- e. promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- f. take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- g. ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure that adequate provision of funding for all registered political parties to enable them organise their work, including participation in electoral process.;
- h. ensure that adequate security is provided to all parties participating in elections;
- i. ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/or other observers/monitors;
- j. encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

IV. ELECTIONS: RIGHTS AND OBLIGATIONS

We reaffirm the following rights and obligations under which democratic elections are conducted:

1. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.
2. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.
3. Every citizen shall have the right to free association and assembly in accordance with the law.
4. Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law.
5. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.
6. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
7. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.
8. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.
9. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
10. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
11. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.

12. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission/Body in order to facilitate their duties.
13. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

V. ELECTION OBSERVATION AND MONITORING BY THE OAU

We request the OAU to be fully engaged in the strengthening of the democratization process, particularly by observing and monitoring elections in our Member States, according to the following guidelines:

1. The observation and monitoring of elections shall be undertaken subject to a memorandum of understanding between the OAU General Secretariat and the host country in accordance with the principles enshrined in this Declaration and the laws of the host country.
2. In performing their obligations, the election observers or monitors shall be guided by detailed guidelines to be prepared by the General Secretariat drawing inspiration from the essential thrust of this declaration, the specific mandates and terms of reference determined by the particular case in question as well as the wider legal framework of the country staging elections.
3. Member States should ensure that invitations to the OAU to participate in election observation or monitoring are sent at least two months before the date of the election.
4. Member States should refrain from imposing any fees and/or charges on OAU observers i.e. registration/accreditation fees etc and facilitate easy access of observers/monitors to locations of electoral events/activities and unhindered in the performance of their tasks.
5. The General Secretariat shall have the right to decline invitations to monitor elections which in its considered opinion, do not measure up to the normative standards enunciated in this Declaration.

VI. ROLE AND MANDATE OF THE GENERAL SECRETARIAT

Further request the OAU Secretary General to take all necessary measures to ensure the implementation of this Declaration by undertaking, in particular, the following activities:

- a. Strengthen its role in the observation and monitoring of elections within the legal framework of the host country, in accordance with the memorandum of understanding reached with that country;
- b. Mobilize extra-budgetary funds to augment the General Secretariat resource base so as to facilitate the implementation of this Declaration;
- c. Undertake a feasibility study on the establishment of a Democratization and Electoral Assistance Fund, to facilitate a successful implementation of this Declaration.
- d. Undertake a feasibility study on the establishment within the OAU General Secretariat of a Democratization and Election Monitoring Unit that will also discharge issues on good governance;
- e. Compile and maintain a roster of African Experts in the field of election observation and monitoring and democratization in general in order to deploy competent and professional observers and to avail itself of their services whenever necessary. Member States on their part are requested to assist by making the names of their experts available to the General Secretariat;
- f. Work out better standards of procedures, preparations and treatment for personnel selected to serve on OAU observer missions.
- g. Promote cooperation and work in partnership with African Organizations and International Organizations, as well as national institutions, non-governmental Organizations and civil society groups involved in the elected monitoring and observation work.
- h. Publish and make the General Secretariat Reports on the observation/monitoring of elections and other related activities open to all Member States and the public at large, as a means of consolidating electoral and democratic processes on the continent.

Organisation of African Unity (OAU), Memorandum of Understanding, Conference on Security, Stability, Development and Co-operation in Africa (2002, Durban, South Africa)

PREAMBLE

We the Member States of the OAU/AU;

1. Recalling the objectives and principles of the Constitutive Act of the African Union;
2. Conscious of the importance of the Conference on Security, Stability, Development and Cooperation (CSSDCA) and New Partnership for Africa's Development (NEPAD), and the convergence and complementarity of their objectives in the realization of the goals of the Constitutive Act of the African Union;
3. Emphasizing the interdependence of security and stability on the one hand and development and cooperation on the other;
4. Recalling the CSSDCA Solemn Declaration adopted by the 36th Ordinary Session of the Assembly of Heads of States and Government in Lome, Togo, in July 2000;
5. Affirming that in the exercise of our sovereign right to determine our laws and regulations, we shall conform to our legal obligations under the OAU Charter, the Treaty Establishing the African Economic Community (AEC), the Cairo Declaration on the Establishment of a Mechanism for Conflict Prevention, Management and Resolution and the Constitutive Act of the African Union, having due regard to implementing the CSSDCA Solemn Declaration;
6. Reaffirming our commitment to the maintenance of security and stability on the continent;
7. Recognizing that this commitment, which reflects the interests and aspirations of African peoples, constitutes for each participating State a present and future responsibility, heightened by experience of the past;
8. Committed to give effect and expression, by all appropriate ways and means to the duty of ensuring security and stability arising from the generally recognized principles and rules of international law and those obligations arising from treaties or other agreements, in accordance with internationally accepted norms, to which we are parties;
9. Resolved to subscribe to a set of core values and key commitments to buttress the process of security and stability in Africa and reflecting the common will to act, in the application of the principles set out in the CSSDCA Solemn Declaration;

AGREE AS FOLLOWS:

I. CORE VALUES

To respect and abide by the following indivisible core values, all of primary importance, in guiding our relations:

- a. Every African State is sovereign. Every State respects the rights inherent in the territorial integrity and political independence of all other African States, without prejudice to the provisions of Article 4 of the AU Constitutive Act, sections (d) and (h) and other relevant international instruments.
- b. The centrality of security as a multi-dimensional phenomenon that goes beyond military considerations and embraces all aspects of human existence, including economic, political and social dimensions of individual, family, community and national life.
- c. Peace and security are central to the realization of development of both the state and individuals. Thus the security of the African people, their land and property must be safeguarded to ensure stability, development and cooperation of African countries.
- d. The security of each African country is inseparably linked to that of other African countries and the African continent as a whole.
- e. The plight of African Refugees and Internally Displaced Persons constitutes a scar on the conscience of African governments and people.
- f. Africa's strategic and natural resources are the property of the people of Africa and the leadership should exploit them for the common good of the people of the continent, having due regard for the need to restore, preserve and protect the environment.
- g. Uncontrolled spread of small arms and light weapons as well as the problem of landmines, constitute a threat to peace and security in the African continent.

- h. Good governance including, accountability, transparency, the rule of law, elimination of corruption and unhindered exercise of individual rights as enshrined in the African Charter on Human and People's Rights and those of the Universal Declaration of Human Rights is a pre-requisite for sustainable peace and security in Africa as well as a necessary condition for economic development, cooperation and integration;
- i. A fundamental link exists between stability, human security, development and cooperation in a manner that each reinforces the other.
- j. Sustainable Stability in Africa demands the establishment and strengthening of democratic structures and good governance based on common tenets.
- k. The rejection of unconstitutional changes of government in any African country as a threat to order and stability in the African continent as a whole.
- l. Respect and promotion of human rights, the rule of law and equitable social order as the foundation for national and continental stability.
- m. The eradication of corruption, which undermines Africa's quest for socio-economic development and the achievement of sustainable stability in the continent.
- n. No political organisation should be created on the basis of religious, sectarian, ethnic, regional or racial considerations. Political life should be devoid of any extremism.
- o. The conduct of electoral processes in a transparent and credible manner and a concomitant obligation by the parties and candidates to abide by the outcome of such processes in order to enhance national and continental stability.
- p. Development is about expanding human freedoms. The effort of Member States at achieving development is aimed at the maximum expansion of the freedoms that people enjoy;
- q. The freedoms that Africans seek and deserve, inter alia, include freedom from hunger, freedom from disease, freedom from ignorance and access to the basic necessities for enhancing the quality of life. These freedoms can best be achieved through expansion of the economic space including the rapid creation of wealth;
- r. Economic development is a combined result of individual action. Africans must be free to work and use their creative energies to improve their well-being in their own countries. The state's involvement in the activities of individual economic actors should be supportive of individual initiatives;
- s. Acknowledgement of the important role of the state in economic development not only in providing regulatory framework but also through active cooperation with private sector, and civil society, including business associations and organizations as partners of development to promote economic growth, social and economic justice;
- t. All priorities in economic policy making shall be geared towards eliminating poverty from the continent and generating rapid and sustainable development in the shortest possible time;
- u. Cooperation and integration in Africa is key to the continent's socio-economic transformation and effective integration into the world economy;
- v. Harmonization and strengthening of the Regional Economic Communities (RECs) in key areas as an essential component of the integration process, through the transfer of certain responsibilities as well as effective reporting and communication structure involving the RECs in continental initiatives;
- w. Strong political commitment including the involvement of all stakeholders, the private sector, civil society, women and youth as a fundamental principle for the achievement of regional economic integration and development;
- x. Investment in Science and Technology as a fundamental input into the development of all sectors and raising living standards.

II. COMMITMENTS TO GIVE EFFECT TO THE CORE VALUES

To give effect to the above core values, we undertake to:

- a. Develop a collective continental architecture for promoting security and inter-African relations, that goes beyond the traditional military definition and embraces imperatives pertaining to human security, principles relating to good governance, the promotion of democracy and respect for human rights and the legitimate rights of leaders after they vacate office.
- b. Promote a policy of good neighbourliness as a foundation for enhancing inter-state relations.
- c. Recommit to the adoption of a comprehensive response for the prevention and resolution of conflict, with emphasis on the prevention and containment of conflicts before they erupt into violent confrontation and the creation of an African capacity for regional peace-support operations as a measure for conflict resolution. Commit ourselves, within this framework, to operationalize the code of conduct on Inter-African relations adopted by the 30th Ordinary Session of the Summit of Heads of State and Government in Tunis in June 1994.
- d. Strengthen, consolidate and sustain regional and continental conflict management mechanisms, with primary emphasis on the AU Mechanism for Conflict Prevention, Management and Resolution and its early warning system.

- e. Establish a strong cooperation framework for security between the Regional Economic Communities (RECs), the AU and the United Nations (UN).
- f. Undertake to address border problems that continue to threaten the prospects of peace and security in Africa by ensuring the delimitation and demarcation of the borders of Member States in a peaceful manner.
- g. Create and strengthen disaster management mechanisms at national, regional and continental levels.
- h. Implement the OAU Convention on the Prevention and Combating of Terrorism adopted in Algiers in 1999.
- i. Develop additional protocols, as appropriate, as well as an Action Plan to combat the occurrence and spread of terrorism in all its forms and manifestations.
- j. Develop policies to combat the illicit proliferation, trafficking and circulation of small arms and light weapons in Africa.
- k. Take appropriate measures for the implementation of relevant treaties on landmines, including the Ottawa Treaty on antipersonnel mines and the Kempton Park Plan of Action, as well as develop policies pertaining to the prohibition of landmines in Africa and strengthen the African capacity for landmine clearance.
- l. Implement policies and agreements designed to eliminate Mercenarism in Africa and other forms of interventions in the internal affairs of African states including the illegal exploitation of the continent's natural resources, which contributes to the escalation of conflicts on the continent.
- m. Strengthen the mechanisms for the protection of refugees as provided for in the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa through the full implementation of the Comprehensive Implementation Plan drawn up in Conakry and adopted by the Council of Ministers in Lomé, Togo, in July 2000, with the support and cooperation of the UN and other international agencies.
- n. Develop national, regional and continental strategies to eradicate criminal organisations and syndicates operating in Africa and establish joint cross-border operations to investigate and apprehend criminal elements and stop money laundering, drug and human trafficking.
- o. Adhere to the fundamental tenets of a plural democratic society as contained in the 1990 Declaration on the Political and Socio- Economic Situation in Africa and the Fundamental Changes Taking Place In the World, the 1995 Cairo Agenda for Action, the 1999 Grand Bay (Mauritius) Declaration and Plan of Action on Human Rights in Africa, the Lomé Declaration on Unconstitutional Changes and the CSSDCA Solemn Declaration of 2000, amongst others. These should include; promulgated constitution with a Bill of Rights' provision; free and fair elections at constitutionally stipulated intervals; multiparty political systems; separation of powers; an independent judiciary; a free press and freedom of expression and assembly; effective military subordination to civilian authority, and accountability and popular participation in governance.
- p. Uphold the principle of constitutionalism so that the political class and civil society at all levels, commit themselves to abiding by and respecting the provisions of the constitutions of their states.
- q. Ensure independence of the judiciary, particularly through an effective separation of powers, constitutionally guaranteed tenure of office and adequate funding.
- r. Accept the necessity for significant improvement in the African electoral process including the establishment of truly independent national electoral Commissions and other appropriate mechanisms to ensure transparency, fairness, and credibility of elections.
- s. Observance, protection and promotion of the human rights of all Africans in accordance with the provisions of the African Charter on Human and Peoples Rights, and the Grand Bay Declaration and Plan of Action on Human Rights in Africa including the speedy establishment of the African Court on Human and People's Rights by signing and/or ratification and respect of this legal instrument as well as of all international instruments on human rights.
- t. Strengthen, improve and practice good governance in public and private domains in Africa to ensure adherence to the rule of law; strict accountability by all and transparency in public affairs as called for in the 1995 Cairo Agenda for Action, and other decisions of the Assembly of Heads of State and Government.
- u. Create conditions for economic stability devoid of economic mismanagement with focus on human security and poverty eradication as called for in the 1995 Cairo Agenda for Action and the Treaty Establishing the African Economic Community (Abuja Treaty).
- v. Encourage and provide enabling conditions for popular participation by all African people in the governance and development of their countries as a basis of a people's empowerment to direct their socio-economic transformation.
- w. Provide appropriate conditions for effective participation at national and continental levels by civil society organizations, in particular women's groups, trade unions, the youth and professional associations as envisaged in the Constitutive Act of the African Union.
- x. Develop institutional and administrative capacity for dealing effectively with corruption and criminality, both of which threaten the stability of Africa.
- y. Establish an impartial, efficient, transparent and accountable civil service.
- z. Provide Central banks with the necessary autonomy to enable them to perform their roles effectively as vital

structures for economic stability.

- aa. Develop a shared vision on development, regional cooperation and integration;
- bb. Pursue accelerated development of our countries as the centre of national policies;
- cc. Promote sustainable economic growth and development through the diversification of the production structure of our economies;
- dd. Create a conducive environment to encourage domestic savings, reverse capital flight and attract foreign savings;
- ee. Ensure popular participation, equal opportunity and equitable access to resources for all our people as the basis of our development objectives and strategies;
- ff. Promote partnership, trust and transparency between leaders and citizens as critical elements of sustainable development, based on mutual responsibilities and a shared vision, and in particular, establish a conducive environment for the private sector to generate wealth;
- gg. Aim at a shared economic growth that provides opportunities to the poor and the disadvantaged groups in society, such as women, the youth and disabled;
- hh. Work out and implement the follow-up and evaluation of reproductive health policies and programmes in order to guarantee a better balance between population and economic growth;
- ii. Develop and adhere to a code of conduct on good governance aimed at establishing democratic developmental oriented states across the continent in order to foster co-operation and integration;
- jj. Invest in human resource development, particularly in the quality of education, and promote cooperation between African centres of excellence and Research and Development institutions as well as reverse the brain drain;
- kk. Promote and protect the rights and welfare of the African child;
- ll. Provide political support for regional integration by making appropriate institutional arrangements, including legislative measures, process and awareness creation to support integration;
- mm. Provide adequate financial support for regional integration and cooperation by incorporating in our annual national budgets, Member States contribution to RECs and AU, and/or putting in place a self financing mechanism to ensure their efficient functioning;
- nn. Involve all national stakeholders in the regional integration process including giving them an appropriate role;
- oo. Develop inter-African communications and transport to ensure economic growth, integration and trade amongst African countries;
- pp. Develop and adhere to a common industrial strategy that takes into account the need for a fair distribution of industries within the RECs;
- qq. Put in place mechanisms for countries that are in a position to do so, to provide additional support to African LDCs in their developmental efforts;
- rr. Consolidate the links between South–South and North–South technical cooperation through triangular models, within the spirit of enhancing collective self-reliance in Africa;
- ss. Pursue continental solidarity in all international negotiations including those on market access, debt relief, FDI, ODA, as well as the setting up of the World Solidarity Fund.
- tt. Promote rural development through a public financing mechanism and public private partnerships.

III. KEY PERFORMANCE INDICATORS

We also agree to adopt the following key performance indicators to evaluate compliance with the commitments we have undertaken in the present Memorandum of Understanding: -

A. SECURITY

1. Common Definition of Security

Establish by 2005 a framework for codifying into national laws and legislations the concept of human security as contained in the CSSDCA Solemn Declaration, in order to build confidence and collaborative security regimes at national, regional and continental levels.

2. Non-Aggression Pacts

Conclude and ratify bilateral and regional non-aggression pacts (where they do not yet exist) by 2006 on the basis of commonly agreed guidelines.

3. Africa's Common Defence Policy

Define by 2005, in accordance with Article 4 (d) of the Constitutive Act of the African Union, Africa's common defence policy in order to strengthen Africa's capacity for dealing with conflicts including dealing with external aggression.

4. Strengthening Africa's Capacity for Peace-Support Operations

Establish by 2003, the modalities or mechanisms for implementing the provisions of Article 4(h) and (j) of the

Constitutive Act of the African Union, with emphasis on the enhancement of the capacity of the Peace and Security Council to deal with issues relating to peace support operations, including standby arrangements that were recommended by African Chiefs of Defence Staff.

5. National and Regional Crime Reduction and Prevention Programmes

Establish by 2005 and strengthen in places where they already exist national and regional crime reduction and prevention programmes to deal effectively with the scourge of criminality in Africa. Such programmes should, through, the harmonization of criminal and penal codes and effective information sharing system, promote, strengthen and foster joint strategies for the management and control of all forms of crimes within the region. The programme should incorporate a mechanism for annual performance assessment. By 2005, establish effective monitoring of crime statistics by policing agencies in each country.

6. Small Arms and Light Weapons

Take appropriate measures for the effective implementation of the Bamako Declaration on an African Common Position on the illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons and the UN Programme of Action to prevent, combat and eradicate the illicit trade in small arms and light weapons in all its aspects. In particular, Member States must take the following steps by 2003:

- Establish, where they do not exist, national and regional coordination agencies or frameworks and institutional infrastructure for policy guidance, research and monitoring.
- Adopt the necessary legislative and other measures to establish as criminal offences, the illicit manufacture, possession and trade in small arms and light weapons.
- Adopt appropriate national legislations or regulations to prevent the breaching of arms embargo as decided by the UN Security Council.

Establish at national, regional and continental levels, a framework for regular dialogue with arms manufacturers and suppliers with a view to checking illicit supply of Small Arms and Light weapons.

Institute, by 2005, regional and continental conventional arms registers.

Convene, by 2004, the Second Ministerial Conference on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons to review the status of implementation of the Bamako Declaration, the UN Program of Action and the status of implementation of relevant treaties on landmines, including the Ottawa Treaty on anti-personnel mines and the Kempton Park Plan of Action. Heads of RECs should also provide status reports on the implementation of their regional programmes.

7. National Institutions for Prevention and Management of Conflicts

Establish by 2004, national institutions or mechanisms for prevention, management and resolution of conflicts at community and national levels with active involvement of Civil Society Organisations (CSOs) and Community Based Organisations (CBOs). It should include indigenous conflict resolution mechanisms, Emergency Relief Assistance and confidence building measures between ethnic, racial and national groups. Such institutions could be national focal points for regional and continental early warning.

8. Early Warning System

Operationalize by 2005, requisite infrastructure and capacity for effective Early Warning System to deal with conflicts in Africa. This should be based on a model of indicators that provides a Vulnerability Index of African countries, which would serve as an objective basis for early warning action. That mechanism should incorporate effective interlinkages and coordination at regional, continental, and international levels. As part of this process, Member States undertake to facilitate early response aimed at the prevention of conflicts.

9. Resource Based Conflicts

Given the links between illegal exploitation of resources and conflicts, the Peace and Security Council should develop by 2005, a framework for addressing the problem of illegal exploitation of resources in Africa and combating, in a concerted manner, all networks plundering the resources of Africa and using them to fuel conflicts.

10. African Borders

In conformity with the Cairo Summit Decision on borders, conclude by 2012, with the assistance of the UN cartographic unit where required, the delineation and demarcation of borders between African states, where it has not been done, to strengthen peaceful inter-state relations. The outcome of such exercises should be deposited with the African Union and the United Nations. Prior to 2012 when the process should be completed, there should be biannual review of the state of implementation.

11. Refugees

By 2003, all OAU/AU Member States that have not done so, should ratify or accede to the 1969 OAU Convention on Refugees and take appropriate measures to adopt the necessary national legislations and/or administrative measures to give full effect to its provisions.

By 2005, the OAU/AU should complete the review of the legal scope of the 1969 Convention to adapt it to current circumstances and to strengthen the implementation of the Comprehensive Implementation Plan adopted in Conakry 2000. In particular, the supervisory mechanism and oversight functions of the OAU/AU should be strengthened to ensure that Member States provide the Secretariat with information and statistics concerning the

condition of refugees, the protection of their human rights and mechanisms for mitigating the situation of refugees, separating armed elements from the refugee population and devising measures to compel rebel groups to respect the rights of refugees, returnees and displaced persons in territories under their control.

12. Confidence Building Measures

Strengthen as soon as possible, existing confidence building measures through, among other means, annual border post activities, joint border patrols, joint border development and management, regular consultations amongst security agencies operating along the borders, joint training programmes for personnel operating at the borders, including workshops and seminars to educate them on regional and continental agreements on free movement of persons, goods and services and stabilising measures for localised crisis situations for inter-state relations.

13. Terrorism

All Member States to sign and ratify the OAU Convention on the Prevention and Combating of Terrorism of 1999 so that it can enter into force by the end of 2002 and fully implement the obligations entered into therein by 2004.

To facilitate a comprehensive response to the problem of terrorism in Africa, consider by 2003, an Action Plan and a Protocol which will provide for, among other things, national, regional and continental strategies to eradicate criminal organisations and syndicates operating in Africa, effective monitoring of the movement of persons and goods across borders by utilising crime analysis and information gathering capability and establishment of joint border operations to investigate and apprehend criminal elements and to stop money laundering, drug and human trafficking.

B. STABILITY

14. Tenets of Democratic Society

By 2004 adopt, and in some cases recommit, to the fundamental tenets of a democratic society as stipulated in the CSSDCA Solemn Declaration as an African common position, namely, a Constitution and a Bill of Rights provision, where applicable, free and fair elections, an independent judiciary, freedom of expression and subordination of the military to legitimate civilian authority; rejection of unconstitutional changes of government; and implement these principles by 2005, where they are not already applicable.

15. Democratisation and Good Governance

Elaborate by 2004 principles of good governance based on sound management of public finances and commonly agreed set of indicators to be included in national legislations, including decentralization of administration and effective, transparent control of state expenditure. By 2003, all African countries should enact legislation to provide for the impartiality of the public service, the independence of the judiciary and the necessary autonomy of public institutions such as the Central bank and the office of the Auditor-general.

16. Limitation to the Tenure of Political Office Holders

Adopt by 2005 a commonly derived Code of Conduct for Political Office Holders that stipulates among others, an inviolate constitutional limitation on the tenure of elected political office holders based on nationally stipulated periodic renewal of mandates and governments should scrupulously abide by it.

17. Anti-Corruption Commission

Adoption, signing and ratification of an OAU Convention on Combating Corruption and establish by 2004 in each African country (where it is not presently in existence) an independent anticorruption Commission, with an independent budget that must annually report to the national parliament on the state of corruption in that country.

18. Independent National Electoral Commissions

Establish by 2003 where they do not exist, independent national electoral commissions and/or other appropriate mechanisms and institutions to ensure free, fair, and transparent elections in all African countries.

19. Election Observation

Adopt and standardise by 2003, guidelines for independent and effective observations of elections in AU Member States, with the provision of an effective electoral unit within the AU Commission. The guidelines must include provisions for strengthening civil society and local monitoring groups in individual African countries and the continent as a whole to support the process of ensuring free and fair elections.

The Commission should be gradually equipped and funded to conduct independent election observation by 2003. The reports of the various election observation teams of the AU should be made public.

20. Campaign Finance Reforms

Conclude by 2004 legal mechanisms for the institution of campaign finance reform including disclosure of campaign funding sources and for proportionate state funding of all political parties, to ensure transparency, equity and accountability in electoral contests.

21. Inclusive Systems of Governance

Conclude by 2004 appropriate arrangements, including electoral reforms, for the institution of more inclusive systems of government.

22. Popular Participation

Implement the provisions of the Charter for Popular Participation for development and transformation in Africa,

adopted by the Assembly of Heads of State and Government in 1990 by creating more enabling conditions for increased participation of women, the youth and civil society organizations.

23. Political Parties

Adopt by 2004, where it does not exist, enabling legislations on the formation and operation of political parties to ensure that such parties are not formed and operated on the basis of ethnic, religious, sectarian, regional or racial extremism and establish a threshold of voter support as criteria for public funding, without compromising freedom of association and the principle of multiparty democracy.

24. Rights of the Child

By 2003, all Member States should sign and ratify the African Charter on the Rights and Welfare of the Child and by 2005, fully implement the obligations entered into therein. By 2003, all Member States to ratify the UN Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict, the Protocol on the Trafficking and Sexual Exploitation of Children and all other instruments related to the Rights of the Child and implement the Protocols by 2005, including effective plans of action, in regions where they do not exist, for the demobilization of child soldiers.

25. Enact Key Elements of Bill of Rights

By 2004, pending inclusion of a Bill of Rights, including the embedded obligations of citizens, where applicable, in every constitution in Africa, all Member States should incorporate into national codes or laws, where it does not exist, provisions of habeas mandamus and habeas corpus to protect every citizen of Africa from arbitrary arrest or detention without trial and other forms of cruel and degrading treatment and put in place mechanisms for the monitoring and effective implementation of these codes.

26. Observance, Protection and Promotion of Human Rights

By 2003, all African countries that have not done so, should ratify all provisions of the Charter on Human and People's Rights, as well as all other relevant international instruments for the protection and promotion of human rights; and vigorously proceed with the implementation of such requirements including all provisions of the Charter on Peoples and Human Rights and the Grand Bay Declaration and Plan of Action on Human Rights in Africa, including the provision of required resources for the work of these bodies.

By 2004, all African countries should submit annual reports, on the status of human and peoples' rights within their countries, to the African Commission of Human and Peoples Rights. The African Commission on Human and Peoples' Rights should be provided with adequate resources to enable it to produce comprehensive, independent and publicly available annual surveys by 2006.

27. Status of Women

By 2005, take measures to promote equality of women, and ensure the representation of women in all national, regional and continental institutions, as well as the elimination of all laws that discriminate against women in African countries. They should also adopt, sign and ratify the Protocol to the African Charter relating to the Rights of Women in Africa as well as other instruments and mechanisms to guarantee and preserve the rights of women.

By 2005, all Member States to sign, ratify and accede to the UN Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women (CEDAW).

28. The Criminal Justice System

Set up by 2005 in every African country an independent Commission to determine measures for improving critical aspects of correction, reform and parole in the Criminal justice system, with particular emphasis on improving prison conditions in Africa, setting up, where it does not exist, Parole Boards, increasing the focus on rehabilitation and finding alternatives to incarceration particularly among juvenile offenders, and placing more emphasis on restorative justice.

C. DEVELOPMENT

29. Economic Growth and Development

Increase the rate of growth of the economies of Africa by an average annual growth rate of 7%, which is the minimum needed to reduce poverty as stipulated in the International Development Goals and reaffirmed in NEPAD and in previous agreements and commitments.

30. Savings and Investments

Increase the savings and investment ratio to the level needed to achieve the 7% growth rate mentioned above.

31. Capital Flight

Reduce levels of capital flight by half by 2008 through appropriate policy measures, with a view to eliminating it by 2015.

32. Foreign Direct Investment

Increase Africa's share of Foreign Direct Investment (FDI) inflows from the current 1% of total global FDI, to a minimum of 2% in 5 years and increase by 2% every year until it reaches 10% of total global FDI flows.

33. Infrastructure

Increase investment in physical infrastructure (transport and telecommunications) as a ratio to GDP to the level that

obtains in middle-income countries and social infrastructure to about 10% of GDP by the year 2020 and the development and interconnection of intra-African transport and communication networks and services.

34. Common Standards

Development of a common system of standards and specifications to help foster intra-African exchange of goods and services.

35. Industrialization

Increased value added in manufacturing in the Continent from the current 17% to 25% by the year 2010. For countries that have not achieved the average African level, to double the level of manufacturing every 10 years till it reaches the average for African countries.

36. Intra-African Trade

Increase share of intra-African trade to 20% of the total trade of Member States by 2005 in accordance with various resolutions of OAU and RECs.

37. Trade

Increase Africa's share of world trade from its current 2% level to 4% by 2010, as well as diversified Africa's exports to reflect this change in the structure of production.

38. Agricultural Productivity

Increase agricultural productivity at a rate twice that of population growth.

39. Poverty Alleviation and Equitable Income Distribution

Attain of the International Development Goals, as recognized in the NEPAD, of reducing the proportion of people living in extreme poverty by half by the year 2015.

D. COOPERATION

40. Customs Union and Common Market

Establish a firm and binding commitment by all Member States for all the RECS to attain full Customs Union status by 2005, and full Common Market status by 2010, in line with AU integration objectives and the call by the CSSDCA Solemn Declaration to work towards a shortened timetable for the full realization of the African Economic Community.

41. Policy Harmonization and Market Integration

Harmonize macro-economic policies including comprehensive convergence criteria and sectoral policy coordination to be completed by 2005 in all RECs, in order to achieve the goal of 7% GDP growth rate annually as called for in the NEPAD – within the context of integration arrangement.

42. Investment Code

Conclusion and adoption by 2005 of a single investment code in each REC to provide a common enabling environment, in conformity with the projected Customs Union.

43. Physical Integration and Infrastructure

Adoption by 2005, in regions where they do not exist, of binding Agreements and protocols on all the major physical integration projects that have been identified, including priority access for landlocked countries and the participation of all countries in projects such as the Regional African Satellite Communicating System (RASCOM) being one of the vital African projects prior to the planned launching of RASCOM by the last quarter of 2002. Similarly the implementation by 2005 of the Yamoussoukro Declaration concerning the Liberalization of Air Transport Markets in Africa.

44. Industrial Policy

Binding agreement reached by 2005 on common industrial policy within RECs.

45. Common Natural Resources

Early take off of the African Energy Commission (AFREC) to assure the completion of the energy development plans by 2003 bearing in mind the NEPAD target of 35% access to reliable and affordable commercial energy supply for the African population in 20 years; and Encouragement of all RECs to conclude plans, binding agreements and protocols by 2003 for the development of other projects on the utilization of common natural resources. In this connection, immediate steps should be taken to mobilize African entrepreneurs to establish multinational companies for the execution of large scale projects in Africa.

46. Rationalization of RECS

Complete by 2005, the harmonization and rationalization of all RECs, in order to facilitate convergence into the African Union.

47. Intra RECs Cooperation

Strengthened framework and programme for deepening horizontal interactions among RECs starting 2002 in fulfillment of the Protocol on relations between the AEC and the RECs, and, in line with the Lusaka Summit decision on the establishment of the AU.

48. Cooperation in Health Matters

Strengthened cooperation in health matters, including the adoption of a Health Protocol in all RECs by 2003 and implementation of the binding commitment on allocating 15% of our national budget to the improvement of the health sector as agreed to in the Abuja Summit Declaration on HIV/AIDS, Tuberculosis and other related Infectious Diseases.

49. Harmonization and Coordination of Education Policies

Attainment of set targets in the Plan of Action on the Decade of Education as adopted by the Summit of OAU Heads of State and Government in 1999, particularly universal basic education by 2015.

50. Information and Communication Technology (ICT)

Adoption of policy regulatory ICT frameworks that are transparent, predictable and ensure fair competition, and open markets, by 2005. Improvement of access for households and firms, with a short-term objective to double teledensity to two lines per 100 people by 2005, with an adequate level of access for households. Simultaneously, lowering of the cost and improvement of reliability of service, and achievement of e-readiness for all countries of Africa.

IV. FRAMEWORK OF IMPLEMENTATION

We further agree to the following framework of implementation as a means of carrying out the commitments contained in this Memorandum of Understanding;

1. To incorporate CSSDCA principles and guidelines in our national institutions that would have responsibility for helping in the monitoring of the CSSDCA activities as prescribed in the Solemn Declaration on the CSSDCA. To this end we shall initiate, appropriate actions, including legislative, executive or administrative actions to bring national laws or regulations in conformity with CSSDCA.
2. To take all necessary measures in accordance with the constitutional procedures, in each of our Member States, to ensure the dissemination of such legislation as may be necessary for the implementation of the fundamental objectives.
3. To designate focal points within our existing national institutions (states, civil society, the private sectors, etc.) for CSSDCA programmes. The focal point shall be responsible for coordinating and monitoring all activities relating to the CSSDCA. In addition, the focal point shall undertake, on annual basis, monitoring of the country's compliance with the CSSDCA process.
4. To also establish within our existing national institutions a national coordinating committee, consisting of all stakeholders dealing with the various calabashes of the CSSDCA framework, to develop and coordinate the overall strategies and policies towards the four calabashes of the CSSDCA.
5. To create favourable conditions for the development of the African continent, in particular by harmonizing our national strategies and policies and refrain from any unilateral action that may hinder the attainment of the general and specific principles of the CSSDCA as contained in the Solemn Declaration and undertakings derived therefrom.
6. To provide, within all the RECs, appropriate institutional framework for the implementation of the CSSDCA Solemn Declaration and the Memorandum of Understanding on Security, Stability, Development and Cooperation.
7. To use the monitoring process of the CSSDCA to establish best current knowledge and practices that would strengthen democratic practices, the protection of human rights and the promotion of good governance in the continent.
8. To strengthen and enlarge the CSSDCA Unit, including endowing it with adequate human resources and funds, as well as an enhanced technical analytic capacity to take initiatives within the structure of the envisaged Commission of the African Union and to enable it perform its tasks efficiently and effectively, particularly in respect of coordination and harmonization of policies of Member States.
9. To ensure that the CSSDCA Process forms part and parcel of the work programme of the Commission of the African Union.
10. To consolidate and strengthen political will among Member States as a necessary and sufficient condition for the attainment of the goals set forth by Member States in the CSSDCA process.

V. MONITORING PERFORMANCE

We finally agree to the following mechanisms for measuring performance:

1. To convene, in accordance with the Solemn Declaration on the CSSDCA, a Standing CSSDCA Conference at Summit level every two years during ordinary sessions of Summit, review meetings of plenipotentiaries and senior officials in between sessions of the Standing Conference.
2. The commitments entered into by Member States for the Security and Stability Calabashes shall form part of these reviews. These commitments will serve as agreed benchmark criteria and indices, with key performance indicators as instruments for measurement of compliance in monitoring progress towards agreed goals.
3. In preparing for those reviews, the national mechanisms for monitoring the core values and commitments of

the Security and Stability Calabashes shall work closely with the CSSDCA Unit, which will elaborate a comprehensive work programme and time schedule for its activities including, administrative arrangements for overseeing the monitoring process, with diagnostic tools and measurement criteria for assessing performance, as well as deficiencies and capacity restraints that impede them. All stakeholders in providing inputs for the review process will use the diagnostic tools and measurement criteria and highlight capacity restraints or gaps that should be bridged to enable higher standards of performance along with resources that should be mobilized to support this process. This process of peer scrutiny will facilitate the development of best practices and suggest ways in which they can be effectively transferred to where they are not in operation.

4. The national mechanisms for evaluation will, according to predetermined criteria, produce country reports. These inputs shall be obtained from specialized agencies, the private sector, civil society organizations, and parliamentarians as part of a general process of evaluation. The different inputs will be cross-referenced to provide a clear and accurate representation.
5. Regional Economic Communities shall also play a role in these reviews. The Executive Heads of Regional Economic Communities should thus be invited to the Review Meetings of plenipotentiaries and senior officials.
6. In carrying out the tasks of monitoring performance, the Coordinating Unit of the CSSDCA in the OAU/AU shall coordinate closely with the national and regional focal points. It shall seek the cooperation of regional and international bodies in the context of the relevant Calabashes on Security, Stability, Development and Cooperation, as well as support and assistance from other relevant international organizations or institutions and other cooperation agencies especially the ECA, ADB, UNDP, IMF, IOM and IBRD to promote the realization of the objectives of the CSSDCA process.
7. The CSSDCA Process will also be supported by visitation panels composed of eminent, reputable Africans to carry out professional, independent and objective on spot assessments in two-year circles as part of the preparation for the bi-annual Standing Conferences of the CSSDCA. Such visitation panels will raise the visibility and credibility of the process and augment the permanent and continuous monitoring process.

We express our determination to respect and apply fully the undertakings, as set forth in the present Memorandum of Understanding in all aspects, in our mutual relations and cooperation, in order to assure each of our Member States the benefits resulting from the respect and application of these undertakings by all.

We are convinced that respect for these undertakings will encourage the development of normal and friendly relations and the progress of cooperation among our countries and peoples. We are also convinced that respect for the core values and commitments contained in this Memorandum of Understanding will encourage the development of contacts among our countries, which, in time, would contribute to better mutual understanding of our commitments. We commit ourselves to respect and implement all the above undertakings in conformity with Articles 9 (e) and 23 (2) of the Constitutive Act of the African Union.

Organisation of African Unity (OAU), The New Partnership for Africa's Development (NEPAD) (2001)

ABBREVIATIONS AND ACRONYMS

AGOA	Africa Growth and Opportunity Act	IDA	international development assistance
AU	African Union	IDG	International Development Goal
CGIAR	Consultative Group on International Agricultural Research	IEC	International Electrotechnical Commission
DAC	Development Assistance Committee	IMF	International Monetary Fund
EBA	"Everything But Arms"	ISO	International Standards Organisation
ECA	Economic Commission for Africa	ODA	overseas development assistance
ECOWAS	Economic Community of West African States	OECD	Organisation for Economic Cooperation and Development
FAO	Food and Agriculture Organisation	PPP	public-private partnership
FARA	Forum for Agricultural Research in Africa	PRSP	Poverty Reduction Strategy Paper
GDP	gross domestic product	RETOSA	Regional Tourism Organisation of Southern Africa
GEF	Global Environment Facility	SADC	Southern African Development Community
GESI	Global Environmental Sanitation Initiative	TBT	Agreement on Technical Barriers to Trade
GIS	Geographic Information System	UN	United Nations
GNP	gross national product	UNESCO	United Nations Educational, Scientific and Cultural Organisation
GSP	Generalised System of Preferences	US	United States
HIPC	Highly Indebted Poor Country	WHO	World Health Organisation
HIV/AIDS	human immunodeficiency virus/acquired immune deficiency syndrome	WIPO	World Intellectual Property Organisation
IAF	International Accreditation Forum	WTO	World Trade Organisation
ICT	information and communications technology		

I. INTRODUCTION

1. This *New Partnership for Africa's Development* is a pledge by African leaders, based on a common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development and, at the same time, to participate actively in the world economy and body politic. The Programme is anchored on the determination of Africans to extricate themselves and the continent from the malaise of underdevelopment and exclusion in a globalising world.
2. The poverty and backwardness of Africa stand in stark contrast to the prosperity of the developed world. The continued marginalisation of Africa from the globalisation process and the social exclusion of the vast majority of its peoples constitute a serious threat to global stability.
3. Historically accession to the institutions of the international community, the credit and aid binomial has underlined the logic of African development. Credit has led to the debt deadlock which, from instalments to rescheduling, still exists and hinders the growth of African countries. The limits of this option have been reached. Concerning the other element of the binomial – aid – we can also note the reduction of private aid and the upper limit of public aid, which is below the target set in the 1970s.
4. In Africa, 340 million people, or half the population, live on less than US \$1 per day. The mortality rate of children under 5 years of age is 140 per 1000, and life expectancy at birth is only 54 years. Only 58 per cent of the population have access to safe water. The rate of illiteracy for people over 15 is 41 per cent. There are only 18 mainline telephones per 1000 people in Africa, compared with 146 for the world as a whole and 567 for high-income countries.
5. The *New Partnership for Africa's Development* calls for the reversal of this abnormal situation by changing the relationship that underpins it. Africans are appealing neither for the further entrenchment of dependency through aid, nor for marginal concessions.
6. We are convinced that an historic opportunity presents itself to end the scourge of underdevelopment that afflicts Africa. The resources, including capital, technology and human skills, that are required to launch a global war on poverty and underdevelopment exist in abundance and are within our reach. What is required to mobilise these resources and to use them properly, is bold and imaginative leadership that is genuinely

committed to a sustained human development effort and the eradication of poverty, as well as a new global partnership based on shared responsibility and mutual interest.

7. Across the continent, Africans declare that we will no longer allow ourselves to be conditioned by circumstance. We will determine our own destiny and call on the rest of the world to complement our efforts. There are already signs of progress and hope. Democratic regimes that are committed to the protection of human rights, peoplecentred development and market-oriented economies are on the increase. African peoples have begun to demonstrate their refusal to accept poor economic and political leadership. These developments are, however, uneven and inadequate and need to be further expedited.
8. The *New Partnership for Africa's Development* is about consolidating and accelerating these gains. It is a call for a new relationship of partnership between Africa and the international community, especially the highly industrialised countries, to overcome the development chasm that has widened over centuries of unequal relations.

II. AFRICA IN TODAY'S WORLD: BETWEEN POVERTY AND PROSPERITY

9. Africa's place in the global community is defined by the fact that the continent is an indispensable resource base that has served all humanity for so many centuries.
10. These resources can be broken down into the following components: –
 - The rich complex of mineral, oil and gas deposits, the flora and fauna, and the wide unspoiled natural habitat, which provide the basis for mining, agriculture, tourism and industrial development (Component I);
 - The ecological lung provided by the continent's rainforests, and the minimal presence of emissions and effluents that are harmful to the environment – a global public good that benefits all humankind (Component II);
 - The palaeontological and archaeological sites containing evidence of the origins of the earth, life and the human race, and the natural habitats containing a wide variety of flora and fauna, unique animal species and the open uninhabited spaces that are a feature of the continent (Component III);
 - The richness of Africa's culture and its contribution to the variety of the cultures of the global community (Component IV).
11. The first component is the one with which the world is most familiar. The second component has only come to the fore recently, as humanity came to understand the critical importance of environmental issues. The third component is also now coming into its own, emerging as a matter of concern not only to a narrow field of science or of interest only to museums and their curators. The fourth component represents the creativity of African people, which in many important ways remains underexploited and underdeveloped.
12. Africa has a very important role to play with regard to the critical issue of protecting the environment. African resources include rainforests, the virtually carbon dioxidefree atmosphere above the continent and the minimal presence of toxic effluents in the rivers and soils that interact with the Atlantic and Indian Oceans and the Mediterranean and Red Seas. The *New Partnership for Africa's Development* will contain a strategy for nurturing these resources and using them for the development of the African continent while, at the same time preserving them for all humanity.
13. It is obvious that, unless the communities in the vicinity of the tropical forests are given alternative means of earning a living, they will cooperate in the destruction of the forests. As the preservation of these environmental assets is in the interests of humanity, it is imperative that Africa be placed on a development path that does not put them in danger.
14. Modern science recognises Africa as the cradle of humankind. As part of the process of reconstructing the identity and self-confidence of the peoples of Africa, it is necessary that this contribution to human existence be understood and valued by Africans themselves. Africa's status as the birthplace of humanity should be cherished by the whole world as the origin of all its peoples. Accordingly, the *New Partnership for Africa's Development* must preserve this common heritage and use it to build a universal understanding of the historic need to end the underdevelopment and marginalisation of the continent.
15. Africa also has a major role to play in maintaining the strong link between human beings and the natural world. Technological developments tend to emphasise the role of human beings as a factor of production, competing for their place in the production process with their contemporary or future tools. The open uninhabited spaces, the flora and fauna, and the diverse animal species unique to Africa offer an opportunity for humanity to maintain its link with nature.
16. Africa has already made a significant contribution to world culture through literature, music, visual arts and other cultural forms, but its real potential remains untapped because of its limited integration into the global economy. The *New Partnership for Africa's Development* will enable Africa to increase its contribution to science, culture and technology.
17. In this new millennium, when humanity is searching for a new way in which to build a better world, it is critical that we bring to bear the combination of these attributes and the forces of human will to place the continent on a pedestal of equal partnership in advancing human civilisation.

The Historical Impoverishment of a Continent

18. The impoverishment of the African continent was accentuated primarily by the legacy of colonialism, the Cold

War, the workings of the international economic system, and the inadequacies of and shortcomings in the policies pursued by many countries in the post-independence era.

19. For centuries, Africa has been integrated into the world economy mainly as a supplier of cheap labour and raw materials. Of necessity, this has meant the draining of Africa's resources rather than their use for the continent's development. The drive in that period to use the minerals and raw materials to develop manufacturing industries and a highly skilled labour force to sustain growth and development was lost. Thus, Africa remains the poorest continent despite being one of the most richly endowed regions of the world.
20. In other countries and on other continents, the reverse was the case. There was an infusion of wealth in the form of investments, which created larger volumes of wealth through the export of value-added products. It is time that African resources are harnessed to create wealth for the well-being of its peoples.
21. Colonialism subverted hitherto traditional structures, institutions and values or made them subservient to the economic and political needs of the imperial powers. It also retarded the development of an entrepreneurial class, as well as a middle class with skills and managerial capacity.
22. At independence, virtually all the new states were characterised by a shortage of skilled professionals and a weak capitalist class, resulting in a weakening of the accumulation process. Post-colonial Africa inherited weak states and dysfunctional economies, which were further aggravated by poor leadership, corruption and bad governance in many countries. These two factors, together with the divisions caused by the Cold War, hampered the development of accountable governments across the continent.
23. Many African governments did not empower their peoples to embark on development initiatives to realise their creative potential. Today, the weak state remains a major constraint on sustainable development in a number of countries. Indeed, one of Africa's major challenges is to strengthen the capacity to govern and to develop longterm policies. At the same time, there is also the urgent need to implement far-reaching reforms and programmes in many African states.
24. The structural adjustment programmes of the 1980s provided only a partial solution. They promoted reforms that tended to remove serious price distortions, but gave inadequate attention to the provision of social services. Consequently, only a few countries managed to achieve sustainable higher growth under these programmes.
25. Indeed, Africa's experience shows that the rate of accumulation in the post-colonial period has not been sufficient to rebuild societies in the wake of colonial underdevelopment, or to sustain improvement in the standard of living. This has had deleterious consequences on the political process and led to sustained patronage and corruption.
26. The nett effect of these processes has been the entrenchment of a vicious cycle, in which economic decline, reduced capacity and poor governance reinforce each other, thereby confirming Africa's peripheral and diminishing role in the world economy. Thus, over the centuries, Africa has become the marginalised continent.
27. The *New Partnership for Africa's Development* seeks to build on and celebrate the achievements of the past, as well as reflect on the lessons learned through painful experience, so as to establish a partnership that is both credible and capable of implementation. In doing so, the challenge is for the peoples and governments of Africa to understand that development is a process of empowerment and self-reliance. Accordingly, Africans must not be wards of benevolent guardians; rather they must be the architects of their own sustained upliftment.

Africa and the Global Revolution

28. The world has entered the new millennium in the midst of an economic revolution. This revolution could provide both the context and the means for Africa's rejuvenation. While globalisation has increased the cost of Africa's ability to compete, we hold that the advantages of an effectively managed integration present the best prospects for future economic prosperity and poverty reduction.
29. The current economic revolution has, in part, been made possible by advances in information and communications technology (ICT), which have reduced the cost of and increased the speed of communications across the globe, abolishing pre-existing barriers of time and space, and affecting all areas of social and economic life. It has made possible the integration of national systems of production and finance, and is reflected in an exponential growth in the scale of cross-border flows of goods, services and capital.
30. The integration of national systems of production has made it possible to "slice up the value chain" in many manufacturing and service-sector production processes. At the same time, the enhanced mobility of capital means that borrowers, whether governments or private entities, must compete with each other for capital in global rather than national markets. Both these processes have increased the costs to those countries that are unable to compete effectively. To a large extent, these costs have been borne disproportionately by Africa.
31. While no corner of the world has escaped the effects of globalisation, the contributions of the various regions and nations have differed markedly. The locomotive for these major advances is the highly industrialised nations. Outside this domain, only a few countries in the developing world play a substantial role in the global economy. Many developing countries, especially in Africa, contribute passively, and mainly on the basis of their environmental and resource endowments.
32. It is in the distribution of benefits that the global imbalance is most glaring. On the one hand, opportunities have increased to create or expand wealth, acquire knowledge and skills, and improve access to goods and services – in brief, to improve the quality of life. In some parts of the world, the pursuit of greater openness of the global economy has created opportunities for lifting millions of people out of poverty.

33. On the other hand, greater integration has also led to the further marginalisation of those countries that are unable to compete effectively. In the absence of fair and just global rules, globalisation has increased the ability of the strong to advance their interests to the detriment of the weak, especially in the areas of trade, finance and technology. It has limited the space for developing countries to control their own development, as the system makes no provision for compensating the weak. The conditions of those marginalised in this process have worsened in real terms. A fissure between inclusion and exclusion has emerged within and among nations.
34. In part, Africa's inability to harness the process of globalisation is a result of structural impediments to growth and development in the form of resource outflows and unfavourable terms of trade. At the same time, we recognise that failures of political and economic leadership in many African countries impede the effective mobilisation and utilisation of scarce resources into productive areas of activity in order to attract and facilitate domestic and foreign investment.
35. The low level of economic activity means that the instruments necessary for the real injection of private funds and risk-taking are not available, and the result is a further decline. In this self-perpetuating cycle, Africa's capacity to participate in the globalisation process is severely weakened, leading to further marginalisation. The increasing polarisation of wealth and poverty is one of a number of processes that have accompanied globalisation, and which threaten its sustainability.
36. The closing years of the last century saw a major financial collapse in much of the developing world, which not only threatened the stability of the global financial system, but also the global economy as a whole. One of the immediate effects of the financial crisis was the exacerbation of existing levels of deep, structural poverty in which about half of the world's population lives on less than US \$2 per day, and a fifth on less than US \$1 per day.
37. Other factors exist that pose serious longer-term risks. These include the rapid increase in the numbers of the socially excluded in different parts of the world, which contributes to political instability, civil war and military conflict on the one hand, and a new pattern of mass migration on the other. The expansion of industrial production and the growth in poverty contribute to environmental degradation of our oceans, atmosphere and natural vegetation. If not addressed, these will set in motion processes that will increasingly slip beyond the control of governments, both in developed and developing countries.
38. The means of reversing this gloomy scenario are not yet beyond our reach. Improvements in the living standards of the marginalised offer massive potential for growth in the entire international economy, through the creation of new markets and by harnessing increased economic capacity. This will bring with it greater stability on a global scale, accompanied by a sense of economic and social well-being.
39. The imperative of development, therefore, not only poses a challenge to moral conscience; it is, in fact, fundamental to the sustainability of the globalisation process. We readily admit that globalisation is a product of scientific and technological advances, many of which have been market driven. Yet, governments – particularly those in the developed world – have, in partnership with the private sector, played an important role in shaping its form, content and course.
40. The case for the role of national authorities and private institutions in guiding the globalisation agenda along a sustainable path and, therefore, one in which its benefits are more equally spread, remains strong. Experience shows that, despite the unparalleled opportunities that globalisation has offered to some previously poor countries, there is nothing inherent in the process that automatically reduces poverty and inequality.
41. What is needed is a commitment on the part of governments, the private sector and other institutions of civil society, to genuine integration of all nations into the global economy and body politic. This requires the recognition of global interdependence with regard to production and demand, the environmental base that sustains the planet, cross-border migration, a global financial architecture that rewards good socio-economic management, and global governance that recognises partnership among all peoples. We hold that it is within the capacity of the international community to create fair and just conditions in which Africa can participate effectively in the global economy and body politic.

III. THE NEW POLITICAL WILL OF AFRICAN LEADERS

42. The *New Partnership for Africa's Development* recognises that there have been attempts in the past to set out continent-wide development programmes. For a variety of reasons, both internal and external, including questionable leadership and ownership by Africans themselves, these have been less than successful. However, there is today a new set of circumstances, which lend themselves to integrated practical implementation.
43. The new phase of globalisation coincided with the reshaping of international relations in the aftermath of the Cold War. This is associated with the emergence of new concepts of security and self-interest, which encompass the right to development and the eradication of poverty. Democracy and state legitimacy have been redefined to include accountable government, a culture of human rights and popular participation as central elements.
44. Significantly, the numbers of democratically elected leaders are on the increase. Through their actions, they have declared that the hopes of Africa's peoples for a better life can no longer rest on the magnanimity of others.
45. Across the continent, democracy is spreading, backed by the African Union (AU), which has shown a new resolve to deal with conflicts and censure deviation from the norm. These efforts are reinforced by voices in civil society, including associations of women, youth and the independent media. In addition, African governments are much more resolute about regional and continental goals of economic cooperation and integration. This

serves both to consolidate the gains of the economic turnaround and to reinforce the advantages of mutual interdependence.

46. The changed conditions in Africa have already been recognised by governments across the world. The United Nations Millennium Declaration, adopted in September 2000, confirms the global community's readiness to support Africa's efforts to address the continent's underdevelopment and marginalisation. The Declaration emphasises support for the prevention of conflict and the establishment of conditions of stability and democracy on the continent, as well as for the key challenges of eradicating poverty and disease. The Declaration further points to the global community's commitment to enhance resource flows to Africa, by improving aid, trade and debt relationships between Africa and the rest of the world, and by increasing private capital flows to the continent. It is now important to translate these commitments into reality.
47. The *New Partnership for Africa's Development* centres on African ownership and management. Through this programme, African leaders are setting an agenda for the renewal of the continent. The agenda is based on national and regional priorities and development plans that must be prepared through participatory processes involving the people. We believe that while African leaders derive their mandates from their people, it is their role to articulate these plans and lead the processes of implementation on behalf of their people.
48. The programme is a new framework of interaction with the rest of the world, including the industrialised countries and multilateral organisations. It is based on the agenda set by African peoples through their own initiatives and of their own volition, to shape their own destiny.
49. To achieve these objectives, African leaders will take joint responsibility for the following:
 - Strengthening mechanisms for conflict prevention, management and resolution at the subregional and continental levels, and to ensure that these mechanisms are used to restore and maintain peace;
 - Promoting and protecting democracy and human rights in their respective countries and regions, by developing clear standards of accountability, transparency and participatory governance at the national and subnational levels;
 - Restoring and maintaining macroeconomic stability, especially by developing appropriate standards and targets for fiscal and monetary policies, and introducing appropriate institutional frameworks to achieve these standards;
 - Instituting transparent legal and regulatory frameworks for financial markets and the auditing of private companies and the public sector;
 - Revitalising and extending the provision of education, technical training and health services, with high priority given to addressing the problem of HIV/AIDS, malaria and other communicable diseases;
 - Promoting the role of women in social and economic development by reinforcing their capacity in the domains of education and training; by developing revenue-generating activities through facilitating access to credit; and by assuring their participation in the political and economic life of African countries;
 - Building the capacity of the states in Africa to set and enforce the legal framework, and to maintain law and order;
 - Promoting the development of infrastructure, agriculture and its diversification into agro-industries and manufacturing to serve both domestic and export markets.

IV. APPEAL TO THE PEOPLES OF AFRICA

50. The African Renaissance project should allow our continent, which has been plundered for centuries, to take its rightful place in the world. It depends on the building of a strong, competitive economy as the world moves towards greater liberalisation and competition.
51. The *New Partnership for Africa's Development* will be successful only if it is owned by the African peoples united in their diversity.
52. Africa, impoverished by slavery, corruption and economic mismanagement, is taking off in a difficult situation. However, if the continent's enormous natural and human resources are properly harnessed and utilised, it could lead to equitable and sustainable growth, and enhance Africa's rapid integration into the world economy.
53. This is why our peoples, in spite of the present difficulties, must regain confidence in their genius and their capacity to face obstacles and be involved in the building of the new Africa. The present initiative is an expression of the commitment of Africa's leaders to translate the deep popular will into action.
54. However, the struggle they would be waging will be successful only if our peoples are the masters of their own destiny.
55. This is why the political leaders of the continent appeal to all the peoples of Africa, in all their diversity, to recognise the seriousness of the situation and the need to mobilise themselves in order to put an end to further marginalisation of the continent and to ensure its development by bridging the gap between Africa and the developed countries.
56. We are, therefore, asking the African peoples to take up the challenge of mobilising in support of the implementation of this initiative by setting up, at all levels, structures for organisation, mobilisation and action.
57. The leaders of the continent are aware of the fact that the true genius of a people is measured by its capacity

for bold and imaginative thinking, and its determination in support of its own development.

58. We must not relent in implementing this ambitious programme of building sound and resilient economies and democratic societies. In this respect, the African leaders are convinced that Africa, a continent whose development process has been marked by false starts and failures, will succeed in this initiative.

V. PROGRAMME OF ACTION: THE STRATEGY FOR ACHIEVING SUSTAINABLE DEVELOPMENT IN THE 21ST CENTURY

59. The *New Partnership for Africa's Development* differs in its approach and strategy from all previous plans and initiatives in support of Africa's development, although the problems to be addressed remain largely the same.
60. The *New Partnership for Africa's Development* is envisaged as a long-term vision of an African-owned and African-led development programme.
61. The Action Programme includes the top priorities structured in the same way as the strategy outlined, and these priorities may be revised from time to time by the Heads of State Implementation Committee. The Programme covers what needs to be done in the short term, despite the wide scope of the actions to be taken.
62. Although long-term funding is envisaged under this initiative, the projects can be expedited to help eradicate poverty in Africa and place African countries, both individually and collectively, on a path of sustainable growth and development and thus halt the marginalisation of Africa in the globalisation process.
63. Although there are other urgent priorities, those selected here would serve as a catalyst for intervention in other priority areas in the future.
64. While growth rates are important, they are not by themselves sufficient to enable African countries to achieve the goal of poverty reduction. The challenge for Africa, therefore, is to develop the capacity to sustain growth at levels required to achieve poverty reduction and sustainable development. This, in turn, depends on other factors such as infrastructure, capital accumulation, human capital, institutions, structural diversification, competitiveness, health, and good stewardship of the environment.
65. The objective of the *New Partnership for Africa's Development* is to give impetus to Africa's development by bridging existing gaps in priority sectors in order to enable the continent to catch up with developed parts of the world.
66. The new long-term vision will require massive, heavy investment to bridge existing gaps. The challenge ahead for Africa is to be able to raise the required funding under the best conditions possible. We therefore call on our development partners to assist us in this endeavour.
67. Long-term objectives
- To eradicate poverty in Africa and to place African countries, both individually and collectively, on a path of sustainable growth and development and thus halt the marginalisation of Africa in the globalisation process;
 - To promote the role of women in all activities.
68. **Goals**
- To achieve and sustain an average gross domestic product (GDP) growth rate of over 7 per cent per annum for the next 15 years;
 - To ensure that the continent achieves the agreed International Development Goals (IDGs), which are:
 - To reduce the proportion of people living in extreme poverty by half between 1990 and 2015;
 - To enrol all children of school age in primary schools by 2015;
 - To make progress towards gender equality and empowering women by eliminating gender disparities in the enrolment in primary and secondary education by 2005;
 - To reduce infant and child mortality ratios by two-thirds between 1990 and 2015;
 - To reduce maternal mortality ratios by three-quarters between 1990 and 2015;
 - To provide access for all who need reproductive health services by 2015;
 - To implement national strategies for sustainable development by 2005, so as to reverse the loss of environmental resources by 2015.
69. The strategy has the following expected outcomes:
- Economic growth and development and increased employment;
 - Reduction in poverty and inequality;
 - Diversification of productive activities, enhanced international competitiveness and increased exports;
 - Increased African integration.
70. Realising that unless something new and radical is done, Africa will not achieve the IDGs and the 7 per cent annual GDP growth rate, the African heads of state propose the programme described below. The programme is anchored on key themes and is supported by detailed programmes of action.

A. CONDITIONS FOR SUSTAINABLE DEVELOPMENT

A1. THE PEACE, SECURITY, DEMOCRACY AND POLITICAL GOVERNANCE INITIATIVES

71. African leaders have learned from their own experiences that peace, security, democracy, good governance, human rights and sound economic management are conditions for sustainable development. They are making a pledge to work, both individually and collectively, to promote these principles in their countries and subregions and on the continent.

(i) Peace and Security Initiative

72. The Peace and Security Initiative consists of three elements:

- Promoting long-term conditions for development and security;
- Building the capacity of African institutions for early warning, as well as enhancing their capacity to prevent, manage and resolve conflicts;
- Institutionalising commitment to the core values of the *New Partnership for Africa's Development* through the leadership.

73. Long-term conditions for ensuring peace and security in Africa require policy measures for addressing the political and social vulnerabilities on which conflict is premised. These are dealt with by the Political and Economic Governance Initiatives, the Capital Flows and Market Access Initiatives, and the Human Development Initiative.

74. Efforts to build Africa's capacity to manage all aspects of conflict must focus on the means necessary to strengthen existing regional and subregional institutions, especially in four key areas:

- Prevention, management and resolution of conflict;
- Peacemaking, peacekeeping and peace enforcement;
- Post-conflict reconciliation, rehabilitation and reconstruction;
- Combating the illicit proliferation of small arms, light weapons and landmines.

75. The leadership of the *New Partnership for Africa's Development* will consider, within six months of its establishment, setting out detailed and costed measures required in each of the four areas above. The exercise will also include the actions required of partners, and the nature and sources of financing such activities.

76. The envisaged Heads of State Forum will serve as a platform for the leadership of the *New Partnership for Africa's Development* to seek to enhance the capacity of African institutions to promote peace and security on the continent, to share experience and to mobilise collective action. The Forum will ensure that the principles and commitments implicit in this initiative are fulfilled.

77. Aware of that requirement, Africans must make all efforts to find a lasting solution to existing conflicts, to strengthen their internal security and to promote peace among the countries.

78. At the Lusaka Summit, the AU decided to take drastic measures in reviving the organs responsible for conflict prevention and resolution.

(ii) Democracy and Political Governance Initiative

79. It is generally acknowledged that development is impossible in the absence of true democracy, respect for human rights, peace and good governance. With the *New Partnership for Africa's Development*, Africa undertakes to respect the global standards of democracy, the core components of which include political pluralism, allowing for the existence of several political parties and workers' unions, and fair, open and democratic elections periodically organised to enable people to choose their leaders freely.

80. The purpose of the Democracy and Political Governance Initiative is to contribute to strengthening the political and administrative framework of participating countries, in line with the principles of democracy, transparency, accountability, integrity, respect for human rights and promotion of the rule of law. It is strengthened by and supports the Economic Governance Initiative, with which it shares key features. Taken together, these initiatives will contribute to harnessing the energies of the continent towards development and the eradication of poverty.

81. The Initiative consists of the following elements:

- A series of commitments by participating countries to create or consolidate basic governance processes and practices;
- An undertaking by participating countries to take the lead in supporting initiatives that foster good governance;
- The institutionalisation of commitments through the leadership of the *New Partnership for Africa's Development* to ensure that the core values of the initiative are abided by.

82. The states involved in the *New Partnership for Africa's Development* will also undertake a series of commitments towards meeting basic standards of good governance and democratic behaviour while, at the same time, giving support to each other. Participating states will be supported in undertaking such desired institutional reforms where required. Within six months of its institutionalisation, the leadership of the *New Partnership for Africa's Development* will identify recommendations on appropriate diagnostic and assessment tools, in support of compliance with the shared goals of good governance, as well as identify institutional weaknesses and seek resources and expertise for addressing these weaknesses.

83. In order to strengthen political governance and build capacity to meet these commitments, the leadership of the *New Partnership for Africa's Development* will undertake a process of targeted capacity-building initiatives. These institutional reforms will focus on:
- Administrative and civil services;
 - Strengthening parliamentary oversight;
 - Promoting participatory decision-making;
 - Adopting effective measures to combat corruption and embezzlement;
 - Undertaking judicial reforms.
84. Countries participating in the initiative will take the lead in supporting and building institutions and initiatives that protect these commitments. They will dedicate their efforts towards creating and strengthening national, subregional and continental structures that support good governance.
85. The Heads of State Forum on the *New Partnership for Africa's Development* will serve as a mechanism through which the leadership of the *New Partnership for Africa's Development* will periodically monitor and assess the progress made by African countries in meeting their commitment towards achieving good governance and social reforms. The Forum will also provide a platform for countries to share experiences with a view to fostering good governance and democratic practices.

A2. THE ECONOMIC AND CORPORATE GOVERNANCE INITIATIVE

86. State capacity-building is a critical aspect of creating conditions for development. The state has a major role to play in promoting economic growth and development, and in implementing poverty reduction programmes. However, the reality is that many governments lack the capacity to fulfil this role. As a consequence, many countries lack the necessary policy and regulatory frameworks for private sector-led growth. They also lack the capacity to implement programmes, even when funding is available.
87. It is for this reason that targeted capacity-building should be given high priority. Programmes in every area should be preceded by an assessment of capacity, followed by the provision of appropriate support.
88. **Objective**
- To promote throughout the participating countries a set of concrete and timebound programmes aimed at enhancing the quality of economic and public financial management, as well as corporate governance.
89. **Actions**
- A Task Force from the Ministries of Finance and Central Banks will be commissioned to review economic and corporate governance practices in the various countries and regions, and to make recommendations on appropriate standards and codes of good practice for consideration by the Heads of State Implementation Committee within six months;
 - The Implementation Committee will refer its recommendations to African states for implementation;
 - The Implementation Committee will give high priority to public financial management. Countries will develop a programme for improving public financial management and targets, and assessment mechanisms will also be set in place;
 - The Heads of State Implementation Committee will mobilise resources for capacity-building to enable all countries to comply with the mutually agreed minimum standards and codes of conduct.

Subregional and Regional Approaches to Development

90. Most African countries are small, both in terms of population and per capita incomes. Owing to limited markets, they do not offer attractive returns to potential investors, while progress in diversifying production and exports is retarded. This limits investment in essential infrastructure that depends on economies of scale for viability.
91. These economic conditions point to the need for African countries to pool their resources and enhance regional development and economic integration on the continent, in order to improve international competitiveness. The five subregional economic groupings of the continent must, therefore, be strengthened.
92. The *New Partnership for Africa's Development* focuses on the provision of essential regional public goods (such as transport, energy, water, ICT, disease eradication, environmental preservation, and provision of regional research capacity), as well as the promotion of intra-African trade and investments. The focus will be on rationalising the institutional framework for economic integration, by identifying common projects compatible with integrated country and regional development programmes, and on the harmonisation of economic and investment policies and practices. There needs to be coordination of national sector policies and effective monitoring of regional decisions.
93. The *New Partnership for Africa's Development* will give priority to capacity-building in order to enhance the effectiveness of existing regional structures and the rationalisation of existing regional organisations. The African Development Bank must play a leading role in financing regional studies, programmes and projects.
94. The sectors covered by the current Programme include the following priority areas:
- Infrastructure, especially ICT and energy;

- Human resources, including education, skills development and reversing the brain drain;
 - Health;
 - Agriculture;
 - Access to the markets of developed countries for African exports.
95. For each sector, however, the objective is to bridge existing gaps between Africa and the developed countries so as to improve the continent's international competitiveness and enable it to participate in the globalisation process. The special circumstances of African island and landlocked states will also be addressed in this context.

B. SECTORAL PRIORITIES

B1. BRIDGING THE INFRASTRUCTURE GAP

(i) All Infrastructure Sectors

96. The infrastructures considered include roads, highways, airports, seaports, railways, waterways, and telecommunications facilities. However, only subregional or continental infrastructures will be the focus of the Plan.
97. Infrastructure is one of the major parameters of economic growth, and solutions should be found to permit Africa to rise to the level of developed countries in terms of the accumulation of material and human capital.
98. If Africa had the same basic infrastructure as developed countries, it would be in a more favourable position to focus on production and on improving productivity for international competition. The structural gap in infrastructure constitutes a very serious handicap to economic growth and poverty reduction. Improved infrastructure, including the cost and reliability of services, would benefit both Africa and the international community, which would be able to obtain African goods and services more cheaply.
99. In many African countries, the colonial powers built the infrastructure to facilitate the exportation of raw materials from Africa and the importation of industrial goods into Africa.
100. We also recognise that, if infrastructure is to improve in Africa, private foreign finance is essential to complement the two major funding methods, namely credit and aid.
101. The Infrastructure Initiative comprises elements common to all the infrastructure sectors. It also includes elements that are sector specific.
102. **Objectives**
- To improve access to, and affordability and reliability of, infrastructure services for both firms and households;
 - To enhance regional cooperation and trade through expanded cross-border development of infrastructure;
 - To increase financial investments in infrastructure by lowering risks facing private investors, especially in the area of policy and regulatory frameworks;
 - To build adequate knowledge and skills in technology and engineering with a view to installing, operating and maintaining "hard" infrastructure networks in Africa.
103. **Actions**
- With the assistance of sector-specialised agencies, put in place policy and legislative frameworks to encourage competition. At the same time, introduce new regulatory frameworks and build capacity for regulators, so as to promote policy and regulatory harmonisation in order to facilitate cross-border interaction and market enlargement;
 - Increase investment in infrastructure, especially refurbishment, and improve system maintenance practices that will sustain infrastructure;
 - Initiate the development of training institutions and networks that can develop and produce highly skilled technicians and engineers in all infrastructure sectors;
 - Promote community and user involvement in infrastructure construction, maintenance and management, especially in poor urban and rural areas, in collaboration with the governance initiatives of the *New Partnership for Africa's Development*;
 - Work with the African Development Bank and other development finance institutions on the continent to mobilise sustainable financing, especially through multilateral processes, institutions and donor governments, with a view to securing grant and concessional finance to mitigate medium-term risks;
 - Promote public-private partnerships (PPPs) as a promising vehicle for attracting private investors, and focus public funding on the pressing needs of the poor, by building capacity to implement and monitor such agreements;
 - In addition to these common issues, the following are sector-specific strategies for the different types of infrastructure.

(ii) Bridging the Digital Divide: Investing in Information and Communication Technologies

104. Information and communication technologies (ICTs), driven by the convergence of computers, telecommunications and traditional media, are crucial for the knowledge based economy of the future. Rapid advances in technology and the diminishing cost of acquiring the new ICT tools have opened new windows of opportunity for African countries to accelerate their economic growth and development. The goals of

achieving a Common Market and an African Union can benefit immensely from the revolution in information technology. In addition to fostering intra-regional trade, the use of ICTs could also accelerate Africa's integration into the global economy.

105. Intensive use of ICTs can bring unprecedented comparative advantages to the continent:

- It can give impetus to the democratisation process and good governance;
- It can facilitate the integration of Africa into the new information society, using its cultural diversity as a leverage;
- ICTs can be helpful tools in a wide range of applications, such as remote sensing and environmental, agricultural and infrastructural planning;
- The existing complementarities can be better utilised to provide training that would allow for the production of a critical mass of professionals in the use of ICTs;
- In the research sector, we can establish African programmes as well as technological exchange programmes capable of meeting the continent's specific needs, with particular regard to the fight against illiteracy;
- ICTs can be used to identify and exploit opportunities for trade, investment and finance;
- They can be used to establish regional distance learning and health education programmes to improve the situation in the health and education sectors;
- In conflict management and the control of pandemic diseases, ICTs will help towards the organisation of an efficient early warning mechanism by providing the tools for constant monitoring of tension spots.

106. In Africa, poor ICT infrastructure, combined with weak policy and regulatory frameworks and limited human resources, has resulted in inadequate access to affordable telephones, broadcasting, computers and the Internet. African teledensity remains below one line per 100 people. Service costs are also high: the connection cost in Africa averages 20 per cent of GDP per capita, compared with the world average of 9 per cent, and 1 per cent for high-income countries. Africa has been unable to capitalise on ICT as a tool in enhancing livelihoods and creating new business opportunities, and cross-border linkages within the continent and with global markets have been constrained. Although many countries in Africa have started ICT policy reforms, service penetration, quality and tariffs have not yet improved.

107. **Objectives**

- To double teledensity to two lines per 100 people by 2005, with an adequate level of access for households;
- To lower the cost and improve reliability of service;
- To achieve e-readiness for all countries in Africa;
- To develop and produce a pool of ICT-proficient youth and students from which Africa can draw trainee ICT engineers, programmers and software developers;
- To develop local-content software, based especially on Africa's cultural legacy.

108. **Actions**

- Work with regional agencies such as the African Telecommunications Union and Africa Connection to design model policy and legislation for telecommunications reform, and protocols and templates for e-readiness assessments;
- Work with the regional agencies to build regulatory capacity;
- Establish a network of training and research institutions to build high-level manpower;
- Promote and accelerate existing projects to connect schools and youth centres;
- Work with development finance institutions in Africa, multilateral initiatives (G-8 DotForce, UN Task Force) and bilateral donors to establish financial mechanisms for mitigating and reducing sector risks.

(iii) Energy

109. **Objectives**

- Energy plays a critical role in the development process, first as a domestic necessity but also as a factor of production whose cost directly affects prices of other goods and services, and the competitiveness of enterprises. Given the uneven distribution of these resources on the African continent, it is recommended that the search for abundant and cheap energy should focus on rationalising the territorial distribution of existing but unevenly allocated energy resources. Furthermore, Africa should strive to develop its abundant solar energy resources;
- To increase Africans' access to reliable and affordable commercial energy supply from 10 to 35 per cent or more within 20 years;
- To improve the reliability and lower the cost of energy supply to productive activities in order to enable economic growth of 6 per cent per annum;
- To reverse environmental degradation that is associated with the use of traditional fuels in rural areas;
- To exploit and develop the hydropower potential of the river basins of Africa;
- To integrate transmission grids and gas pipelines so as to facilitate cross-border energy flows;

- To reform and harmonise petroleum regulations and legislation on the continent.

110. Actions

- Establish an African Forum for Utility Regulation and establish regional regulatory associations;
- Establish a task force to recommend priorities and implementation strategies for regional projects, including hydropower generation, transmission grids and gas pipelines;
- Establish a task team to accelerate the development of energy supply to low-income housing;
- Broaden the scope of the programme for biomass energy conservation from the Southern African Development Community (SADC) to the rest of the continent.

(iv) Transport

111. Objectives

- To reduce delays in cross-border movement of people, goods and services;
- To reduce waiting time in ports;
- To promote economic activity and cross-border trade through improved land transport linkages;
- To increase air passenger and freight linkages across Africa's subregions.

112. Actions

- Establish customs and immigration task teams to harmonise border crossing and visa procedures;
- Establish and nurture PPPs as well as grant concessions towards the construction, development and maintenance of ports, roads, railways and maritime transportation;
- Promote harmonisation of transport modal standards and regulations, and the increased use of multimodal transport facilities;
- Work with regional organisations to develop transport development corridors;
- Promote PPPs in the rationalisation of the airline industry and build capacity for air traffic control.

(v) Water and Sanitation

113. Objectives

- To ensure sustainable access to safe and adequate clean water supply and sanitation, especially for the poor;
- To plan and manage water resources to become a basis for national and regional cooperation and development;
- To systematically address and sustain ecosystems, biodiversity and wildlife;
- To cooperate on shared rivers among member states;
- To effectively address the threat of climate change;
- To ensure enhanced irrigation and rainfed agriculture to improve agricultural production and food security.

114. Actions

- Accelerate work on multipurpose water resource projects, e.g. the SADC Water Secretariat's investigation of the utilisation of the Congo River, and the Nile Basin Initiative;
- Establish a task team to make plans for mitigating the negative impact of climate change in Africa;
- Collaborate with the Global Environmental Sanitation Initiative (GESI) in promoting sanitary waste disposal methods and projects;
- Support the UN Habitat programme on water conservation in African cities.

B2. HUMAN RESOURCE DEVELOPMENT INITIATIVE, INCLUDING REVERSING THE BRAIN DRAIN

(i) Poverty Reduction

115. Objectives

- To provide focused leadership by prioritising poverty reduction in all the programmes and priorities of the *New Partnership for Africa's Development*, as well as national macroeconomic and sectoral policies;
- To give special attention to the reduction of poverty among women;
- To ensure empowerment of the poor in poverty reduction strategies;
- To support existing poverty reduction initiatives at the multilateral level, such as the Comprehensive Development Framework of the World Bank and the Poverty Reduction Strategy approach linked to the debt relief initiative for Highly Indebted Poor Countries (HIPC).

116. Actions

- Require that country plans prepared for initiatives in this programme of action assess their poverty reduction impact, both before and after implementation;
- Work with the World Bank, the International Monetary Fund (IMF), the African Development Bank, and the United Nations (UN) agencies to accelerate the implementation and adoption of the Comprehensive Development Framework, the Poverty Reduction Strategy and related approaches;

- Establish a gender task team to ensure that the specific issues faced by poor women are addressed in the poverty reduction strategies of the *New Partnership for Africa's Development*;
- Establish a task team to accelerate the adoption of participatory and decentralised processes for the provision of infrastructural and social services.

(ii) Bridging the Education Gap

117. Objectives

- To work with donors and multilateral institutions to ensure that the IDG of achieving universal primary education by 2015 is realised;
- To work for improvements in curriculum development, quality improvements and access to ICT;
- To expand access to secondary education and improve its relevance to Africa's development;
- To promote networks of specialised research and higher education institutions.

118. Actions

- Review current initiatives jointly with the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and other major international donors;
- Review levels of expenditure on education by African countries, and lead the process of developing norms and standards for government expenditure on education;
- Set up a task force to accelerate the introduction of ICT in primary schools;
- Set up a task force to review and put forward proposals for the research capacity needed in each region of the continent.

119. The key problems in education in Africa are the poor facilities and inadequate systems under which the vast majority of Africans receive their training. Africans who have had the opportunity of obtaining training elsewhere in the world have demonstrated their ability to compete successfully.

120. The plan supports the immediate strengthening of the university system across Africa, including the creation of specialised universities where needed, building on available African teaching staff. The need to establish and strengthen institutes of technology is especially emphasised.

(iii) Reversing the Brain Drain

121. Objectives

- To reverse the brain drain and turn it into a "brain gain" for Africa;
- To build and retain within the continent critical human capacities for Africa's development;
- To develop strategies for utilising the scientific and technological know-how and skills of Africans in the diaspora for the development of Africa.

122. Actions

- Create the necessary political, social and economic conditions in Africa that would serve as incentives to curb the brain drain and attract much-needed investment;
- Establish a reliable database on the brain drain, both to determine the magnitude of the problem, and to promote networking and collaboration between experts in the country of origin and those in the diaspora;
- Develop scientific and technical networks to channel the repatriation of scientific knowledge to the home country, and establish cooperation between those abroad and at home;
- Ensure that the expertise of Africans living in the developed countries is utilised in the execution of some of the projects envisaged under the *New Partnership for Africa's Development*.

(iv) Health

123. Objectives

- To strengthen programmes for containing communicable diseases, so that they do not fall short of the scale required in order to reduce the burden of disease;
- To have a secure health system that meets needs and supports disease control effectively;
- To ensure the necessary support capacity for the sustainable development of an effective health care delivery system;
- To empower the people of Africa to act to improve their own health and to achieve health literacy;
- To successfully reduce the burden of disease on the poorest people in Africa;
- To encourage cooperation between medical doctors and traditional practitioners.

124. Actions

- Strengthen Africa's participation in processes aimed at procuring affordable drugs, including those involving the international pharmaceutical companies and the international civil society, and explore the use of alternative delivery systems for essential drugs and supplies;
- Mobilise the resources required to build effective disease interventions and secure health systems;

- Lead the campaign for increased international financial support for the struggle against HIV/AIDS and other communicable diseases;
 - Join forces with other international agencies such as the World Health Organisation (WHO) and donors to ensure that support for the continent is increased by at least US \$10 billion per annum;
 - Encourage African countries to give higher priority to health in their own budgets and to phase in such increases in expenditure to a level to be mutually determined;
 - Jointly mobilise resources for capacity-building in order to enable all African countries to improve their health infrastructures and management.
125. Africa is home to major endemic diseases. Bacteria and parasites carried by insects, the movement of people and other carriers thrive, favoured as they are by weak environmental policies and poor living conditions. One of the major impediments facing African development efforts is the widespread incidence of communicable diseases, in particular HIV/AIDS, tuberculosis and malaria. Unless these epidemics are brought under control, real gains in human development will remain an impossible hope.
126. In the health sector, Africa compares very poorly with the rest of the world. In 1997, child and juvenile death rates were 105 and 169 per 1000, as against 6 and 7 per 1000 respectively in developed countries. Life expectancy is 48.9 years, as against 77.7 years in developed countries. Only 16 doctors are available per 100 000 inhabitants, as against 253 in industrialised countries. Poverty, reflected in very low per capita incomes, is one of the major factors limiting the populations' capacity to address their health problems.
127. Nutrition is an important ingredient of good health. The average daily intake of calories varies from 2384 in low-income countries to 2846 in middle-income countries, to 3390 in countries of the Organisation for Economic Cooperation and Development (OECD).
128. Health, defined by the WHO as a state of complete physical and mental well-being, contributes to increase in productivity and, consequently, to economic growth. The most obvious effects of health improvement on the working population are the reduction in lost working days due to sick leave, the increase in productivity and the chance to secure better-paid jobs. Eventually, improvement in health and nutrition directly contributes to improved well-being as the spread of diseases is controlled, infant mortality rates are reduced and life expectancy is higher. The link with poverty reduction is clearly established.

B3. AGRICULTURE

129. The majority of Africa's people live in rural areas. However, the agrarian systems are generally weak and unproductive. Coupled with external setbacks such as climatic uncertainty, biases in economic policy and instability in world commodity prices, these systems have held back agricultural supply and incomes in the rural areas, leading to poverty.
130. The urgent need to achieve food security in African countries requires that the problem of inadequate agricultural systems be addressed, so that food production can be increased and nutritional standards raised.
131. Improvement in agricultural performance is a prerequisite of economic development on the continent. The resulting increase in rural peoples' purchasing power will also lead to higher effective demand for African industrial goods. The induced dynamics would constitute a significant source of economic growth.
132. Productivity improvement in agriculture rests on the removal of a number of structural constraints affecting the sector. A key constraint is climatic uncertainty, which raises the risk factor facing intensive agriculture based on the significant inflow of private investment. Consequently, governments have to support the provision of irrigation equipment and develop arable lands when private agents are unwilling to do so. The improvement of other rural infrastructure (roads, rural electrification, etc.) is also essential.
133. The institutional environment for agriculture also significantly affects the sector's productivity and performance. Institutional support in the form of research centres and institutes, the provision of extension and support services, and agricultural trade fairs will further boost the production of marketable surpluses. The regulatory framework for agriculture must also be taken into account, including the encouragement of local community leadership in rural areas, and the involvement of these communities in policy and the provision of services.
134. Bilateral donors and multilateral institutions have paid too little attention to the agricultural sector and rural development, where more than 70 per cent of the poor people in Africa reside. For example, in the World Bank lending portfolio, credits to agriculture amounted to 39 per cent in 1978, but dropped to 12 per cent in 1996 and even further to 7 per cent in 2000. The entire donor community must reverse such negative trends.

B4. THE ENVIRONMENT INITIATIVE

135. It has been recognised that a healthy and productive environment is a prerequisite for the *New Partnership for Africa's Development*. It is further recognised that the range of issues necessary to nurture this environmental base is vast and complex, and that a systematic combination of initiatives is necessary to develop a coherent environmental programme. This will necessitate that choices be made and particular issues be prioritised for initial intervention.
136. It is also recognised that a core objective of the Environment Initiative must be to combat poverty and contribute to socio-economic development in Africa. It has been demonstrated in other parts of the world that measures taken to achieve a healthy environmental base can contribute greatly to employment, social and economic empowerment, and reduction of poverty.

137. It should be mentioned here that Africa will host the World Summit on Sustainable Development in September 2002, and that environmental management forms the basis of the Summit. In this regard, we propose that the event put particular emphasis on the deliberations on this theme in the *New Partnership for Africa's Development*.
138. The Environment Initiative has targeted eight subthemes for priority interventions:
- Combating Desertification. Initial interventions are envisaged to rehabilitate degraded land and to address the factors that led to such degradation. Many of these steps will need to be labour intensive, along the lines of "public works programmes", thereby contributing to the social development needs of the continent. The initial interventions will serve as best practices or prototypes for future interventions in this area;
 - Wetland Conservation. This involves the implementation of African best practices on wetland conservation, where social and ecological benefits are derived from private sector investment in this area;
 - Invasive Alien Species. Partnerships are sought to prevent and control invasive alien species. These partnerships are critical for both the preservation of the ecosystems and for economic well-being. Major labour-intensive initiatives are possible;
 - Coastal Management. In protecting and utilising coastal resources to optimal effect, best practices are again suggested from which a broader programme can be drawn up;
 - Global Warming. The initial focus will be on monitoring and regulating the impact of climate change. Labour-intensive work is essential and critical to integrated fire management projects;
 - Cross-border Conservation Areas. This subtheme seeks to build on the emerging initiatives, seeking partnerships across countries to boost conservation and tourism and thus create jobs;
 - Environmental Governance. This relates to securing institutional, legal, planning, training and capacity-building requirements that underpin all of the above;
 - Financing. A carefully structured and fair system for financing is required.
139. The Environment Initiative has a distinct advantage in that many of the projects can start within relatively short time-frames, and they also offer exceptionally good returns on investment in terms of creating the social and ecological base on which the *New Partnership for Africa's Development* can thrive.

B5. CULTURE

140. Culture is an integral part of development efforts on the continent. Consequently, it is essential to protect and effectively utilise indigenous knowledge that represents a major dimension of the continent's culture, and to share this knowledge for the benefit of humankind. The *New Partnership for Africa's Development* will give special attention to the protection and nurturing of indigenous knowledge, which includes tradition-based literacy, artistic and scientific works, inventions, scientific discoveries, designs, marks, names and symbols, undisclosed information and all other tradition-based innovations and creations resulting from intellectual activity in the industrial, scientific, literary or artistic fields. The term also includes genetic resources and associated knowledge.
141. The leadership of the *New Partnership for Africa's Development* will take urgent steps to ensure that indigenous knowledge in Africa is protected through appropriate legislation. They will also promote its protection at the international level, by working closely with the World Intellectual Property Organisation (WIPO).

B6. SCIENCE AND TECHNOLOGY PLATFORMS

142. Objectives

- To promote cross-border cooperation and connectivity by utilising the knowledge currently available in existing centres of excellence on the continent;
- To develop and adapt information collection and analysis capacity to support productive as well as export activities;
- To generate a critical mass of technological expertise in targeted areas that offer high growth potential, especially in biotechnology and natural sciences;
- To assimilate and adapt existing technologies to diversify manufacturing production.

143. Actions

- Establish regional cooperation on product standards development and dissemination, and on geographic information systems (GIS);
- Develop networks among existing centres of excellence, especially through the Internet, for cross-border staff exchanges and training programmes, and develop schemes to assist displaced African scientists and researchers;
- Work with UNESCO, the Food and Agriculture Organisation (FAO) and other international organisations to harness biotechnology in order to develop Africa's rich biodiversity and indigenous knowledge base by improving agricultural productivity and developing pharmaceutical products;
- Expand geoscience research to enhance the exploitation of the mineral wealth of the African continent;
- Establish and develop skills-based product engineering and quality control to support diversification in manufacturing.

C. MOBILISING RESOURCES

C1. THE CAPITAL FLOWS INITIATIVE

144. To achieve the estimated 7 per cent annual growth rate needed to meet the IDGs – particularly, the goal of reducing by half the proportion of Africans living in poverty by the year 2015 – Africa needs to fill an annual resource gap of 12 per cent of its GDP, or US \$64 billion. This will require increased domestic savings, as well as improvements in the public revenue collection systems. However, the bulk of the needed resources will have to be obtained from outside the continent. The *New Partnership for Africa's Development* focuses on debt reduction and overseas development assistance (ODA) as complementary external resources required in the short to medium term, and addresses private capital flows as a longer-term concern. A basic principle of the Capital Flows Initiative is that improved governance is a necessary requirement for increased capital flows, so that participation in the Economic and Political Governance Initiatives is a prerequisite for participation in the Capital Flows Initiative.

(i) Increasing Domestic Resource Mobilisation

145. To achieve higher levels of growth and more effective poverty reduction, Africa needs to mobilise additional resources, both domestic and foreign. Domestic resources include national savings by firms and households, which need to be substantially increased. In addition, more effective tax collection is needed to increase public resources, as well as the rationalising of government expenditures. A significant proportion of their domestic savings is lost to African countries as a result of capital flight. This situation can only be reversed if African economies become attractive locations for residents to hold their wealth. Therefore, there is also an urgent need to create conditions conducive to private sector investments by both domestic and foreign investors. Furthermore, there are other resources that can be mobilised within Africa while, at the same time, requesting the developed countries to pledge their Treasury Bills to finance the Plan. In so doing, they would not directly commit their liquid assets. Finally, we suggest the establishment of Special Drawing Rights for Africa.

(ii) Debt Relief

146. The *New Partnership for Africa's Development* seeks the extension of debt relief beyond its current levels (based on debt "sustainability"), which still require debt service payments amounting to a significant portion of the resource gap. The longterm objective of the *New Partnership for Africa's Development* is to link debt relief with costed poverty reduction outcomes. In the interim, debt service ceilings should be fixed as a proportion of fiscal revenue, with different ceilings for international development assistance (IDA) and non-IDA countries. To secure the full commitment of concessional resources – debt relief plus ODA – that Africa requires, the leadership of the *New Partnership for Africa's Development* will negotiate these arrangements with creditor governments. Countries would engage with existing debt relief mechanisms – the HIPC and the Paris Club – before seeking recourse through the *New Partnership for Africa's Development*. The Debt Initiative will require agreed poverty reduction strategies, debt strategies and participation in the Economic Governance Initiative to ensure that countries are able to absorb the extra resources. In addition to seeking further debt relief through the interim debt strategy set out above, the leadership of the *New Partnership for Africa's Development* will establish a forum in which African countries will share experience and mobilise for the improvement of debt relief strategies.

147. Actions

- The heads of state of the *New Partnership for Africa's Development* will secure an agreement, negotiated with the international community, to provide further debt relief for countries participating in the *New Partnership for Africa's Development*, based on the principles outlined above;
- The leadership of the *New Partnership for Africa's Development* will establish a forum in which African countries may share experiences and mobilise for the improvement of debt relief strategies. They will exchange ideas that may end the process of reform and qualification in the HIPC process.

(iii) ODA Reforms

148. The *New Partnership for Africa's Development* seeks increased ODA flows in the medium term, as well as reform of the ODA delivery system, to ensure that flows are more effectively utilised by recipient African countries. The *New Partnership for Africa's Development* will establish a forum of African countries so as to develop a common African position on ODA reform, and to engage with the Development Assistance Committee (DAC) of the OECD and other donors in developing a charter underpinning the development partnership. This charter will identify the Economic Governance Initiative as a prerequisite for enhancing the capacity of African countries to utilise increased ODA flows, and will propose a complementary, independent assessment mechanism for monitoring donor performance. The *New Partnership for Africa's Development* will support a PRSP Learning Group to engage in the PRSP process, together with the IMF and the World Bank.

149. Actions

- Constitute an ODA forum for developing a common African position on ODA reform, as a counterpart to the OECD/DAC structure;
- Engage, through the ODA forum, with donor agencies to establish a charter for the development partnership, which would embody the principles outlined above;
- Support efforts of the Economic Commission for Africa (ECA) to establish a PRSP Learning Group;

- Establish an independent mechanism for assessing donor and recipient country performance.

(iv) Private Capital Flows

150. The *New Partnership for Africa's Development* seeks to increase private capital flows to Africa, as an essential component of a sustainable long-term approach to filling the resource gap.
151. • The first priority is to address investors' perception of Africa as a "high-risk" continent, especially with regard to security of property rights, regulatory frameworks and markets. Several key elements of the *New Partnership for Africa's Development* will help to lower these risks gradually, and include initiatives relating to peace and security, political and economic governance, infrastructure and poverty reduction. Interim measures for risk mitigation will be put in place, including credit guarantee schemes and strong regulatory and legislative frameworks.
- The next priority is the implementation of a PPP capacity-building programme through the African Development Bank and other regional development institutions, to assist national and subnational governments in structuring and regulating transactions in the provision of infrastructural and social services.
- The third priority is to promote the deepening of financial markets within countries, as well as cross-border harmonisation and integration, via a Financial Market Integration Task Force. Initially, this will focus on the legislative and regulatory environment for the financial system.
152. **Actions**
- Establish a task team to carry out audits of investment-related legislation and regulation, with a view to risk reduction and harmonisation within Africa;
 - Carry out a needs assessment of, and feasibility study on, financial instruments to mitigate risks associated with doing business in Africa;
 - Establish an initiative to enhance the capacity of countries to implement PPPs;
 - Establish a Financial Market Integration Task Force that will speed up financial market integration through establishing an international standard legislative and regulatory framework and creating a single African trading platform;
 - Equally important, however, especially in the short to medium term, is the need for additional ODA and debt reduction. Additional ODA is required to enable least developed countries to achieve the IDGs, especially in the areas of primary education, health, and poverty eradication. Further debt reduction is also crucial. The enhanced HIPC debt relief initiative still leaves many countries within its scope with very high debt burdens; hence the need to direct more resources towards poverty reduction. In addition, some countries not included in the HIPC initiative also require debt relief to release resources for poverty reduction.

C2. THE MARKET ACCESS INITIATIVE

(i) Diversification of Production

153. African economies are vulnerable because of their dependence on primary production and resource-based sectors, and their narrow export bases. There is an urgent need to diversify production and the logical starting point is to harness Africa's natural resource base. Value added in agro-processing and mineral beneficiation must be increased and a broader capital goods sector developed through a strategy of economic diversification based on intersectoral linkages. Private enterprise must be supported, both micro-enterprises in the informal sector and small and medium enterprises in the manufacturing sector, which are principal engines of growth and development. Governments should remove constraints on business activity and encourage the creative talents of African entrepreneurs.

(ii) Agriculture

154. Objectives

- To improve the productivity of agriculture, with particular attention to small-scale and women farmers;
- To ensure food security for all people and increase the access of the poor to adequate food and nutrition;
- To promote measures against natural resource degradation and encourage production methods that are environmentally sustainable;
- To integrate the rural poor into the market economy and provide them with better access to export markets;
- To develop Africa into a net exporter of agricultural products;
- To become a strategic player in the development of agricultural science and technology.

155. Actions

At the African level:

- Increase the security of water supply for agriculture by establishing small-scale irrigation facilities, improving local water management, and increasing the exchange of information and technical know-how with the international community;
- Improve land tenure security under traditional and modern forms of tenure, and promote the necessary land reform;

- Foster regional, subregional, national and household food security through the development and management of increased production, transport, storage and marketing of food crops, livestock and fisheries. Particular attention must also be given to the needs of the poor, as well as the establishment of early warning systems to monitor droughts and crop production;
- Enhance agricultural credit and financing schemes, and improve access to credit by small-scale and women farmers;
- Reduce the heavy urban bias of public spending in Africa by transferring resources from urban to rural activities.

At the international level:

- Develop new partnership schemes to address donor fatigue for individual, high-profile agricultural projects;
- Developing countries should assist Africa in carrying out and developing its research and development capabilities in agriculture;
- Promote access to international markets by improving the quality of African produce and agricultural products, particularly processed products, to meet the standards required by those markets;
- Support African networking with external partners in the areas of agricultural technology and know-how, extension services and rural infrastructure;
- Support investment in research in the areas of high-yield crops and durable preservation and storage methods;
- Provide support for building national and regional capacity for multilateral trade negotiations, including food sanitation and other agricultural trade regulations.

(iii) Mining

156. Objectives

- To improve the quality of mineral resource information;
- To create a regulatory framework that is conducive to the development of the mining sector;
- To establish best practices that will ensure efficient extraction of natural resources and minerals of high quality.

157. Actions

At the African level:

- Harmonise policies and regulations to ensure compliance with minimum levels of operational practices;
- Harmonise commitments to reduce the perceived investment risk in Africa;
- Harmonise information sources on business opportunities for investments;
- Enhance collaboration with a view to knowledge-sharing and value addition to natural resources;
- Enforce principles of value addition (beneficiation) for investments in the African mining sector;
- Establish an African School of Mining System for the development and production of education, skills and training at all levels. This could be achieved through collaboration among existing schools.

(iv) Manufacturing

158. Objectives

- To increase the production and improve the competitiveness and diversification of the domestic private sector, especially in the agro-industrial, mining and manufacturing subsectors, with potential for exports and employment creation;
- To establish organisations on national standards in African countries;
- To harmonise the technical regulatory frameworks of African countries.

159. Actions

At the African level:

- Develop new industries or upgrade existing ones, where African countries have comparative advantages, including agro-based industries, energy and mineral resource-based industries;
- Acquire membership of the relevant international standards organisations. Active membership would give Africa a stronger voice in these bodies, and would enable African industry to participate meaningfully in the development of international standards. Membership would also result in the transfer of copyright of international standards to the national associations;
- Establish national measurement institutions to ensure harmonisation with the international metrology system. Such activities will always remain the responsibility of government;
- Ensure that testing laboratories and certification organisations are set up to support the relevant national technical regulations. Where they do not exist, such organisations should be established as soon as possible;
- Establish an accreditation infrastructure, such as the International Standards Organisation (ISO) system, which is acceptable internationally. Such an accreditation infrastructure can be nationally based where the industry is strong enough to maintain it, otherwise regional structures should be contemplated. Appropriate

funding to ensure membership of international structures such as the International Accreditation Forum (IAF) and the International Electrotechnical Commission (IEC) should be made available;

- Pursue mutual recognition of test and certification results with Africa's major trading partners. Generally, this will only be possible if the framework for standards, technical regulations, measurement, tractability and accreditation are in place and can be shown to meet international requirements.

At the international level:

- Facilitate partnership through the development of mechanisms, such as joint business councils, for information-sharing between non-African and African firms and for working towards the establishment of joint ventures and subcontracting arrangements;
- Assist in strengthening African training institutions for industrial development, particularly through the promotion of networking with international partners;
- Promote the transfer of new and appropriate technologies to African countries;
- Develop and accept a best-practice framework for technical regulations that meet both the requirements of the World Trade Organisation's (WTO) Agreement on Technical Barriers to Trade (TBT) and the needs of Africa. The technical regulation frameworks of the developed countries may be too complex for many African countries;
- Establish standards bureaux, which would provide the industry and government with the necessary information on international, regional and national standards, thereby facilitating market access. These centres should be linked to the relevant international, regional and national standards information centres so that the latter can act as the national WTO/TBT enquiry points;
- Ensure the development of appropriate regional and national standards through the establishment of appropriate technical committee structures representing the stakeholders of the countries, as well as managing such committees in line with ISO/IEC directives and WTO/TBT requirements.

(v) Tourism

160. Objectives

- To identify key "anchor" projects at the national and subregional levels, which will generate significant spin-offs and assist in promoting interregional economic integration;
- To develop a regional marketing strategy;
- To develop research capacity in tourism;
- To promote partnerships such as those formed via subregional bodies. Examples include the Regional Tourism Organisation of Southern Africa (RETOSA), the Economic Community of West African States (ECOWAS) and the SADC.

161. Actions

At the African level:

- Forge cooperative partnerships to capture the benefits of shared knowledge, as well as providing a base for other countries for entering into tourist-related activities;
- Provide the African people with the capacity to be actively involved in sustainable tourism projects at the community level;
- Prioritise consumer safety and security issues;
- Market African tourism products, especially in adventure tourism, ecotourism and cultural tourism;
- Increase regional coordination of tourism initiatives in Africa for the expansion and increased diversity of products;
- Maximise the benefits from the strong interregional demand for tourism activities, by developing specialised consumer-targeted marketing campaigns.

(vi) Services

162. Services can constitute very important activities for African countries, in particular those that are well equipped in the field of ICTs (teleservices).

(vii) Promoting the Private Sector

163. Objectives

- To ensure a sound and conducive environment for private sector activities, with particular emphasis on domestic entrepreneurs;
- To promote foreign direct investment and trade, with special emphasis on exports;
- To develop micro-, small and medium enterprises, including the informal sector.

164. Actions

At the African level:

- Undertake measures for enhancing the entrepreneurial, managerial and technical capacities of the private sector by supporting technology acquisition, production improvements, and training and skills development;

- Strengthen chambers of commerce, trade and professional associations and their regional networks;
- Organise dialogue between the government and the private sector to develop a shared vision of economic development strategy and remove constraints on private sector development;
- Strengthen and encourage the growth of micro-, small and medium-scale industries through appropriate technical support from service institutions and civil society, and improve access to capital by strengthening microfinancing schemes, with particular attention to women entrepreneurs.

At the international level:

- Promote entrepreneurial development programmes for training managers of African firms;
- Provide technical assistance for developing an appropriate regulatory environment, promoting small, medium and micro-enterprises and establishing microfinancing schemes for the African private sector.

(viii) Promoting African Exports

165. Objectives

- To improve procedures for customs and drawback/rebate schemes;
- To tackle trade barriers in international trade through the improvement of standards;
- To increase intra-regional trade through promoting cross-border interaction among African firms;
- To counter Africa's negative image through conflict resolution and marketing;
- To deal with shortages of short-term skills through appropriate incentives and training at firm level.

166. Actions

At the African level:

- Promote intra-African trade with the aim of sourcing within Africa imports formerly sourced from other parts of the world;
- Create marketing mechanisms and institutions to develop marketing strategies for African products;
- Publicise African exporting and importing companies and their products through trade fairs;
- Reduce the cost of transactions and operations;
- Promote and improve regional trade agreements, foster interregional trade liberalisation and harmonise rules of origin, tariffs and product standards;
- Reduce export taxes.

At the international level:

- Negotiate measures and agreements to facilitate access to the world market by African products;
- Encourage foreign direct investment;
- Assist in capacity-building in the private sector, as well as strengthening country and subregional capacity in trade negotiations, implementing the rules and regulations of the WTO, and identifying and exploiting new trading opportunities that emerge from the evolving multilateral trading system;
- The African heads of state must ensure active participation in the world trading system, which has been managed under the auspices of the WTO since 1995. If a new round of multilateral trade negotiations is started, it must recognise and provide for the African continent's special concerns, needs and interests in future WTO rules.

167. Participation in the world trading system must enhance:

- Open, predictable and geographically diversified market access for exports from Africa;
- The provision of a forum in which developing countries can collectively call for structural adjustment by developed countries in those industries in which the natural competitive advantage now lies with the developing world;
- Transparency and predictability as preconditions for increased investment, in return for boosting supply capacity and enhancing the gains from existing market access;
- Technical assistance and support to enhance the institutional capacity of African states to use the WTO and to engage in multilateral trade negotiations.

168. In addition to broad-based support for the WTO, African heads of state must identify strategic areas of intervention and, together with the international community, strengthen the contribution of trade to the continent's recovery. The strategic areas include:

- Identifying key areas in export production in which supply-side impediments exist;
- Diversifying production and exports, especially in existing and potential areas of competitive advantage, and bearing in mind the need to move towards higher value-added production;
- Assessing the scope for further liberalisation in manufacturing, given the concentration of access in low value-added sectors and its restrictiveness in high value-added activities with the greatest economic and growth potential;

- Renewed political action by African countries to intensify and deepen the various integration initiatives on the continent. To this end, consideration needs to be given to:
 - A discretionary preferential trade system for intra-African trade;
 - The alignment of domestic and regional trade and industrial policy objectives, thereby increasing the potential for intra-regional trade critical to the sustainability of regional economic arrangements.

169. Heads of state must act to:

- Secure and stabilise preferential treatment by key developed country partners, e.g. the Generalised System of Preferences (GSP), the Cotonou Agreement, the “Everything But Arms” (EBA) initiative and the Africa Growth and Opportunity Act (AGOA);
- Ensure that further multilateral liberalisation does not erode the preferential gains of these arrangements;
- Identify and address deficiencies in their design and application.

(ix) Removal of Non-tariff Barriers

170. African leaders believe that improved access to the markets of industrialised countries for products in which Africa has a comparative advantage is crucial. Although there have been significant improvements in terms of lowered tariffs in recent years, there remain significant exceptions on tariffs while non-tariff barriers also constitute major impediments. Progress on this issue would greatly enhance the economic growth and diversification of African production and exports. Dependence on ODA would decline and infrastructure projects would become more viable as a result of increased economic activity.

VI. A NEW GLOBAL PARTNERSHIP

171. Africa recognises the centuries-old historical injustice and the need to correct it. The central injunction of the new partnership is, however, for combined efforts to improve the quality of life of Africa’s people as rapidly as possible. In this, there are shared responsibilities and mutual benefits for Africa and its partners.
172. The global technological revolution needs an expanding base of resources, a widening sphere of markets, new frontiers of scientific endeavour, the collective capacity of human wisdom, and a well-managed ecological system. We are aware that much of Africa’s mineral and other material resources are critical inputs into production processes in developed countries.
173. In addition to its indispensable resource base, Africa offers a vast and growing market for producers worldwide. A developing Africa, with increased numbers of employed and skilled workers and a burgeoning middle class, would constitute an expanding market for the world’s manufactured products, intermediate goods and services.
174. At the same time, Africa provides a great opportunity for investment. The *New Partnership for Africa’s Development* creates opportunities for joint international efforts in the development of infrastructure, especially in ICT and transportation.
175. Africa also provides prospects for creative partnerships between the public and private sectors in beneficiation, agro-industries, tourism, human resource development and in addressing the challenges of urban renewal and rural development.
176. Furthermore, Africa’s biodiversity – including its rich flora and fauna and the rainforests – is an important global resource in combating the environmental degradation posed by the depletion of the ozone layer and climate change, as well as the pollution of air and water by industrial emissions and toxic effluents.
177. The expansion of educational and other opportunities in Africa would enhance the continent’s contribution to world science, technology and culture, to the benefit of all humankind. After all, modern science recognises Africa as the cradle of humanity. Fossils, artefacts, artistic works and versions of ancient human settlements are to be found throughout Africa, providing material evidence of the emergence of *Homo sapiens* and the progression of humankind.
178. As part of the process of reconstructing the identity and self-confidence of the peoples of Africa, it is necessary that this be understood and valued by Africans themselves. In the same vein, Africa’s status as the birthplace of humanity should be cherished by the whole world as the origin of all its peoples.
179. Africa’s rich cultural legacy is reflected in its artefacts of the past, its literature, philosophies, art and music. These should serve both as a means of consolidating the pride of Africans in their own humanity and of confirming the common humanity of the peoples of the world.
180. The *New Partnership for Africa’s Development* has, as one of its foundations, the expansion of democratic frontiers and the deepening of the culture of human rights. A democratic Africa will become one of the pillars of world democracy, human rights and tolerance. The resources of the world currently dedicated to resolving civil and interstate conflict could therefore be freed for more rewarding endeavours.
181. The converse of such an initiative, that is the collapse of more African states, poses a threat not only to Africans, but also to global peace and security. For industrialised countries, development in Africa will reduce the levels of global social exclusion and mitigate a major potential source of global social instability.
182. Africa is committed to the development and strengthening of South-South partnerships. Establishing a New Relationship with Industrialised Countries and Multilateral Organisations

183. A critical dimension of Africans taking responsibility for the continent's destiny is the need to negotiate a new relationship with their development partners. The manner in which development assistance is delivered in itself creates serious problems for developing countries. The need to negotiate with, and account separately to, donors supporting the same sector or programme is both cumbersome and inefficient. Also, the tying of development assistance generates further inefficiencies. The appeal is for a new relationship that takes the country programmes as a point of departure. The new relationship should set out mutually agreed performance targets and standards for both donor and recipient. Many cases clearly show that the failure of projects is not caused only by the poor performance of recipients, but also by bad advice given by donors.
184. The various partnerships between Africa and the industrialised countries on the one hand, and multilateral institutions on the other, will be maintained. The partnerships in question include, among others, the UN's New Agenda for the Development of Africa in the 1990s; the Africa-Europe Summit's Cairo Plan of Action; the World Bank-led Strategic Partnership with Africa; the IMF-led PRSPs; the Japan-led Tokyo Agenda for Action; the AGOA of the United States; and the ECA-led Global Compact with Africa. The objective is to rationalise these partnerships and to ensure that real benefits flow from them.
185. The African leaders envisage the following responsibilities and obligations of the developed countries and multilateral institutions:
 - To materially support mechanisms for and processes of conflict prevention, management and resolution in Africa, as well as peacekeeping initiatives;
 - To accelerate debt reduction for heavily indebted African countries, in conjunction with more effective poverty reduction programmes, of which the Strategic Partnership with Africa and the PRSP initiatives are an important starting point;
 - To improve debt relief strategies for middle-income countries;
 - To reverse the decline in ODA flows to Africa and to meet the target level of ODA flows equivalent to 0.7 per cent of each developed country's gross national product (GNP) within an agreed period. Increased aid flows will be used to complement funds released by debt reduction for accelerating the fight against poverty;
 - To translate into concrete commitments the international strategies adopted in the fields of education and health;
 - To facilitate the development of a partnership between countries, international pharmaceutical corporations and civil society organisations to urgently secure access to existing drugs for Africans suffering from infectious diseases;
 - To admit goods into markets of developed countries through bilateral initiatives, and to negotiate more equitable terms of trade for African countries within the WTO multilateral framework;
 - To work with African leaders to encourage investment in Africa by the private sector in developed countries, including the establishment of insurance schemes and financial instruments that will help lower risk premiums on investments in Africa;
 - To raise consumer protection standards for exports from developed countries to developing countries, as applicable to the domestic markets in developed countries;
 - To ensure that the World Bank and other multilateral development finance institutions participate as investors in the key economic infrastructure projects, in order to facilitate and secure private sector participation;
 - To provide technical support to accelerate the implementation of the programme of action, including strengthening Africa's capacity for planning and development management, financial and infrastructure regulation, accounting and auditing, and the development, construction and management of infrastructure;
 - To support governance reforms of multilateral financial institutions to better cater for the needs and concerns of countries in Africa;
 - To set up coordinated mechanisms for combating corruption effectively, as well as committing themselves to the return of monies (proceeds) of such practices to Africa.

VII. IMPLEMENTATION OF THE NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT

186. Recognising the need to sequence and prioritise, the initiating Presidents propose that these programmes be fast-tracked, in collaboration with development partners:
 - Communicable diseases: HIV/AIDS, malaria and tuberculosis;
 - Information and communications technology;
 - Debt reduction;
 - Market access.
187. Work has already been done on all these programmes through a variety of international partnerships and institutions. However, Africa's participation and leadership need to be strengthened for better delivery. We believe that addressing these issues could fast-track the renewal of the continent. (Detailed proposals on each programme are available as annexes.)

Projects

188. Much as the promoters of the *New Partnership for Africa's Development* appreciate the dangers of a project approach to development, they are proposing a number of projects that are crucial to integrated regional development, as conceived by the *New Partnership for Africa's Development*. Not only will these projects strengthen country and regional development programmes, but they will also go a long way in kickstarting the regeneration of the continent.
189. The projects presented below are for illustrative purposes only. A detailed list of projects can be found on the web site of the *New Partnership for Africa's Development* (www.mapstrategy.com).

(i) Agriculture

190. Expand the ambit and operation of the integrated action plan for land and water management for Africa. The project addresses the maintenance and upgrading of Africa's fragile agricultural natural resources base. Many African governments are already implementing these initiatives as part of this programme. Partners include the Global Environment Facility (GEF), the World Bank, the African Development Bank, the FAO and other bilateral donor agencies.
191. Strengthen and refocus the capacity of Africa's agricultural research and extension systems. The project addresses the issue of upgrading the physical and institutional infrastructure that supports Africa's agriculture. Technological innovation and technology diffusion hold enormous potential for accelerating agricultural output and productivity, but the continent lacks the research capacity necessary for major breakthroughs. Major players include the Forum for Agricultural Research in Africa (FARA), the World Bank, the FAO and the Consultative Group on International Agricultural Research (CGIAR).

(ii) Promotion of the Private Sector

192. International experience suggests that one of the best practices in promoting enterprises in highly innovative areas is through the establishment of business incubators. This project will formulate required guidelines and policies for the establishment of such incubators at the national level, drawing on international experience and established best practice, tailored to African needs and conditions.

(iii) Infrastructure and Regional Integration

193. The *New Partnership for Africa's Development* process has identified many energy, transport, telecommunications and water projects that are crucial to Africa's integrated development. The projects are at various stages of development and require funding. The next step is to accelerate their continued development in collaboration with the African Development Bank, the World Bank and other multilateral institutions.
194. The view of the initiating Presidents is that, unless the issue of infrastructure development is addressed on a planned basis – that is, linked to regional integrated development – the renewal process of the continent will not take off. Therefore, the international community is urged to support Africa in accelerating the development of infrastructure. Detailed infrastructure projects can be found on the web site of the *New Partnership for Africa's Development* www.mapstrategy.com.

Needs Assessment

195. As part of assessing the required action in the priority sectors, a needs assessment will be undertaken, progressing from the national level to the subregional and regional levels. The aim is to assess the needs in the five priority sectors in terms of structures and staff.
196. The assessment of subregional sectoral needs will start from the national needs assessment. It is proposed that the experts and ministers in each subsector meet in one of the subregional capitals. For each sector, national data would have been aggregated and used to elaborate a subregional sectoral plan. Once subregional sectoral needs have been assessed in the five sectors, they can be aggregated to formulate an overall regional plan.
197. It should be stressed that subregional sectoral needs are not to be simply added up – the starting point is a subregional perspective leading to at least two new elements:
 - Specific needs of the subregion perceived as a single space for all states in the subregion. For instance, roads and railroads will not be conceived from a national perspective but from a subregional one;
 - Needs that should be rationalised on a subregional basis. For instance, universities should be distributed according to a subregional territorial rationale;
 - Finally, the continent's needs will be assessed in the five sectors considered priority sectors in the light of the global subregional plans. The details can be found on the web site of the *New Partnership for Africa's Development* (www.mapstrategy.com).

Management Mechanism of the New Partnership for Africa's Development

198. The heads of state promoting the *New Partnership for Africa's Development* will advise the AU on an appropriate mechanism for its implementation.
199. There will be a need for core technical support for the implementing mechanism in the areas of research and policy formulation.

Heads of State Implementation Committee

200. A Heads of State Implementation Committee composed of the five heads of state, promoters of the *New Partnership for Africa's Development* and ten others (two from each region) will be appointed for the implementation.
201. The functions of the Implementation Committee will consist of:
- Identifying strategic issues that need to be researched, planned and managed at the continental level;
 - Setting up mechanisms for reviewing progress in the achievement of mutually agreed targets and compliance with mutually agreed standards;
 - Reviewing progress in the implementation of past decisions and taking appropriate steps to address problems and delays.

VIII. CONCLUSION

202. The objective of the *New Partnership for Africa's Development* is to consolidate democracy and sound economic management on the continent. Through the Programme, African leaders are making a commitment to the African people and the world to work together in rebuilding the continent. It is a pledge to promote peace and stability, democracy, sound economic management and people-centred development, and to hold each other accountable in terms of the agreements outlined in the Programme.
203. In proposing the partnership, Africa recognises that it holds the key to its own development. We affirm that the *New Partnership for Africa's Development* offers an historic opportunity for the developed countries of the world to enter into a genuine partnership with Africa, based on mutual interest, shared commitments and binding agreements.
204. The adoption of a development strategy as set out in the broad approach outlined above, together with a detailed programme of action, will mark the beginning of a new phase in the partnership and cooperation between Africa and the developed world.
205. In fulfilling its promise, this agenda must give hope to the emaciated African child that the 21st century is indeed Africa's century.

ABUJA, NIGERIA

OCTOBER 2001

Organisation of African Unity (OAU), Solemn Declaration, Conference on Security, Stability, Development and Co-operation in Africa (2000, Lomé, Togo)

1. We, the Heads of State and Government of the Member States of the Organization of African Unity (OAU), meeting in Lomé, Togo, at the 36th Assembly of our Organization, have considered the report of the Ministerial meeting of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) held in Abuja, from 8 to 9 May, 2000. The Ministerial Conference was convened pursuant to the decision taken in Algiers in July 1999, proclaiming 2000 as the Year of Peace, Security and Solidarity in Africa as well as the Declaration adopted on 9 September, 1999, at our 4th Extraordinary Summit in Sirte, in the Great Socialist Peoples Libyan Arab Jamahiriya, which, inter-alia, decided on the establishment of an African Union and the convening of the Ministerial Conference.
2. We recall the Decisions we have taken, over the years, to promote political stability and economic development in our Continent. In the realm of promoting stability, the African Charter for Popular Participation in Development and the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, were adopted in 1990.
3. In June 1993, in Cairo, Egypt, we adopted a Declaration establishing the Mechanism for Conflict Prevention, Management and Resolution to forge, within the OAU, a new institutional dynamism for the prevention, management and resolution of conflicts. In 1981 and 1998 respectively, the African Charter on Human and People's Rights and the Protocol on the establishment of the African Court on Human and People's Rights, were adopted. Both were important instruments for ensuring the promotion, protection and observance of human rights as an integral part of our Organization's wider objective of promoting collective security for durable peace and sustainable development.
4. "In July 1997, during our Summit in Harare, we took a stand against Unconstitutional Changes of Government. This led the Algiers Summit of July 1999 to adopt a decision on Unconstitutional Changes of Governments to reinforce respect for democracy, the rule of law, good governance and stability."
5. In the area of development and cooperation, the Lagos Plan of Action and the Final Act of Lagos were adopted in 1980; the Treaty establishing the African Economic Community and the Cairo Agenda for Re-launching the Economic and Social Development of Africa, were adopted in 1991 and 1995 respectively. The Sirte Declaration of September 1999, included measures for accelerating the process of economic integration and addressing the question of Africa's indebtedness.
6. We recall that these concerns were at the core of the initiative launched by the African Leadership Forum on the CSSDCA process. We note that the conference on Security, Stability, Development and Cooperation in Africa as proposed in the Kampala Document was not conceived as a one-off event, but rather as a process. The underlying thinking of the CSSDCA process as articulated in the four calabashes of the Kampala Document of 1991 was a recognition of the fact that the problems of security and stability in many African countries had impaired their capacity to achieve the necessary level of intra and inter-African cooperation that is required to attain the integration of the continent and critical to the continent's socio-economic development and transformation. In this regard, we have used both the revised Kampala Document and the working document elaborated by our experts in Addis Ababa to enrich our thinking on the CSSDCA process.
7. We note that all the major decisions taken by our Organization since its inception, reflect the inter-linkage between peace, stability, development, integration and cooperation. We believe that the CSSDCA process creates a synergy between the various activities currently undertaken by our Organization and should therefore help to consolidate the work of the OAU in the areas of peace, security, stability, development and cooperation. It should provide a policy development forum for the elaboration and advancement of common values within the main policy organs of the OAU.
8. We are convinced that the interactive approach embedded in the CSSDCA initiative, should provide an invaluable tool for the pursuit of the agenda of the OAU in the new millennium, with particular reference to the issues of Security, Stability, Development and Cooperation.

DECLARATION OF PRINCIPLES

9. In recognition of the importance of the CSSDCA, which shall encompass four major areas henceforth called Calabashes: Security, Stability, Development and Cooperation in furthering Africa's interests within the ambit of the OAU, we affirm the following general and specific principles:

GENERAL PRINCIPLES

- a. Respect for the sovereignty and the territorial integrity of all Member States;
- b. The security, stability and development of every African country is inseparably linked to that of other African countries. Instability in one country affects the stability of neighbouring countries and has serious implications for continental unity, peace and development;
- c. The interdependence of Member States and the link between their security, stability and development make it imperative to develop a common African agenda. Such an agenda must be based on a unity of purpose and a collective political consensus derived from a firm conviction that Africa cannot make any significant progress without finding lasting solutions to the problem of peace and security;
- d. The peaceful resolution of disputes, with emphasis on seeking African solutions to African problems;
- e. The prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish;
- f. The responsibility for the security, stability and socio-economic development of the Continent lies primarily with African States;
- g. While recognizing that the primary responsibility for the maintenance of international peace and security has with the United Nations Security Council, the OAU, in close cooperation with the United Nations and the Regional Economic Communities, remains the premier organization for promoting security, stability, development and cooperation in Africa;
- h. Democracy, good governance, respect for human and peoples' rights and the rule of law are prerequisites for the security, stability and development of the Continent;
- i. Africa's resources should be used more effectively to meet the needs of African peoples and to improve their well-being;
- j. The fulfillment of the objectives of the CSSDCA, requires the strengthening of Africa's solidarity and partnership with other regions of the world, in order to meet the challenges of globalization and avoid further marginalization;
- k. HIV/AIDS and other pandemics on the continent constitute a threat to human security as well as short and long term sustainable growth in Africa;
- l. Member States should adhere in good faith to all CSSDCA principles and ensure their implementation.

SPECIFIC PRINCIPLES

Security

10. Recognizing that security should be seen in its wholeness and totality including the right of peoples to live in peace with access to the basic necessities of life, while fully enjoying the rights enshrined in the African Charter on Human and Peoples Rights and freely participating in the affairs of their societies; and bearing in mind that Africa's security and that of its Member States are inseparably linked with the security of all African peoples;

We affirm that:

- a. Security should be recognized as a pillar of the CSSDCA process. It is an indispensable condition for peace, stability, development and cooperation. It underscores the organic links that exist between the security of Member States as a whole and the security of each of them on the basis of their history, culture, geography and their common destiny. This implies individual and collective responsibilities exercised within the basic framework of the African Charter on Human and Peoples Rights and other relevant international instruments;
- b. The concept of security must embrace all aspects of society including economic, political, and social and environmental dimensions of the individual, family, and community, local and national life. The security of a nation must be based on the security of the life of the individual citizens to live in peace and to satisfy basic needs while being able to participate fully in societal affairs and enjoying freedom and fundamental human rights;
- c. The security of all Africans and their States as a whole is indispensable for stability, development and cooperation in Africa. This should be a sacred responsibility of all African States – individually and collectively – which must be exercised within the basic framework of the African Charter on Human and Peoples' Rights and other relevant international instruments;
- d. Member States should in times of peace undertake the delimitation and demarcation of common borders;
- e. There is an imperative need to build and enhance Africa's capacity for peace support operations, emergency relief preparedness and natural disaster response at the subregional and continental levels, including the strengthening of regional efforts and initiatives;
- f. Foreign intervention in the internal affairs of Member States, especially in situations of conflict should be resisted and condemned by all Member States;
- g. The problem of refugees and displaced persons constitutes a threat to peace and security of the continent and its root causes must be addressed;
- h. Uncontrolled spread of small arms and light weapons as well as the problem of landmines pose a threat to peace and security in the African continent.

Stability

11. Noting that stability requires that all States be guided by strict adherence to the rule of law, good governance, peoples participation in public affairs, respect for human rights and fundamental freedoms, the establishment of political organizations devoid of sectarian, religious, ethnic, regional and racial extremism;

We affirm that:

- a. The Executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactment promulgated by National Assemblies. No one should be exempted from accountability;
- b. The active and genuine participation of citizens of every country in the decisionmaking processes and in the conduct of public affairs must be fostered and facilitated;
- c. All rights and freedoms of citizens should be promoted and protected;
- d. There shall be no hindrance to the promotion of political pluralism. All forms of extremism and intolerance foster instability;
- e. Terrorism, in all its manifestations, is inimical to stability.

Development

12. Noting that the attainment of self-reliance, sustainable growth and economic development will be facilitated by the promotion of economic cooperation and integration; that effective diversification of the resource and production base is vital for rapid social and economic transformation; that popular participation, equal opportunity, transparency in public policy-making and partnership between government and peoples are necessary for the achievement of development; that improved access to resources and markets for Africa's exports as well as debt cancellation and capacity-building in all fields of human endeavour are crucial for Africa's development;

We affirm that:

- a. The accelerated economic development of our countries is at the centre of our national policies and in this regard, comprehensive programmes will be put in place at the national and regional levels to address capacity constraints, infrastructural problems and weak industrial and technological base;
- b. Self-sustaining economic growth and development must be grounded on selfreliance and diversification of the production base of African economies;
- c. Unilateral imposition of economic sanctions and blockade are unjust and constitute a serious constraint to development;
- d. Rapid physical and economic integration of the continent through the African Economic Community and the Regional Economic Communities is vital for Africa's economic recovery and development and for enhancing prospects to achieve competitiveness in a globalizing world;
- e. The principles of popular participation, equal opportunity and equitable access to resources for all people must underlie all development objectives and strategies;
- f. Partnership, trust and transparency between leaders and citizens will be critical to ensure sustainable development, based on mutual responsibilities and a shared vision;
- g. An effective solution to Africa's external debt problem including total debt cancellation in accordance with the mandates given to the Presidents of Algeria and South Africa is crucial to supporting Africa's programme on poverty eradication;
- h. The inalienable sovereign right of African countries to control their natural resources must be respected.

Cooperation

13. Noting the importance of regional and sub-regional cooperation and integration to the development of our continent, and the efforts so far made in this connection to implement the Abuja Treaty establishing the African Economic Community, as well as the various initiatives of the Regional Economic Communities (RECs); and stressing the need to articulate and harmonize the macro-economic policies, strengthen the institutions for regional integration and build regional infrastructural networks, particularly in the transport and communication sectors;

We affirm that:

- a. Member States should further intensify efforts at economic integration to compete better in the global economy and work towards a shortened time-table for the realization of the African Economic Community (AEC);
- b. Member States should act jointly and collectively to develop, protect, manage and equitably utilize common natural resources for mutual benefit;
- c. Taking into account the growing global interdependence, African countries must seek to explore further, opportunities for beneficial cooperative relations with other developing and industrialized countries;
- d. In pursuing closer cooperation and integration, African countries will need to transfer certain responsibilities to continental or sub-regional institutions within the framework of the African Economic Community and the Regional Economic Communities;

- e. The promotion of North-South and South-South cooperation is an important strategy in Africa's development effort, particularly in addressing issues such as Official Development Assistance (ODA) and Foreign Direct Investment (FDI) flows, external debt and terms of trade which impact on Africa's development;
- f. The process of regional and continental integration will be facilitated by enhanced effort at harmonization and coordination of economic programmes and policies of Regional Economic Communities.

PLAN OF ACTION

14. Having identified the General and Specific Principles that will guide the CSSDCA process and having reached a consensus on the need to put in place measures for the implementation of those principles, we, the Heads of State and Government of the Organization of African Unity, have agreed on the following Plan of Action.

Security

We agree to:

- a. Reinforce Africa's capacity for Conflict Prevention, Management and Resolution by strengthening the OAU Mechanism for Conflict Prevention, Management and Resolution, in particular, through the mobilization of additional resources and logistical support for the operational activities of the Mechanism and the enhancement of the effectiveness of the Central Organ;
- b. Strengthen the capacity of the OAU mechanism for negotiation, mediation and conciliation, inter-alia, through the use of African statesmen and eminent personalities in overall efforts to prevent, manage and/or resolve conflicts;
- c. Establish modalities for more effective cooperation, coordination and harmonization between the OAU and African and non-African organizations on the one hand, and between the OAU and the UN, as the World body which is primarily responsible for the maintenance of international peace and security, on the other, especially, in relation to peace-building and peace-making and peace-keeping;
- d. Adopt confidence-building measures based on trust, transparency, good neighbourliness, respect for the territorial integrity, security concerns of States and noninterference in their internal affairs, as the bedrock of inter-state relations. In this regard, negotiations for the delimitation and demarcation of disputed borders, exchange of information and cooperation at the sub-regional level on security matters, especially on issues relating to terrorism, cross border criminal activities and joint military training as well as emergency relief preparedness and natural disaster response;
- e. Recommit ourselves to politically negotiated approaches for resolving conflicts so as to create an environment of peace and stability on the continent that will also have the effect of reducing military expenditure, thus releasing additional resources for socioeconomic development;
- f. Ensure that parties to conflicts commit themselves to fully cooperate with the efforts made within the framework of the OAU Mechanism for Conflict Prevention, Management and Resolution and of regional mechanisms;
- g. Endorse the proposed OAU Early Warning System which should be made fully operational expeditiously, to provide timely information on conflict situations in Africa. This should be complemented by a corresponding preparedness by our States to facilitate early political action by the OAU, based on Early Warning information;
- h. Enhance OAU's capacity for mobilizing support and resources for the reconstruction and rehabilitation efforts of countries emerging from conflicts;
- i. Implement the Decision of the 31st Summit on Ready Contingents within Member States for possible deployment by the UN and in exceptional circumstances, by the OAU, as well as the recommendations of the meetings of the African Chiefs of Defence Staff;
- j. Address the root causes of the problem of refugees and displaced persons on the continent and work towards the mobilization of resources to provide adequate assistance for asylum countries to enable them mitigate the impact of the refugee burden;
- k. Address the phenomena of armed elements and political activists in Refugee Camps, impunity, crimes against humanity, child soldiers and drug addiction, which have contributed to the state of insecurity in some parts of the continent;
- l. Work towards ending the illicit proliferation and trafficking in small arms and light weapons that has played a major role in perpetuating intra and inter-State conflicts in Africa.
- m. Monitor progress and regularly evaluate the implementation of the Algiers Decision declaring the year 2000, as the Year of Peace, Security and Solidarity in Africa.

Stability

We agree to:

- a. Intensify efforts aimed at enhancing the process of democratization in Africa. In this regard, the strengthening of institutions that will sustain democracy on the continent including the holding of free and fair elections should be encouraged;
- b. Adopt and implement a set of guidelines for dealing with unconstitutional and undemocratic changes in

Africa in line with the Decisions that we took during the 35th Ordinary Session of our Assembly held in Algiers in 1999;

- c. Encourage the participation and contribution of Civil Society in our States, to the efforts to bring about further democratization in our Continent;
- d. Recommit ourselves to the promotion of Good Governance, a culture of peace and accountability by leaders and officials, as a shared community value;
- e. Encourage civic education on good governance and the promotion of African values in African institutions and schools;
- f. Uphold and guarantee the rule of law, the protection and defence of the rights of citizenship as acquired at independence and as provided for in national constitutions;
- g. Vigorously combat racism, extreme nationalism, religious extremism and xenophobic tendencies;
- h. Promote and encourage cohesion, national solidarity and identity within African societies;
- i. Protect and promote respect for Human Rights and Fundamental Freedoms, such as the freedom of expression and association, political and trade union pluralism and other forms of participatory democracy;
- j. Ensure the equitable distribution of national income and wealth, as well as transparency in the exploitation of Africa's resources. In this regard, the negative impact of external and internal interests in the exploitation of Africa's resources and corruption, which continue to fuel conflicts on the continent, should be addressed in a more cohesive and effective manner;
- k. Promote greater burden-sharing in addressing refugee problems in Africa and, especially, reduce its negative impact on the environment and the economies of asylum countries;
- l. Condemn genocide, crimes against humanity and war crimes in the Continent and undertake to cooperate with relevant institutions set up to prosecute the perpetrators. Similarly, we agree to take measures to prevent the occurrence of genocide on our Continent, and encourage ratification of the protocol on the establishment of African Court on Human and Peoples' Rights and the statute of the International Criminal Court.

Development

We agree to:

- a. Accelerate the implementation process of the Abuja Treaty establishing the African Economic Community;
- b. Implement the Cairo Agenda for Re-launching the economic and Social Development of Africa;
- c. Implement the Sirte Summit Declaration on the establishment of the African Union and other Decisions, including the establishment of a Pan-African Parliament;
- d. Initiate action in cooperation with other developing countries to establish an open, rule-based, accountable, predictable, just, equitable, comprehensive and development oriented global system of economic relations that takes into account the special situation of African economies;
- e. Create stable and predictable economic environment that will allow for linkages between different economic sectors and dynamic local entrepreneurship, while establishing and reinforcing linkages between the formal and informal sectors;
- f. Design programmes for poverty eradication and the improvement of the living standards of African peoples;
- g. Support the appeals made by Tunisia to Heads of State and Government at Regional and International Fora for the creation of a World Solidarity Fund to combat poverty;
- h. Build and nurture African solidarity and unity of action, based on shared values, common development interests and goals for the benefit of Africa and its peoples. Such solidarity should be manifested in situations where African countries and peoples are subjected to external pressures and sanctions;
- i. Encourage and strengthen work ethics as well as create the necessary conditions to stop brain drain, particularly, through increased development of African human resources and the establishment of a register of African experts;
- j. Strengthen partnership between the State and the private sector and create the propitious environment for the development and expansion of our economies;
- k. Develop the human resources of our Continent;
- l. Enhance relevant skills development through the optimal and efficient utilization of existing institutions and develop new centres of excellence, and where necessary draw on, inter alia, the diaspora to supplement existing capacities and facilitate technology and skills transfer;
- m. Implement reforms to enhance economic development;
- n. Ensure the enactment of appropriate national laws to extend equal opportunities with respect to health, education, employment and other civic rights to all citizens, especially women and the girl child;
- o. Mobilize financial resources, pursue the objective of the cancellation of Africa's debt and of improved market access for Africa's exports;
- p. Develop as a priority, the main sectors of the economy, at all levels, such as agriculture, energy, industry,

trade, transport and communication and human resources;

- q. Give special emphasis to the empowerment of women to enable them actively and independently participate in activities aimed at promoting economic development;
- r. Develop programmes to improve the skills of Youths, so as to facilitate their employment and enhance their role in development;
- s. Promote sustainable environmental policies and sustained economic growth.

Cooperation

We agree to:

- a. Pursue with vigour, the implementation of the Abuja Treaty, establishing the African Economic Community;
- b. Implement the Cairo Agenda for Re-launching the Economic and Social Development of Africa;
- c. Implement the Sirte Declaration of 9-9-99;
- d. Elaborate a strategy for the dissemination and popularization of the decisions of the OAU/AEC and the RECs;
- e. Improve coordination at the level of the OAU to ensure accelerated integration at the regional levels and improved coordination among the RECs, and between the OAU/AEC and the RECs;
- f. Promote financial cooperation and integration of financial markets;
- g. Promote intra-African and international cooperation with a view to finding an effective solution to Africa's outstanding problems in the fields of debt, trade, investment and AIDS pandemic;
- h. Implement the outcome of various studies undertaken on the establishment of selffinancing mechanisms for the RECs;
- i. Improve the modalities for undertaking regular review and the implementation of cooperation agreements, within Africa and between Africa and its development partners;
- j. Improve various trade related facilities, including transport, communication, border formalities, to ensure the free movement of persons and goods at all levels;
- k. Promote joint ventures between Member States and Regional Cooperation programmes;
- l. Take necessary measures to identify static and dynamic comparative advantage, through joint harmonization of regional policy framework, as the basis for the expansion of the production base in African countries and as a guide for cooperation between African countries in the areas of industry, trade, energy, transport, communication and human resources;
- m. Strengthen Regional Economic Communities;
- n. Promote South-South Cooperation and Cooperation between Africa and the Industrialized countries;
- o. Improve access to information and communication technologies;
- p. Forge close cooperation with a view to addressing problems related to natural disasters through the establishment of appropriate institutions and promotion of capacity building.

IMPLEMENTATION MECHANISM

15. In order to implement the CSSDCA within the framework of our Organization and ensure the sustainability of the process, we agree to:
 - a. Establish a Standing Conference which should meet every two years during our Summit. Provision should be made for African Parliamentarians to make their contributions to the Conference through the Pan-African Parliament, while representatives of the civil society may forward their views and recommendations to the Standing Conference through the OAU General Secretariat;
 - b. Convene of Review Meetings of Plenipotentiaries and Senior Officials of OAU Member States to monitor the implementation of the CSSDCA decisions, in-between Sessions of the Standing Conference. To this end, we request our Secretary General to work out the modalities and financial implications for realizing this objective;
 - c. Incorporate CSSDCA principles and guidelines in national institutions that would have responsibility for helping in the monitoring of the implementation of CSSDCA activities;
 - d. Request the Secretary General to initiate internal administrative arrangements for designating, within the OAU Secretariat, a Unit to coordinate CSSDCA activities;
 - e. Take necessary measures to ensure that detailed discussions are undertaken on the various Calabashes in order to implement the CSSDCA process. In this regard, the Secretary General is requested to coordinate the consultations with a view to ensuring the convening of the meetings on the Calabashes;
 - f. Review the progress report of the Secretary General on the CSSDCA process during our next Extra-Ordinary Summit in Sirte, Libya in 2001 and the conclusions of the discussions on the various Calabashes at our Summit in 2002.
 - g. Review the agreements deriving from these meetings and discussions after considering the outcome of consultations to be undertaken by the Secretary General, during our Summit in Sirte, Libya, in 2001.

Organisation of African Unity (OAU), Treaty Establishing The African Economic Community (1991, Abuja, Nigeria)

PREAMBLE

We, the Heads of State and Government of the Member States of the Organisation of African Unity (OAU);

1. The President of the People's Democratic Republic of Algeria
2. The President of the People's Republic of Angola
3. The President of the Republic of Benin 4. The President of the Republic of Botswana
5. The President of the Republic of Burkina Faso
6. The President of the Republic of Burundi
7. The President of the Republic of Cameroon
8. The President of the Republic of Cape Verde
9. The President of the Central African Republic
10. The President of the Federal Islamic Republic of the Comoros
11. The President of the People's Republic of Congo
12. The President of the Republic of Cote d'Ivoire
13. The President of the Republic of Djibouti
14. The President of the Arab Republic of Egypt
15. The President of the People's Democratic Republic of Ethiopia
16. The President of the Republic of Equatorial Guinea
17. The President of the Republic of Gabon
18. The President of the Republic of the Gambia
19. The President of the Republic of Ghana
20. The President of the Republic of Guinea
21. The President of the Republic of Guinea Bissau
22. The President of the Republic of Kenya
23. The King of Lesotho
24. The President of the Republic of Liberia
25. The Leader of the 1st of September Revolution of the Great Socialist People's Libyan Arab Jamahiriya
26. The President of the Republic of Madagascar
27. The President of the Republic of Malawi
28. The President of the Republic of Mali
29. The President of the Islamic Republic of Mauritania
30. The Prime Minister of the Republic of Mauritius
31. The President of the Republic of Mozambique
32. The President of the Republic of Namibia
33. The President of the Republic of Niger
34. The President of the Federal Republic of Nigeria
35. The President of the Republic of Rwanda
36. The President of Sahrawi Democratic Arab Republic
37. The President of the Republic of Sao Tome and Principe
38. The President of the Republic of Senegal
39. The President of the Republic of Seychelles
40. The President of the Republic of Sierra Leone
41. The President of the Republic of Somalia
42. The President of the Republic of the Sudan
43. The King of Swaziland

44. The President of the United Republic of Tanzania
45. The President of the Republic of Tchad
46. The President of the Republic of Togo
47. The President of the Republic of Tunisia
48. The President of the Republic of Uganda
49. The President of the Republic of Zaire
50. The President of the Republic of Zambia
51. The President of the Republic of Zimbabwe

MINDFUL of the principles of international law governing relations between States;

BEARING IN MIND the principles and objectives set forth in the Charter of the Organisation of African Unity;

CONSCIOUS of our duty to develop and utilise the human and natural resources of the Continent for the general well-being of our peoples in all fields of human endeavour;

RECOGNIZING the various factors which hinder the development of the Continent and seriously jeopardise the future of its peoples;

HAVING REGARD to the various resolutions and declarations adopted by our Assembly in Algiers in September 1968, in Addis Ababa in August 1970 and May 1973 providing that the economic integration of the Continent is a pre-requisite for the realisation of the objectives of the OAU;

HAVING REGARD to our decision taken in Libreville in July 1977 endorsing the Kinshasa Declaration adopted by our Council of Ministers in December 1976 concerning the establishment of an African Economic Community, objective to be attained in successive stages;

CONSIDERING the "Monrovia Declaration of Commitment on the Guidelines and Measures for National and Collective Self-reliance in Economic and Social Development for the Establishment of a New International Order" and which, *inter alia*, calls for the Creation of an African Common Market as a prelude to an African Economic Community;

CONSIDERING FURTHER the Lagos Plan of Action and the Final Act of Lagos of April 1980 reaffirming our Commitment to establish, by the year 2000, an African Economic Community in order to foster the economic, social and cultural integration of our Continent;

FINALLY CONSIDERING our Declaration made on the occasion of the Twenty fifth Anniversary of the OAU and, in particular, the reaffirmation of our commitment and our determination to take the necessary steps to accelerate the establishment of the proposed African Economic Community;

NOTING that the efforts already made in the sub-regional and regional sectoral economic co-operation are encouraging and justify a larger and fuller economic integration;

NOTING the need to share, in a equitable and just manner, the advantages of cooperation among Member States in order to promote a balanced development in all parts of the Continent;

Have decided to establish an African Economic Community constituting an integral part of the OAU and hereby agree as follows:

CHAPTER I DEFINITIONS

Article 1

For the purpose of this Treaty

- a. "Treaty" shall mean the present Treaty;
- b. "Protocol" shall mean an instrument of implementation of the Treaty having the same legal force as the latter;
- c. "Community" shall mean the organic structure for economic integration established under Article 2 of this Treaty and constituting an integral part of the OAU;
- d. "Region" shall mean an OAU region as defined by Resolution CM/Res.464 QCXVI) of the OAU Council of Ministers concerning the Division of Africa into five (5) regions namely North Africa, West Africa, Central Africa, East Africa and Southern Africa;
- e. "Sub-region" shall mean at least three (3) States of one or more regions as defined in paragraph 1(d) of this Article;
- f. "Member States" shall mean a Member State of the Community;
- g. "Third State" shall mean any State other than a Member State;
- h. "Assembly" shall mean the Assembly of Heads of State and Government of the OAU as provided for in Articles 7 and 8 of this Treaty,
- i. "Council" shall mean the Council of Ministers of the OAU as provided for in Articles 7 and 11 of this Treaty;
- j. "Pan-African Parliament" shall mean the parliamentary assembly established under Articles 7 and 14 of this

Treaty;

- k. "Commission" shall mean the Economic and Social Commission of the OAU as provided for under Articles 7 and 15 of this Treaty;
- l. "Committee" shall mean any specialised technical committee established under Articles 7 and 25 of this Treaty or in pursuance thereof;
- m. "Court of Justice" shall mean the Court of Justice of the Community constituted under Articles 7 and 18 of this Treaty;
- n. "Secretariat" shall mean the General Secretariat of the OAU provided for in Articles 7 and 21 of this Treaty;
- o. "Secretary-General" shall mean the Secretary-General of the OAU as provided for in Article 23 of this Treaty;
- p. "Customs Duty" shall mean protective customs duties and charges having equivalent effect, levied on goods for their importation;
- q. "Export Duties and Taxes" shall mean export duties and charges having equivalent effect, levied on goods for their exportation;
- r. "Customs Duties and Taxes" shall mean all duties and taxes as defined in paragraphs (p) and (q) of this Article;
- s. "Non-Tariff Barriers" shall mean barriers which hamper trade and which are caused by obstacles other than fiscal obstacles;
- t. "Intra-Community Trade System" shall mean the system under which advantages are accorded to the goods referred to in Paragraph 1, Article 33 of this Treaty;
- u. "Goods in Transit" shall mean goods being transported between two Member States or between a Member State and a third State and passing through one or more Member States;
- v. "Barter Agreement" or "Compensatory Exchanges" shall mean any agreement under which goods and services imported into a Member State may be paid for in full or in part by direct exchange of goods and services;
- w. "Fund" shall mean the Solidarity, Development and Compensation Fund of the Community established pursuant to Article 80 of this Treaty; and
- x. "Person" shall mean a natural or legal person.

CHAPTER II ESTABLISHMENT, PRINCIPLES, OBJECTIVES, GENERAL UNDERTAKING AND MODALITIES

Article 2 Establishment of the Community

THE HIGH CONTRACTING PARTIES hereby establish among themselves an African Economic Community (AEC).

Article 3 Principles

THE HIGH CONTRACTING PARTIES, in pursuit of the objectives stated in Article 4, of this Treaty solemnly affirm and declare their adherence to the following principles:

- a. Equality and inter-dependence of Member States;
- b. Solidarity and collective self-reliance;
- c. Inter-State co-operation, harmonisation of policies and integration of programmes;
- d. Promotion of harmonious development of economic activities among Member States;
- e. Observance of the legal system of the Community;
- f. Peaceful settlement of disputes among Member States, active cooperation between neighbouring countries and promotion of a peaceful environment as a pre-requisite for economic development;
- g. Recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights; and
- h. Accountability, economic justice and popular participation in development.

Article 4 Objectives

1. The objectives of the Community shall be:
 - a. To promote economic, social and cultural development and the integration of African economies in order to increase economic self reliance and promote an endogenous and self-sustained development;
 - b. To establish, on a continental scale, a framework for the development, mobilisation and utilisation of the human and material resources of Africa in order to achieve a self-reliant development;
 - c. To promote co-operation in all fields of human endeavour in order to raise the standard of living of African peoples, and maintain and enhance economic stability, foster close and peaceful relations among Member States and contribute to the progress, development and the economic integration of the Continent; and
 - d. To coordinate and harmonize policies among existing and future economic communities in order to foster the gradual establishment of the Community.
2. In order to promote the attainment of the objectives of the Community as set out in paragraph 1 of this Article, and in accordance with the relevant provisions of this Treaty, the Community shall, by stages, ensure:

- a. The strengthening of existing regional economic communities and the establishment of other communities where they do not exist;
- b. The conclusion of agreements aimed at harmonising and coordinating policies among existing and future sub-regional and regional economic communities;
- c. The promotion and strengthening of joint investment programmes in the production and trade of major products and inputs within the framework of collective self-reliance;
- d. The liberalisation of trade through the abolition, among Member States, of Customs Duties levied on imports and exports and the abolition, among Member States of Non-Tariff Barriers in order to establish a free trade area at the level of each regional economic community;
- e. The harmonisation of national policies in order to promote Community activities, particularly in the fields of agriculture, industry, transport and communications, energy, natural resources, trade, money and finance, human resources, education, culture, science and technology;
- f. The adoption of a common trade policy vis-à-vis third States;
- g. The establishment and maintenance of a common external tariff;
- h. The establishment of a common market;
- i. The gradual removal, among Member States, of obstacles to the free movement of persons, goods, services and capital and the right of residence and establishment;
- j. The establishment of a Community Solidarity, Development and Compensation Fund;
- k. The granting of special treatment to Member States classified as least developed countries and the adoption of special measures in favour of land-locked, semi-land-locked and island countries;
- l. The harmonisation and rationalisation of the activities of existing African multinational institutions and the establishment of such institutions, as and when necessary, with a view to their possible transformation into organs of the Community;
- m. The establishment of appropriate organs for trade in agricultural and cultural products, minerals, metals, and manufactured and semimanufactured goods within the Community;
- n. The establishment of contacts and the promotion of information flow among trading organisations such as State commercial enterprises, export promotion and marketing bodies, chambers of commerce, associations of businessmen, and business and advertising agencies;
- o. The harmonisation and co-ordination of environmental protection policies; and
- p. Any other activity that Member States may decide to undertake jointly with a view to attaining the objectives of the Community.

Article 5 General Undertakings

1. Member States undertake to create favourable conditions for the development of the Community and the attainment of its objectives, particularly by harmonising their strategies and policies. They shall refrain from any unilateral action that may hinder the attainment of the said objectives.
2. Each Member State shall, in accordance with its constitutional procedures, take all necessary measures to ensure the enactment and dissemination of such legislation as may be necessary for the implementation of the provisions of this Treaty.
3. Any Member State, which persistently fails to honour its general undertakings under this Treaty or fails to abide by the decisions or regulations of the Community, may be subjected to sanctions by the Assembly upon the recommendation of the Council. Such sanctions may include the suspension of the rights and privileges of membership and may be lifted by the Assembly upon the recommendation of the Council.

Article 6 Modalities for the establishment of the Community

1. The Community shall be established gradually in six (6) stages of variable duration over a transitional period not exceeding thirty-four (34) years.
2. At each such stage, specific activities shall be assigned and implemented concurrently as follows:
 - a. First Stage:
Strengthening of existing regional economic communities and, within a period not exceeding five (5) years from the date of entry into force of this Treaty, establishing economic communities in regions where they do not exist;
 - b. Second Stage:
 - i. At the level of each regional economic community and within a period not exceeding eight (8) years, stabilising Tariff Barriers and Non-Tariff Barriers, Customs Duties and internal taxes existing at the date of entry into force of this Treaty; there shall also be prepared and adopted studies to determine the timetable for the gradual removal of Tariff Barriers and Non-Tariff Barriers to regional and intra-Community trade and for the gradual harmonisation of Customs Duties in relation to third States;
 - ii. Strengthening of sectoral integration at the regional and continental levels in all areas of activity

particularly in the fields of trade, agriculture, money and finance, transport and communications, industry and energy; and

iii. Co-ordination and harmonisation of activities among the existing and future economic communities.

c. Third Stage:

At the level of each regional economic community and within a period not exceeding ten (10) years, establishment of a Free Trade Area through the observance of the time-table for the gradual removal of Tariff Barriers and Non-Tariff Barriers to intra-community trade and the establishment of a Customs Union by means of adopting a common external tariff.

d. Fourth Stage:

Within a period not exceeding two (2) years, co-ordination and harmonisation of tariff and non-tariff systems among the various regional economic communities with a view to establishing a Customs Union at the continental level by means of adopting a common external tariff.

e. Fifth Stage:

Within a period not exceeding four (4) years, establishment of an African Common Market through:

- i. The adoption of a common policy in several areas such as agriculture, transport and communications, industry, energy and scientific research;
- ii. The harmonisation of monetary, financial and fiscal policies;
- iii. The application of the principle of free movement of persons as well as the provisions herein regarding the rights of residence and establishment; and
- iv. Constituting the proper resources of the Community as provided for in paragraph 2 of Article 82 of this Treaty.

f. Sixth Stage:

Within a period not exceeding five (5) years:

- i. Consolidation and strengthening of the structure of the African Common Market, through including the free movement of people, goods, capital and services, as well as, the provisions herein regarding the rights of residence and establishment;
- ii. Integration of all the sectors namely economic, political, social and cultural; establishment of a single domestic market and a Pan-African Economic and Monetary Union;
- iii. Implementation of the final stage for the setting up of an African Monetary Union, the establishment of a single African Central Bank and the creation of a single African Currency;
- iv. Implementation of the final stage for the setting up of the structure of the Pan-African Parliament and election of its members by continental universal suffrage;
- v. Implementation of the final stage for the harmonisation and co-ordination process of the activities of regional economic communities;
- vi. Implementation of the final stage for the setting up of the structures of African multi-national enterprises in all sectors; and
- vii. Implementation of the final stage for the setting up of the structures of the executive organs of the Community.

3. All measures envisaged under this Treaty for the promotion of a harmonious and balanced development among Member States, particularly, those relating to the formulation of multi-national projects and programmes, shall be implemented concurrently within the time period specified for the attainment of the objectives of the various stages outlined in paragraph 2 of this Article.
4. The transition from one stage to another shall be determined when the specific objectives set in this Treaty or pronounced by the Assembly for a particular stage, are implemented and all commitments fulfilled. The Assembly, on the recommendation of the Council, shall confirm that the objectives to a particular stage have been attained and shall approve the transition to the next stage.
5. Notwithstanding the provisions of the preceding paragraph, the cumulative transitional period shall not exceed forty (40) years from the date of entry into force of this Treaty.

CHAPTER III ORGANS OF THE COMMUNITY

Article 7 Organs

1. The organs of the Community shall be:
 - a. The Assembly of Heads of State and Government;
 - b. The Council of Ministers;
 - c. The Pan-African Parliament;
 - d. The Economic and Social Commission;
 - e. The Court of Justice;

- f. The General Secretariat; and
 - g. The Specialised Technical Committees.
2. The Organs of the Community shall perform their duties and act within the limits of the powers conferred on them by this Treaty.

Article 8 The Assembly of Heads of State and Government

Composition and Powers

1. The Assembly shall be the supreme organ of the Community.
2. The Assembly shall be responsible for implementing the objectives of the Community.
3. To this end, it shall:
 - a. Determine the general policy and major guidelines of the Community, and give directives, coordinate and harmonize the economic, scientific, technical, cultural and social policies of Member States;
 - b. Take any action, under this Treaty, to attain the objectives of the Community;
 - c. Oversee the functioning of Community organs as well as the follow-up of the implementation of its objectives;
 - d. Prepare and adopt its rules of procedure;
 - e. Approve the organisational structure of the Secretariat;
 - f. Elect the Secretary-General, his Deputies and, on the recommendation of the Council, appoint the Financial Controller, the Accountant and the External Auditors;
 - g. Adopt the Staff Rules and Regulations of the Secretariat;
 - h. On the recommendation of the Council, take decisions and give directives concerning the regional economic communities in order to ensure the realisation of the objectives of the Community;
 - i. On the recommendation of the Council, approve the Community's programme of activity and budget and determine the annual contribution of each Member State;
 - j. Delegate to the Council the authority to take decisions in pursuance of Article 10 of this Treaty;
 - k. Refer any matter to the Court of Justice when it confirms, by an absolute majority vote, that a Member State or organ of the Community has not honoured any of its obligations or has acted beyond the limits of its authority or has abused the powers conferred on it by the provisions of this Treaty, by a decision of the Assembly or a regulation of the Council;
 - l. Request the Court of Justice, as and when necessary, to give advisory opinion on any legal question; and
 - m. In carrying out its function hereunder, exercise any other powers granted to it under this Treaty.
4. The Assembly shall be assisted by the Council in the performance of its duties.

Article 9 Meetings

1. The Assembly shall meet once a year in regular session. An extraordinary session may be convened by the Chairman of the Assembly or at the request of a Member State provided that such a request is supported by two-thirds of the members of the Assembly.
2. The office of the chairman shall be held every year by one of the Heads of State and Government elected by the Assembly after consultation among Member States.

Article 10 Decisions

1. The Assembly shall act by decisions.
2. Without prejudice to the provisions of paragraph (5) Article 18, decisions shall be binding on Member States and organs of the Community, as well as regional economic communities.
3. Decision shall be automatically enforceable thirty (30) days after the date of their signature by the Chairman of the Assembly, and shall be published in the official journal of the Community.
4. Unless otherwise provided in this Treaty, decision of the Assembly shall be adopted by consensus, failing that, by a two-thirds majority of Member States.

Article 11 The Council of Ministers Composition, Functions and Powers

1. The Council shall be the Council of Ministers of the OAU.
2. The Council shall be responsible for the functioning and development of the Community.
3. To this end, it shall:
 - a. Make recommendations to the Assembly on any action aimed at attaining the objectives of the Community;
 - b. Guide the activities of the subordinate organs of the Community;
 - c. Submit to the Assembly proposals concerning programmes of activity and budget of the Community as well as the annual contribution of each Member State;
 - d. Propose to the Assembly the appointment of the Financial Controller, the Accountant and the External Auditors;

- e. Prepare and adopt its rules of procedure;
- f. Request the Court of Justice, as and when necessary, to give advisory opinion on any legal questions; and
- g. Carry out all other functions assigned thereto under this Treaty and exercise all powers delegated to it by the Assembly.

Article 12 Meetings

1. The Council shall meet twice a year in Ordinary Session. One such Session shall precede the Ordinary Session of the Assembly. An extra-ordinary Session may be convened by the Chairman of the Council or at the request of a Member State provided that such request is supported by two-thirds of the members of the Council.
2. The office of the Chairman of the Council shall be held by the Minister of a Member State elected by the Council after consultations among its members.

Article 13 Regulations

1. The Council shall act by regulations.
2. Without prejudice to the provisions of paragraph (5) of Article 18 of this Treaty, such regulations shall be binding on Member States, subordinate organs of the Community and regional economic communities after their approval by the Assembly. Notwithstanding the foregoing provisions, regulations adopted as aforesaid shall forthwith have a binding effect in the case of delegation of powers by the Assembly pursuant to paragraph 3(j) of Article 8 hereof.
3. Regulations shall be enforceable automatically thirty (30) days after the date of their signature by the Chairman of the Council and shall be published in the official journal of the Community.
4. Unless otherwise provided in this Treaty, regulations shall be adopted by consensus or, failing that, by two-thirds majority of Member States.

Article 14 The Pan-African Parliament

1. In order to ensure that the peoples of Africa are fully involved in the economic development and integration of the Continent, there shall be established a Pan-African Parliament.
2. The composition, functions, powers and organisation of the Pan-African Parliament shall be defined in a Protocol providing thereof.

Article 15 Economic and Social Commission

Composition and Participation

1. The Commission shall be the Economic and Social Commission of the OAU.
2. The Commission shall comprise Ministers responsible for economic development, planning and integration of each Member States. They may be assisted, as and when necessary, by other Ministers.
3. Representatives of regional economic communities shall participate in meetings of the Commission and its subsidiary organs. The modalities and conditions of their participation shall be prescribed in the protocol concerning relations between the Community and African regional and sub-regional organisations and Third States. Representatives of other organisations may also be invited to participate as observers in the deliberations of the Commission.

Article 16 Functions

The Commission shall carry out the following functions:

- a. Prepare, in accordance with the Lagos Plan of Action and the Final Act of Lagos, programmes, policies and strategies for co-operation in the fields of economic and social development among African countries on the one hand, and between Africa and the International community on the other, and make appropriate recommendations to the Assembly, through the Council;
- b. Coordinate, harmonize, supervise and follow-up the economic, social, cultural, scientific and technical activities of the Secretariat, of the Committees and any other subsidiary body;
- c. Examine the reports and recommendations to the Assembly, through the Council, and ensure their follow-up;
- d. Make recommendations to the Assembly, through the Council with a view of co-ordinating and harmonising the activities of the different regional economic communities;
- e. Supervise the preparation of international negotiations, assess the results thereof and report thereon to the Assembly through the Council; and
- f. Carry out all other functions assigned thereto by the Assembly or the Council.

Article 17 Meetings

1. The Commission shall meet at least once a year in Ordinary Session. It may be convened in extraordinary Session either on its own initiative or at the request of the Assembly or the Council.
2. The Ordinary Session of the Commission shall be held immediately before the Ordinary Session of the Council preceding the Session of the Assembly and at the same venue of such Session.
3. The Commission shall prepare and adopt its rules of procedure.

Article 18 Court of Justice Constitution and Functions

1. A Court of Justice of the Community is hereby constituted.
2. The Court of Justice shall ensure the adherence to law in the interpretation and application of this Treaty and shall decide on disputes submitted thereto pursuant to this Treaty
3. To this end, it shall:
 - a. Decide on actions brought by a Member State or the Assembly on grounds of the violation of the provisions of this Treaty, or of a decision or a regulation or on grounds of lack of competence or abuse of powers by an organ, an authority or a Member State; and
 - b. At the request of the Assembly or Council, give advisory opinion.
4. The Assembly may confer on the Court of Justice the power to assume jurisdiction by virtue of this Treaty over any dispute other than those referred to in paragraph 3(a) of this Article.
5. The Court of Justice shall carry out the functions assigned to it independently of the Member States and the other organs of the Community.

Article 19 Decisions of the Court

The Decisions of the Court of Justice shall be binding on Member States and organs of the Community.

Article 20 Organisation

The statutes, membership, procedures, and other matters relating to the Court of Justice shall be determined by the Assembly in a protocol relating to the Court of Justice.

Article 21 Composition General Secretariat

1. The Secretariat shall be the General Secretariat of the OAU.
2. The Secretariat shall be headed by the Secretary-General assisted by the necessary staff for the smooth functioning of the Community.

Article 22 Functions of the Secretary-General

1. The Secretary-General shall direct the activities of the Secretariat and shall be its legal representative.
2. The Secretary-General shall:
 - a. Follow up and ensure the implementation of the decisions of the Assembly and the application of the regulations of the Council;
 - b. Promote development programmes as well as projects of the Community;
 - c. Prepare proposals concerning the programme of activity and budget of the Community and upon their approval by the Assembly ensure the implementation thereof;
 - d. Submit a report on the activities of the Community to all meetings of the Assembly, the Council and the Commission;
 - e. Prepare and service meetings of the Assembly, the Council, the Commission and the Committees;
 - f. Carry out studies with a view to attaining the objectives of the Community and make proposals likely to enhance the functioning and harmonious development of the Community.
To this end, the Secretary-General may request any Member State to furnish him with all necessary information; and
 - g. Recruit the staff of the Community and make appointments to all posts except those referred to in paragraph 3(f) of Article 8 of this Treaty.

Article 23 Appointments

1. The Secretary-General and his assistants shall be elected by the Assembly in accordance with the relevant provisions of the OAU Charter and the rules of procedure of the Assembly.
2. The Financial Controller and the Accountant shall be appointed by the Assembly for a term of four (4) years renewable once only.
3. In the appointment of the staff of the Community, and in addition to the need to ensure high integrity and competence, consideration shall be given to equitable geographical distribution of posts among all Member States.

Article 24 Relations between the Staff of the Community and Member States

1. In the performance of their duties, the Secretary-General and his Assistants, the Financial Controller, the Accountant and the staff of the Community shall be accountable only to the Community. In this regard, they shall neither seek nor accept instructions from any Government or any national or international authority external to the Community. They shall refrain from any conduct incompatible with the nature of their status as international officers.
2. Every Member State undertakes to respect the international character of the duties of the Secretary-General, his Assistants, the Financial Controller, the Accountant and other officers of the Community and undertakes not to influence them in the performance of their duties.

3. Member States undertake to cooperate with the Secretariat and other organs of the Community and to assist them in the discharge of the functions assigned thereto under this Treaty.

Article 25 Specialised Technical Committees

Establishment and Composition

1. There is hereby established the following Committees:
 - a. The Committee on Rural Economy and Agricultural Matters;
 - b. The Committee on Monetary and Financial Affairs;
 - c. The Committee on Trade, Customs and Immigration Matters;
 - d. The Committee on Industry, Science and Technology, Energy, Natural Resources and Environment;
 - e. The Committee on Transport, Communications and Tourism;
 - f. The Committee on Health, Labour and Social Affairs; and
 - g. The Committee on Education, Culture and Human Resources
2. The Assembly shall, whenever it deems appropriate, restructure the existing Committees or establish other Committees.
3. Each Committee shall comprise a representative of each Member State. The representatives may be assisted by advisors.
4. Each Committee may, as it deems it necessary, set up subsidiary committees to assist the Committee in carrying out its work. It shall determine the composition of any such subsidiary Committee.

Article 26 Functions

Each Committee shall within its field of competence:

- a. Prepare projects and programmes of the Community and submit them to the Commission;
- b. Ensure the supervision, follow-up and the evaluation of the implementation of decisions taken by the organs of the Community;
- c. Ensure the co-ordination and harmonisation of projects and programmes of the Community;
- d. Submit to the Commission, either on its own initiative or at the request of the Commission, reports and recommendations on the implementation of the provisions of this Treaty; and
- e. Carry out any other functions assigned to it for the purpose of ensuring the implementation of the provisions of this Treaty.

Article 27 Meetings

1. Subject to any directives given by the Commission, each Committee shall meet as often as necessary and shall prepare its rules of procedure and submit them to the Commission for approval.

CHAPTER IV REGIONAL ECONOMIC COMMUNITIES

Article 28 Strengthening of Regional Economic Communities

1. During the first stage, Member States undertake to strengthen the existing regional economic communities and to establish new communities where they do not exist in order to ensure the gradual establishment of the Community.
2. Member States shall take all necessary measures aimed at progressively promoting increasingly closer co-operation among the communities, particularly through co-ordination and harmonisation of their activities in all fields or sectors in order to ensure the realisation of the objectives of the Community.

CHAPTER V CUSTOMS UNION AND LIBERALISATION OF TRADE

Article 29 Customs Union

Member States of each regional economic community agree to progressively establish among them during a transitional period specified in Article 6 of this Treaty, a Customs Union involving:

- a. The elimination, among Members States of each regional economic community, of customs duties, quota restrictions, other restrictions or prohibitions and administrative trade barriers, as well as all other non-tariff barriers; and
- b. The adoption by Member States of a common external customs tariff.

Article 30 Elimination of Customs Duties Among Member States of Regional Economic Communities

1. During the second stage, Member States of each regional economic community shall refrain from establishing among themselves any new customs duties and from increasing those that apply in their mutual trade relations.
2. During the third stage, Member States shall progressively reduce and eliminate finally among themselves, at the level of each regional economic community, customs duties in accordance with such programme and modalities as shall be determined by each regional economic community.
3. During each stage, the Assembly, on the recommendation of the Council, shall take the necessary measures with

a view to co-ordinating and harmonising the activities of the regional economic communities relating to the elimination of customs duties among Member States.

Article 31 Elimination of Non-Tariff Barriers to Intra-Community Trade

1. At the level of each regional economic community and subject to the provisions of the Treaty, each Member State shall, upon the entry into force of this Treaty, progressively relax and ultimately remove quota restrictions, and all other non-tariff barriers and prohibitions which apply to exports to that State, of goods originating in the other Member States, at the latest, by the end of the third stage and in accordance with paragraph (2) of this Article. Except as otherwise provided or permitted by this Treaty, each Member State shall thereafter refrain from imposing any further restrictions or prohibitions on such goods.
2. Subject to the provisions of this Treaty, each regional economic community shall adopt a programme for the progressive relaxation and ultimate elimination, at the latest by the end of the third stage, of all quota restrictions and prohibitions and all other non-tariff barriers that apply in a Member State, to imports originating in the other Member States; it being understood that each regional economic community may subsequently decide that all quota restrictions, other restrictions and prohibitions be relaxed or removed within a shorter period than that prescribed in this paragraph.
3. The arrangements governing restrictions, prohibitions, quota restrictions, dumping subsidies and discriminatory practices shall be the subject of a Protocol concerning Non-Tariff Trade Barriers.

Article 32 Establishment of a Common External Customs Tariff

1. During the third stage, Member States shall, at the level of each regional economic community, agree to the gradual establishment of a common external customs tariff applicable to goods originating from third States and imported into Member States.
2. During the fourth stage, regional economic communities shall, in accordance with a programme drawn up by them, eliminate differences between their respective external customs tariffs.
3. During the fourth stage the Council shall propose to the Assembly the adoption, at Community level, of a common customs and statistical nomenclature for all Member States.

Article 33 System of Intra-Community Trade

1. At the end of the third stage, no Member State shall, at the level of each regional economic community, levy customs duties on goods originating in one Member State and imported into another Member State. The same prohibition shall apply to goods originating from third States which are in free circulation in Member States and are imported from one Member State into another.
2. The definition of the notion of products originating in Member States and the rules governing goods originating in a third States and which are in free circulation in Member States shall be governed by a Protocol concerning the Rules of Origin.
3. Goods originating from third States shall be considered to be in free circulation in a Member State if (i) the import formalities relating thereto have been complied with, (ii) customs duties have been paid thereon in that Member State, and (iii) they have not benefited from a partial or total exemption from such customs duties.
4. Member States undertake not to adopt legislation implying direct or indirect discrimination against identical or similar products originating from another Member State.

Article 34 Internal Taxes

1. During the third stage, Member States shall not levy, directly or indirectly on goods originating from Member State and imported into any Member State, internal taxes in excess of those levied on similar domestic products.
2. Member States, at the level of each regional economic community, shall progressively eliminate any internal taxes levied for the protection of domestic products. Whereby virtue of obligations assumed under a prior agreement signed by a Member State, that Member State is unable to comply with this Article, it shall notify the Council of this fact and shall not extend or renew such agreement when it expires.

Article 35 Exceptions and Safeguard Clauses

1. Notwithstanding the provisions of Articles 30 and 31 of this Treaty, any Member State, having made its intention known to the Secretariat of the Community which shall inform Member States thereof, may impose or continue to impose restrictions or prohibitions affecting:
 - a. The application of security laws and regulations;
 - b. The control of arms, ammunitions and other military items and equipment;
 - c. The protection of human, animal or plant health or life, or the protection of public morality;
 - d. Export of strategic minerals and precious stones;
 - e. The protection of national treasures of artistic or archaeological value or the protection of industrial, commercial and intellectual property;
 - f. The control of hazardous wastes, nuclear materials, radio-active products or any other material used in the development or exploitation of nuclear energy;
 - g. Protection of infant industries;

- h. The control of strategic product; and
 - i. Goods imported from a third country to which a Member State applies total prohibition relating to country of origin.
2. The prohibitions or restrictions referred to in paragraph 1 of this Article shall in no case be used as a means of arbitrary discrimination or a disguised restriction on trade between Member States.
 3. Where a Member State encounters balance-of-payments difficulties arising from the application of the provisions of this Chapter, that Member State may be allowed by the competent organ of the Community, provided that it has taken all appropriate reasonable steps to overcome the difficulties, to impose, for the sole purpose of overcoming such difficulties, quantitative or similar restrictions or prohibitions on goods originating in the other Member States for such period as shall be determined by the competent organ of the Community.
 4. For the purpose of protecting an infant or strategic industry, a Member State may be allowed by the competent organ of the Community, provided it has taken all appropriate reasonable steps to protect such industry, to impose, for the sole purpose of protecting such industry, quantitative or similar restrictions or prohibitions, on similar goods originating in the other Member States for such period as shall be determined by the competent organ of the Community.
 5. Where the imports of a particular product by a Member State from another Member State increase in a way that causes, or is likely to cause, serious damage to the economy of the importing states. The latter may be allowed by the competent organ of the Community to apply safeguard measures for a specified period.
 6. The Council shall keep under regular review the operation of any quantitative or similar restrictions or prohibitions imposed pursuant to paragraphs 13, and 4 of this Article and shall take appropriate action in this connection. It shall submit, each year, to the Assembly, a report on the aforementioned matters.

Article 36 Dumping

1. Member States shall prohibit the practice of "dumping" within the Community.
2. For the purposes of this Article, "dumping" shall mean the transfer of goods originating from a Member State to another Member State for them to be sold:
 - a. At a price lower than the usual price offered for similar goods in the Member State from which those goods originate, due account being taken of the differences in conditions of sale, taxation, transport expenses and any other factor affecting the comparison of prices;
 - b. In conditions likely to prejudice the manufacture of similar goods in the Member State.

Article 37 Most Favoured Nation Treatment

1. Member States shall accord one another, in relation to intra-community trade, the most-favoured-nation treatment. In no case shall tariff concessions granted to a third State pursuant to an agreement with a Member State be more favourable than those applicable pursuant of this Treaty.
2. The text of the agreements referred to in paragraph 1 of this Article shall be forwarded by the Member States parties thereto, through the Secretary-General, to all the other Member States for their information.
3. No agreement between a Member State and a third State, under which tariff concessions are granted, shall be incompatible with the obligations arising out of this Treaty.

Article 38 Re-export of Goods and Intra-Community Transit Facilities

1. During the third stage, Member States shall facilitate the re-export of goods among them in accordance with the Protocol concerning the Re-export of Goods.
2. Member States shall grant one another freedom of transit through their territories to goods proceeding to or coming from another Member State in accordance with the Protocol concerning Intra-Community Transit and Transit Facilities and in accordance with the provisions of any Intra-Community Agreements to be concluded.

Article 39 Customs Co-operation and Administration

Member States shall, in accordance with the Protocol concerning Customs Cooperation, take all necessary measures for harmonising and standardising their customs regulations and procedures in such a manner as shall be appropriate for ensuring the effective implementation of the provisions of this Chapter and facilitating the movement of goods and services across their frontiers.

Article 40 Trade Documents and Procedures

For the purpose of facilitating intra-community trade in goods and services, Member States shall simplify and harmonize their trade documents and procedures in accordance with the Protocol the concerning Simplification and Harmonisation of Trade documents and Procedures.

Article 41 Diversion of Trade Arising from Barter or Compensatory Exchange Agreement

1. If, as a result of a barter or compensatory exchange agreement relating to a specific category of goods concluded between a Member State or a person of the said Member State, on the one hand, and a third State or person of the said third State, on the other, there is substantial diversion of trade in favour of goods imported under such agreement and to the detriment of similar goods of the same category imported from and manufactured in any other Member State, the Member State importing such goods shall take effective steps to

correct the diversion.

2. In order to determine whether a diversion of trade has occurred in a specific category of goods within the meaning of this Article, consideration shall be given to all the relevant trade statistics and other data available on such category of goods for the six-month period preceding a complaint from an affected Member State concerning diversion of trade, and for an average of two comparable six-month periods during the twenty-four (24) months preceding the first importation of goods under the barter agreement or compensatory exchange agreement.
3. The Secretary-General shall refer the matter to the Council for consideration and submission to the Assembly for decision.

Article 42 Trade Promotion

1. In order to attain the objectives of the Community set out in sub-paragraph 2 (m) Article 4 of this Treaty, Member States agree to undertake the trade promotion activities stated below in the following areas:
 - a. Intra-Community Trade
 - i. Promote the use of the Community's local materials, intermediate goods and inputs, as well as finished products originating within the Community;
 - ii. Adopt the "All-Africa Trade Fair of the OAU", as an instrument of the Community trade promotion;
 - iii. Participate in the periodic fairs organised under the auspices of the "All-Africa Trade Fair of the OAU", sectoral trade fairs, regional trade fairs and other trade promotion activities of the Community;
 - iv. Develop an intra-community trade information network, linking the computerised trade information systems of existing and future regional economic communities and individual Member States of the Community; and
 - v. With the assistance of the Secretariat, study the supply and demand patterns in Member States and disseminate the findings thereon within the Community.
 - b. South-South Trade
 - i. Promote the diversification of Africa's markets, and the marketing of Community products;
 - ii. Participate in extra-community trade fairs, in particular, within the context of South-South Co-operation; and
 - iii. Participate in extra-community trade and investment fora.
 - c. North-South Trade
 - i. Promote better terms of trade for African commodities and improve market access for Community products;
 - ii. Participate as a group in international negotiations within the framework of GATT and UNCTAD and other trade-related negotiating fora.
2. The modalities of organising trade promotion activities and trade information systems of the Community shall be governed by a Protocol concerning Trade Promotion.

CHAPTER VI FREE MOVEMENT OF PERSONS, RIGHTS OF RESIDENCE AND ESTABLISHMENT

Article 43 General Provisions

1. Member States agree to adopt, individually, at bilateral or regional levels, the necessary measures, in order to achieve progressively the free movement of persons, and to ensure the enjoyment of the right of residence and the right of establishment by their nationals within the Community.
2. For this purpose, Member States agree to conclude a Protocol on the Free Movement of Persons, Right of Residence and Right of Establishment.

CHAPTER VII MONEY, FINANCE AND PAYMENTS

Article 44 Monetary, Financial and Payment Policies

1. In accordance with the relevant Protocols, Member States shall, within a time-table to be determined by the Assembly, harmonize their monetary, financial and payments policies, in order to boost intra-community trade in goods and services, to further the attainment of objectives of the Community and to enhance monetary and financial co-operation among Member States.
2. To this end, Member States shall:
 - a. Use their national currencies in the settlement of commercial and financial transactions in order to reduce the use of external currencies in such transactions;
 - b. Establish appropriate mechanisms for setting up multilateral payments systems;
 - c. Consult regularly among themselves on monetary and financial matters;
 - d. Promote the creation of national, regional and sub-regional money markets, through the co-ordinated establishment of stock exchanges and harmonising legal texts regulating existing stock exchanges with a view to making them more effective.
 - e. Cooperate in an effective manner in the fields of insurance and banking;

- f. Further the liberalisation of payments and the elimination of payment restrictions, if any, among them and promote the integration of all existing payments and clearing mechanisms among the different regions into an African Clearing and Payments House; and
- g. Establish an African Monetary Union through the harmonisation of regional monetary zones.

Article 45 Movement of Capital

1. Member States shall ensure the free movement of capital within the Community through the elimination of restrictions on the transfer of capital funds between Member States in accordance with a timetable to be determined by the Council.
2. The capital referred to in paragraph 1 of this Article is that of Member States or persons of Member States.
3. The Assembly, having regard to the development objectives of national, regional and continental plans, and upon the recommendation of the Commission and after the approval of the Council acting on the recommendation of the Commission, shall prescribe the conditions for the movement within the Community of the capital funds other than those referred to in paragraph (2) of this Article.
4. For the purpose of regulating the movement of capital between Member States and Third States, the Assembly, upon the approval of the Council, acting on the recommendation of the Commission, shall take steps aimed at co-ordinating progressively the national and regional exchange control policies.

CHAPTER VIII FOOD AND AGRICULTURE

Article 46 Agricultural Development and Food Production

1. Member States shall cooperate in the development of agriculture, forestry, livestock and fisheries in order to:
 - a. Ensure food security;
 - b. Increase production and productivity in agriculture, livestock, fisheries and forestry, and improve conditions of work and generate employment opportunities in rural areas;
 - c. Enhance agricultural production through processing locally animal and plant products; and
 - d. Protect the prices of export commodities on the international market by means of establishing an African Commodity Exchange.
2. To this end, and in order to promote the integration of production structures, Member States shall cooperate in the following fields:
 - a. The production of agricultural inputs, fertilisers, pesticides, selected seeds, agricultural machinery and equipment and veterinary products;
 - b. The development of river and lake basins;
 - c. The development and protection of marine and fishery resources;
 - d. Plant and animal protection;
 - e. The harmonisation of agricultural development strategies and policies at regional and Community levels, in particular, in so far as they relate to production, trade and marketing of major agricultural products and inputs; and
 - f. The harmonisation of food security policies in order to ensure:
 - i. The reduction of losses in food production;
 - ii. The strengthening of existing institutions for the management of natural calamities, agricultural diseases and pest control;
 - iii. The conclusion of agreements on food security at the regional and continental levels;
 - iv. The provision of food aid to Member States in the event of serious food shortage; and
 - v. The protection of regional and continental markets primarily for the benefit of African agricultural products.

Article 47 Protocol on Food and Agriculture

For purposes of this Chapter, Member States shall cooperate in accordance with the provisions of the Protocol on Food and Agriculture.

CHAPTER IX INDUSTRY, SCIENCE, TECHNOLOGY, ENERGY, NATURAL RESOURCES AND ENVIRONMENT

Article 48 Industry

1. For the purpose of promoting industrial development of Member States and integrating their economies, Member States shall within the Community harmonize their industrialisation policies.
2. In this connection, Member States shall:
 - a. Strengthen the industrial base of the Community, in order to modernize the priority sectors and foster self-sustained and self-reliant development;
 - b. Promote joint industrial development projects at regional and Community levels, as well as the creation of African multinational enterprises in priority industrial sub-sectors likely to contribute to the development

of agriculture, transport and communications, natural resources and energy.

Article 49 Industrial Development

In order to create a solid basis for industrialisation and promote collective self-reliance, Member States shall:

- a. Ensure the development of the following basic industries essential for collective self-reliance and the modernisation of priority sectors of the economy:
 - i. Food and agro-based industries;
 - ii. Building and construction industries;
 - iii. Metallurgical industries;
 - iv. Mechanical industries;
 - v. Electrical and electronics industries;
 - vi. Chemical and petro-chemical industries;
 - vii. Forestry industries;
 - viii. Energy industries;
 - ix. Textile and leather industries;
 - x. Transport and communications industries; and
 - xi. Biotechnology industries;
- b. Ensure the promotion of small-scale industries with a view to enhancing the generation of employment opportunities in Member States;
- c. Promote intermediate industries that have strong linkages to the economy in order to increase the local component of industrial output within the Community;
- d. Prepare master plans at regional and Community levels for the establishment of African multinational industries particularly those whose construction cost and volumes of production exceed national financial and absorptive capacities;
- e. Strengthen and establish, where they do not exist, specialised institutions for the financing of African multinational industrial projects;
- f. Facilitate the establishment of African multinational enterprises and encourage and give financial and technical support to African entrepreneurs;
- g. Promote the sale and consumption of strategic industrial products manufactured in Member States;
- h. Promote technical co-operation and the exchange of experience in the field of industrial technology and implement technical training programmes among Member States;
- i. Strengthen the existing multinational institutions, particularly, the African Regional Centre for Technology, the African Regional Centre for Design and Manufacture and the African Industrial Development Fund;
- j. Establish a data and statistical information base to serve industrial development at the regional and continental levels;
- k. Promote South-South and North-South co-operation for the attainment of industrialisation objectives in Africa;
- l. Promote industrial specialisation in order to enhance the complementarity of African economies and expand the intra-Community trade base, due account being taken of national and regional resource endowments; and
- m. Adopt common standards and appropriate quality control systems, which are crucial to industrial co-operation and integration.

Article 50 Protocol on Industry

For the purposes of Articles 48 and 49 of this Treaty, Member States agree to cooperate in accordance with the provisions of the Protocol on Industry.

Article 51 Science and Technology

1. Member States shall:
 - a. Strengthen scientific and technological capabilities in order to bring about the socio-economic transformation required to improve the quality of life of their population, particularly that of the rural populations;
 - b. Ensure the proper application of science and technology to the development of agriculture, transport and communications, industry, health and hygiene, energy, education and manpower and the conservation of the environment;
 - c. Reduce their dependence and promote their individual and collective technological self-reliance;
 - d. Cooperate in the development, acquisition and dissemination of appropriate technologies; and
 - e. Strengthen existing scientific research institutions and, where they do not exist, establish new institutions.
2. In the context of co-operation in this field, Member States shall:
 - a. Harmonize, at the Community level, their national policies on scientific and technological research with a view to facilitating their integration into the national economic and social development plans;

- b. Coordinate their programmes in applied research, research for development and scientific and technological services;
- c. Harmonize their national technological development plans by placing special emphasis on local technologies as well as their regulations on industrial property and transfer of technology;
- d. Coordinate their positions on all scientific and technical questions forming the subject of international negotiations;
- e. Carry out a permanent exchange of information and documentation and establish community data networks and data banks;
- f. Develop joint programmes for training scientific and technological cadres, including the training and further training of skilled manpower;
- g. Promote exchanges of researchers and specialists among Member States in order to make full use of the technical skills available within the Community; and
- h. Revise the educational systems in order to better educational, scientific and technical training to the specific developmental needs of the African environment.

Article 52 Scientific Research and Technological Programmes

Member States shall take all necessary measures to prepare and implement joint scientific research and technological development programmes.

Article 53 Protocol on Science and Technology

For the purposes of Articles 51 and 52 of this Treaty, Member States agree to cooperate in accordance with the provisions of the Protocol on Science and Technology.

Article 54 Energy and Natural Resources

1. Member States shall coordinate and harmonize their policies and programmes in the field of energy and natural resources.
2. To this end, they shall:
 - a. Ensure the effective development of the continent's energy and natural resources;
 - b. Establish appropriate co-operation mechanisms with a view to ensuring a regular supply of hydrocarbons;
 - c. Promote the development of new and renewable energy in the framework of the policy of diversification of sources of energy;
 - d. Harmonize their national energy development plans;
 - e. Articulate a common energy policy, particularly, in the field of research, exploitation, production and distribution;
 - f. Establish an adequate mechanism of concerted action and coordination for the collective solution of the energy development problems within the Community, particularly, those relating to energy transmission, the shortage of skilled technicians and financial resources for the implementation of energy projects of Member States; and
 - g. Promote the continuous training of skilled manpower.

Article 55 Energy

1. Member States shall cooperate in the following fields:
 - a. Mineral and water resources;
 - b. Nuclear energy;
 - c. New and renewable energy.
2. They shall further:
 - a. Seek better knowledge and undertake an assessment of their natural resources potential;
 - b. Reduce progressively their dependence on transnational enterprises in the development of such resources, particularly through mastering exploration techniques; and
 - c. Improve methods of pricing and marketing raw materials.

Article 56 Natural Resources

In order to promote co-operation in the area of natural resources and energy, Member States shall:

- a. Exchange information on the prospection, mapping, production and processing of mineral resources, as well as on the prospection, exploitation and distribution of water resources;
- b. Coordinate their programmes for development and utilisation of mineral and water resources;
- c. Promote vertical and horizontal inter-industrial relationships, which may be established among Member States in the course of developing such resources;
- d. Coordinate their positions in all international negotiations on raw materials;
- e. Develop a system of transfer of know-how and exchange of scientific, technical and economic data in remote sensing among Member States; and
- f. Prepare and implement joint training and further training programmes for cadres in order to develop the

human resources and the appropriate local technological capabilities required for the exploration, exploitation and processing of mineral and water resources.

Article 57 Protocol on Energy and Natural Resources

For the purposes of Articles 54, 55 and 56 of this Treaty, Member States shall cooperate in accordance with the provisions of the Protocol on Energy and Natural Resources.

Article 58 Environment

1. Member States undertake to promote a healthy environment. To this end, they shall adopt national, regional and continental policies, strategies and programmes and establish appropriate institutions for the protection and enhancement of the environment.
2. For the purposes of this paragraph 1 of this Article, Member States shall take the necessary measures to accelerate the reform and innovation process leading to ecologically rational, economically sound and socially acceptable development policies and programmes.

Article 59 Control of Hazardous Wastes

Member States undertake, individually and collectively, to take every appropriate step to ban the importation and dumping of hazardous wastes in their respective territories. They further undertake to cooperate in the transboundary movement, management and processing of such wastes produced in Africa.

Article 60 Protocol on the Environment

For the purposes of Articles 58 and 59 of this Treaty, Member States shall cooperate in accordance with the provisions of the Protocol on the Environment.

CHAPTER X TRANSPORT, COMMUNICATION AND TOURISM

Article 61 Transport and Communications

1. In order to achieve a harmonious and integrated development of the continental transport and communications network, Member States shall undertake to:
 - a. Promote the integration of transport and communications infrastructure;
 - b. Coordinate the various modes of transport in order to increase their efficiency;
 - c. Harmonize progressively their rules and regulations relating to transport and communications;
 - d. Encourage the use of local material and human resources, standardisation of networks and equipment, research and the popularisation of infrastructural construction techniques as well as adapted equipment and materials;
 - e. Expand, modernize and maintain transport and communications infrastructures by means of mobilising the necessary technological and financial resources;
 - f. Promote the creation of regional industries for the production of transport and communications equipment; and
 - g. Organize, structure and promote, at regional and Community levels, passenger and goods transport services.
2. To this end, Member States shall:
 - a. Draw up co-ordinated programmes to restructure the road transport sector for purposes of establishing inter-State links and the construction of major transcontinental trunk roads;
 - b. Prepare plans to improve, re-organize and standardise the various rail networks of Member States with a view to their inter-connection and construct new railways as part of a Pan-African network;
 - c. Harmonize:
 - i. Their policies on maritime, inter-State lake and river transport;
 - ii. Their air transport policies;
 - iii. Their programmes on the training and further training of specialised cadres in transport and communications;
 - d. Modernize and standardise their transport and communications equipment in order to permit Member States to be linked with one another and with the outside world;
 - e. Promote proper integration of air transport in Africa and coordinate flight schedules; and
 - f. Coordinate and harmonize their transport policies at regional and Community levels in order to eliminate non-physical barriers that hamper the free movement of goods, services and persons.

Article 62 Community Enterprises in the Field of Transport

1. Member States shall encourage the establishment of Community and African multinational enterprises in the fields of maritime, rail, road, inland waterways and air transport.
2. The expression "Community and multinational enterprises" and the legal status thereof shall be as defined in the relevant Protocol.

Article 63 Posts and Telecommunications

1. In the field of Posts, Member States undertake to:
 - a. Establish a Pan-African Postal Network;

- b. Adopt a policy of rationalisation and maximisation of conveyance of mail;
 - c. Ensure that the Post has a legal status, an efficient management system and the resources necessary for providing reliable services to meet customer demands; and
 - d. Create customer-oriented and competitive services.
2. In the field of Telecommunications, Member States shall:
 - a. Develop, modernize, coordinate and standardise their national telecommunications networks in order to provide reliable interconnection among Member States;
 - b. Establish a Pan-African Telecommunications Network and ensure its utilisation and maintenance;
 - c. Establish a Pan-African system of communications by satellite in order to improve telecommunications, particularly in rural areas.
3. Member States further undertake to provide efficient and regular Post and Telecommunication services within the Community, and to develop close collaboration among Post and Telecommunications administrations.
4. In order to attain the objectives set out in this Article, Member States shall also encourage the establishment of private companies for post and telecommunications services.

Article 64 Broadcasting

1. Member States undertake to:
 - a. Coordinate their efforts and pool their resources in order to promote the exchange of radio and television programmes at bilateral, regional and continental levels;
 - b. Encourage the establishment of programme exchange centres at regional and continental levels. In this connection, Member States shall strengthen the activities and operations of existing programme exchange centres; and
 - c. Use their broadcasting and television systems in order to further close co-operation and better understanding among their peoples and, in particular, to promote the objectives of the Community.
2. Member States further undertake to collect, disseminate and exchange meteorological information at the continental level, particularly with regard to the development of early warning systems for the prevention of natural disasters and for ensuring safety in aerial, coastal and inland navigation.

Article 65 Tourism

1. For the purpose of ensuring the harmonious and profitable development of tourism in Africa, Member States undertake to:
 - a. Strengthen intra-African co-operation in tourism, particularly through:
 - i. The promotion of intra-African tourism;
 - ii. The harmonisation and co-ordination of tourism development policies, plans and programmes; and
 - iii. Joint promotion of tourism products representing Africa's natural and socio-cultural values.
 - b. Promote the establishment of efficient tourism enterprises adapted to the needs of the African people and attractive to foreign tourists, through:
 - i. The adoption of measures designed to promote investment in tourism with a view to the establishment of competitive African tourist enterprises;
 - ii. Adoption of measures designed to develop and utilise human resources for tourism in Africa; and
 - iii. Strengthening or establishment of high-level tourism training institutions where necessary.
2. Member States shall adopt all requisite measures for the development of African tourism that takes due account of the human and natural environment and the well-being of the African peoples and which contribute effectively to the implementation of the continent's political and socioeconomic integration and development.

Article 66 Protocol on Transport, Communication and Tourism

For the purposes of this Chapter, Member States undertake to cooperate in accordance with the provisions of the Protocol on Transport, Communications and Tourism.

CHAPTER XI STANDARDISATION AND MEASUREMENT SYSTEMS

Article 67 Common Policy on Standardisation and Measurement Systems

1. Member States agree to:
 - a. Adopt a common policy on standardisation and quality assurance of goods and services among Member States;
 - b. Undertake such other related activities in standardisation and measurement systems that are likely to promote trade, economic development and integration within the Community; and
 - c. Strengthen African national, regional and continental organisations operating in this field.
2. For the purposes of this Chapter, Member States agree to cooperate in accordance with the provisions of the Protocol concerning Standardisation, Quality Assurance and Measurement Systems.

CHAPTER XII EDUCATION, TRAINING AND CULTURE

Article 68 Education and Training

1. Member States shall strengthen co-operation among themselves in the field of education and training and coordinate and harmonize their policies in this field for the purpose of training persons capable of fostering the changes necessary for enhancing social progress and the development of the Continent.
2. For the purposes of paragraph 1 of this Article, Member States undertake to:
 - a. Improve the efficiency of existing educational systems by promoting the training of trainers and using appropriate methods and aids;
 - b. Cooperate in the strengthening of existing regional and Community training institutions and where necessary, establish new institutions, preferably through the strengthening of appropriate existing national and regional institutions;
 - c. Prepare, coordinate and harmonize joint training programmes with a view to adapting them to development needs thereby ensuring progressively self-sufficiency in skilled personnel;
 - d. Promote the systematic exchange of experience and information on education policy and planning; and
 - e. Take appropriate measures to stop the brain-drain from the Community and encourage the return of qualified professionals and skilled manpower to their countries of origin.

Article 69 Culture

Member states shall:

- a. Pursue the objectives of the Cultural Charter for Africa;
- b. Promote and propagate endogenous African cultural value;
- c. Make every effort to preserve and recover their cultural heritage;
- d. Ensure that development policies adequately reflect their socio-cultural values in order to consolidate their cultural identity
- e. Exchange their cultural programmes and their experiences, particularly in art, literature, entertainment, sports and leisure activities; and
- f. Promote and develop sports programmes and activities at all levels as factors of integration.

Article 70 Protocol on Education, Training and Culture

For the purposes of this Chapter, Member States agree to cooperate in accordance with the provisions of the Protocol on Education, Training and Culture.

CHAPTER XIII HUMAN RESOURCES, SOCIAL AFFAIRS, HEALTH AND POPULATION

Article 71 Human Resources

1. Member States agree to cooperate with a view to developing, planning and utilising their human resources.
2. To this end, they undertake to:
 - a. Adopt and promote a common policy on planning, programming, professional training and harmonize their employment and income policies;
 - b. Coordinate their policies and activities in the fields of training, planning and career guidance and counselling;
 - c. Improve their information and recruitment services in order to facilitate, in particular, the search for, and recruitment of African experts;
 - d. Encourage consultancy agencies to promote the use of African experts and the development of local consultancy services; and
 - e. Adopt employment policies that shall allow the free movement of persons within the Community by strengthening and establishing labour exchanges aimed at facilitating the employment of available skilled manpower of one Member State in other Member States where there are shortages of skilled manpower.

Article 72 Social Affairs

1. Member States agree to ensure the full participation and rational utilisation of their human resources in their development efforts with a view to eliminating other social scourges plaguing the continent.
2. To this end they undertake to:
 - a. Encourage the exchange of experiences and information on literacy, vocational training and employment;
 - b. Harmonize gradually their labour and social security legislation with a view to eliminating poverty and promoting balanced socio-economic development within the Community;
 - c. Take necessary measures for the survival and development of the child and the protection of the child against abuse, neglect and exploitation;
 - d. Provide disabled persons with adequate training likely to facilitate their social integration and enable them contribute to the attainment of the objectives of the Community;
 - e. Create conditions conducive to the training of young school leavers, and other youth, in order to enable

them to be gainfully employed;

- f. Adopt, coordinate and harmonize their policies with a view to ensuring a decent life for the aged; and
- g. harmonize their efforts to put an end to the illegal production, trafficking and use of narcotic drugs and psychotropic substances and formulate sensitization and rehabilitation programmes in this field.

Article 73 Health

1. Member States agree to promote and increase co-operation among themselves in the field of health.
2. To this end, they shall cooperate in developing primary health care, promoting medical research, particularly in the field of African traditional medicine and pharmacopoeia.

Article 74 Population and Development

1. Member States undertake to adopt, individually and collectively, national population policies and mechanisms and take all necessary measures in order to ensure a balance between population growth and socio-economic development.
2. To this end, Member States agree to:
 - a. Include population issues as central elements for formulating and implementing national policies and programmes for accelerated and balanced socio-economic development;
 - b. Formulate national population policies and establish national population institutions;
 - c. Undertake public sensitization on population matters, particularly, among the target groups; and
 - d. Collect, analyse and exchange information and data on population issues.

Article 75 Women and Development

1. Member States agree to formulate, harmonize, coordinate and establish appropriate policies and mechanisms for the full development of the African woman through the improvement of her economic, social and cultural conditions.
2. To this end, Member States shall take all measures necessary to ensure greater integration of women in development activities within the Community.

Article 76 Protocols on Human Resources, Social Affairs, Health and Population

For the purposes of this Chapter, Member States undertake to cooperate in accordance with the provisions of the Protocols on Human Resources, Social Affairs, Health and Population.

CHAPTER XIV CO-OPERATION IN OTHER FIELDS

Articles 77 Harmonisation of policies in other fields

Subject to the provisions of this Treaty, Member States agree to consult with one another, through appropriate Community organs, for the purpose of harmonising their respective policies in other fields for the efficient functioning and development of the Community and for the implementation of the provisions of this Treaty.

CHAPTER XV SPECIAL PROVISIONS IN RESPECT OF CERTAIN COUNTRIES

Article 78 Special Provisions in Respect of Botswana, Lesotho, Namibia and Swaziland

1. Member States, recognising the exceptional situation of Botswana, Lesotho, Namibia and Swaziland within the Community and their membership in the Southern Africa Customs Union, agree to grant them temporary exemption from the full application of certain provisions of this Treaty.
2. For this purpose, Member States shall adopt a Protocol on the Exceptional Situation of Botswana, Lesotho, Namibia and Swaziland.

Article 79 Special Provisions in respect of the Least Developed, Landlocked, Semi-Landlocked and Island Countries

1. Member States, taking into consideration the special economic and social difficulties that may arise in certain Member States and especially the least developed, land-locked, semiland-locked and island countries, shall grant them, where appropriate, special treatment in respect of the application of certain provisions of this Treaty, and shall accord them any other assistance that they may need.
2. The special treatment and assistance referred to in paragraph 1 of this Article may consist, inter alia of:
 - a. Temporary exemptions from the full application of certain provisions of this Treaty; and
 - b. Assistance from the Fund.
3. For purposes of this Chapter, Member States agree to adopt a protocol on the situation of the least developed, land-locked, semi-land-locked and island countries.

CHAPTER XVI SOLIDARITY, DEVELOPMENT AND COMPENSATION FUND

Article 80 Establishment

1. A Solidarity, Development and Compensation Fund of the Community is hereby established.

Article 81 Objectives and Statutes of the Fund

1. The Statutes of the Fund shall be established by the Assembly in a Protocol relating thereto.
2. The Statutes shall determine, inter alia, the objectives, the authorised capital stock, resources of the Fund, contributions of Member States, the currencies in which contributions shall be paid, the functioning, organisation and management of the Fund and any other related matters.

CHAPTER XVII FINANCIAL PROVISIONS**Article 82 Regular Budget of the Community**

1. The annual regular budget of the Community, which constitutes an integral part of the OAU regular budget, shall be prepared by the Secretary-General and approved by the Assembly upon the recommendation of the Council.
2. The budget shall be funded by contributions made by Member States in accordance with the scale of assessment of the OAU. Upon the recommendation of the Council, the Assembly shall determine the conditions under which the financial contributions of Member States may be supplemented or, where necessary replaced by the proper resources of the Community.

Article 83 Special Budgets

Special budgets shall be made available, where necessary, to meet the extrabudgetary expenditure of the Community. The Assembly shall determine the contributions of Member States to special budgets of the Community.

Article 84 Sanctions Relating to Non-Payment of Contributions

1. Upon the decision of the Assembly, any Member State of the Community having arrears in the payment of its contribution to the budget of the Community, shall not have the right to vote or participate in taking decisions of the Community if the amount of its arrears is equal to, or is in excess of the contribution payable by such State for the last preceding two financial years. Such Member State shall cease to enjoy other benefits arising by virtue of this Treaty as well as the right to address meetings. In addition, it shall lose the right to present candidates for vacant posts within the Community and shall not be eligible for office in the deliberative organs of the Community. The Assembly may, where necessary, impose other sanctions on a Member State for non-payment of contributions.
2. Notwithstanding the provisions of paragraph 1 of this Article, the Assembly may suspend the application of the provisions of the said paragraph if it is satisfied, on the basis of a satisfactory explanatory report by the Member State through the Secretary-General, that the non-payment of contributions is due to causes and circumstances beyond the control of the said Member State.
3. The Assembly shall decide on the modalities for the application of this Article.

Article 85 Financial Rules and Regulations

The Financial Rules and Regulations of the OAU shall govern the application of the provisions of this Chapter.

Article 86 Board of External Auditors

The selection procedure, terms of appointment, and duties and responsibilities of the Board of External Auditors shall be defined in the financial rules and regulations.

CHAPTER XVIII SETTLEMENT OF DISPUTES**Article 87 Procedure for the Settlement of Disputes**

1. Any dispute regarding the interpretation of the application of the provisions of this Treaty shall be amicably settled through direct agreement by the parties to the dispute. If the parties concerned fail to settle such dispute, either party may, within a period of twelve (12) months, refer the matter to the Court of Justice.
2. The decisions of the Court of Justice shall be final and shall not be subject to appeal.

CHAPTER XIX RELATIONS BETWEEN THE COMMUNITY AND REGIONAL ECONOMIC COMMUNITIES, REGIONAL CONTINENTAL ORGANISATIONS AND OTHER SOCIO-ECONOMIC ORGANISATIONS AND ASSOCIATIONS

Article 88 Relations between the Community and Regional Economic Communities

1. The Community shall be established mainly through the co-ordination, harmonisation and progressive integration of the activities of regional economic communities.
2. Member States undertake to promote the co-ordination and harmonisation of the integration activities of regional economic communities of which they are members with the activities of the Community, it being understood that the establishment of the latter is the final objective towards which the activities of existing and future regional economic communities shall be geared.
3. To this end, the Community shall be entrusted with the co-ordination, harmonisation and evaluation of the activities of existing and future regional economic communities.
4. Member States undertake, through their respective regional economic communities, to coordinate and harmonize the activities of their sub-regional organisations, with a view to rationalising the integration process

at the level of each region.

Article 89 Relations between the Community and African Continental Organisations

The Community shall closely cooperate with African continental organisations including, in particular, the African development Bank and African Centre for Monetary Studies in order to ensure the attainment of regional and continental integration objectives. It may conclude co-operation agreements with these Organisations.

Article 90 Relations between the Community and African Non-Governmental Organisations

1. The Community, in the context of mobilising the human and material resources of Africa, shall establish relations of co-operation with African Non-Governmental organisations, with a view to encouraging the involvement of the African peoples in the process of economic integration and mobilising their technical, material and financial support.
2. To this end, the Community shall set up a mechanism for consultation with such Non-Governmental organisations.

Article 91 Relations between the Community and Socio-Economic Organisations and Associations

1. The Community, in the context of mobilising the various actors of socioeconomic life, shall establish relations of co-operation with socio-economic organisations and associations including mainly, producers, transport operators, workers, employers, youth, women, artisans and other professional organisations and associations with a view to ensuring their involvement in the integration process of Africa.
2. To this end, the Community shall set up a mechanism for consultation with such socio-economic organisations and associations.

CHAPTER XX RELATIONS BETWEEN THE COMMUNITY, THIRD STATES AND INTERNATIONAL ORGANISATIONS

Article 92 Co-operation Agreements

1. The Community may conclude co-operation agreements with third States.
2. In the pursuit of its objectives, the Community shall ensure the establishment of relations of co-operation with the United Nations System, particularly, the United Nations Economic Commission for Africa, specialised agencies of the United Nations and any other international organisation, with a view to attaining the objectives of the Community.
3. Co-operation Agreements to be concluded pursuant to the provisions of Paragraphs 1 and 2 of this Article shall be submitted to the Assembly for approval upon the recommendation of the Council.

CHAPTER XXI RELATIONS BETWEEN MEMBER STATES, THIRD STATES, REGIONAL AND SUB-REGIONAL ORGANISATIONS AND INTERNATIONAL ORGANISATIONS

Article 93 Agreements concluded by Member States

1. Member States may conclude economic, technical or cultural agreements with one or several Member States, and with Third States, regional and subregional organisations or any other international organisation, provided that such agreements are not incompatible with the provisions of this Treaty. They shall transmit such agreements to the Secretary-General who shall inform the Council thereof.
2. In the event of incompatibility of agreements concluded, prior to the entry into force of this Treaty among Member States or between the Member States and Third States, sub-regional or regional organisations or any other international organisation, with the provisions of this Treaty, the Member State or Member States concerned shall take the appropriate steps to eliminate such incompatibility. To this end, Member States shall, where necessary, assist each other and adopt a common position.

Article 94 International Negotiations

1. Member States undertake to formulate and adopt common positions within the Community on issues relating to international negotiations in order to promote and safeguard the interests of Africa.
2. To this end, the Community shall prepare studies and reports designed to help Member States to better harmonize their positions on the said issues.

Article 95 Protocols on Chapters XIX, XX and XXI

Member States hereby agree to conclude the Protocols relating to Chapters XIX, XX and XXI of this Treaty.

CHAPTER XXII MISCELLANEOUS PROVISIONS

Article 96 Headquarters of the Community

The Headquarters of the Community shall be one and the same as that of the OAU.

Article 97 Working Languages

The working languages of the Community shall be the same as those of the OAU.

Article 98 Legal Status

1. The Community shall form an integral part of the OAU.

2. In his capacity as the legal representative of the Community the Secretary-General may, on behalf of the Community:
 - a. Enter into contracts; and
 - b. Be a party to judicial and other legal proceedings.
3. Subject to prior approval of the Council, the Secretary-General may, on behalf of the Community:
 - a. Acquire and dispose movable and immovable property;
 - b. Borrow; and
 - c. Accept donations, bequests and gifts.

Article 99 The Treaty and the Protocols

This Treaty and the Protocols shall form an integral part of the OAU Charter.

Article 100 Signature and Ratification

This Treaty, and the Protocols, shall be signed and ratified by the High Contracting Parties in accordance with their respective constitutional procedures. The instruments of ratification shall be deposited with the Secretary-General of the OAU.

Article 101 Entry into Force

This Treaty shall enter into force thirty (30) days after the deposit of the Instruments of ratification by two-thirds of the Member States of the OAU.

Article 102 Accession and Admission

1. Any Member State of the OAU may notify the Secretary-General of its intention to accede to this Treaty.
2. The Secretary-General shall, upon receipt of such notification, transmit copies thereof to all Member States. Admission shall be decided by a simple majority of Member States which shall transmit their votes to the Secretary-General. Upon receipt of the required number of votes, the Secretary-General shall transmit the decision of admission to the concerned Member State.

Article 103 Amendment and Revision of the Treaty

1. Any Member State may submit proposals for the amendment or revision of this Treaty.
2. Proposals for amendment or revision shall be submitted to the Secretary-General who shall transmit the same to Member States within thirty (30) days of receipt thereof at the Headquarters of the Community.
3. The Assembly, upon the advice of the Council, shall examine these proposals at its next meeting within a period of one year, following notification of Member States in accordance with the provisions of paragraph 2 of this Article.
4. Amendments or revisions shall be adopted by the Assembly by consensus or, failing that, by a two-thirds majority and submitted for ratification by all Member States in accordance with their respective constitutional procedures. They shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds of the Member States with the Secretary-General of the OAU.

Article 104 Withdrawal

1. Any Member State wishing to withdraw from the Community shall notify by giving one-year notice in writing, to the Secretary-General who shall inform Member States thereof. Upon the expiration of such a period, that Member State shall, if the notice is not withdrawn, cease to be a Member of the Community.
2. During the period of one year referred to in paragraph 1 of this Article, any Member State wishing to withdraw from the Community shall comply with the provisions of this Treaty and shall be bound to discharge its obligations under this Treaty up to the date of its withdrawal.

Article 105 Dissolution

The Assembly may decide to dissolve the Community and determine the terms and conditions for sharing of the latter's assets and liabilities.

Article 106 Depositary of the Treaty

1. This Treaty, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Secretary-General of the OAU who shall transmit a certified true copy thereof to the Government of each signatory State.
2. The Secretary-General shall notify Member States of the dates of deposit of the instruments of ratification or accession and shall upon the entry into force of this Treaty register the same with the Secretariat of the United Nations.

IN WITNESS WHEREOF, WE, Heads of State and Government of Member States of the Organisation of African Unity have signed this Treaty.

Done at Abuja, Nigeria on the Third of June Nineteen Hundred and Ninety One.

Organisation for Economic Co-operation and Development (OECD), Best Practices for Budget Transparency (2001, Paris, France)

Background

1. The relationship between good governance and better economic and social outcomes is increasingly acknowledged. Transparency — openness about policy intentions, formulation and implementation — is a key element of good governance. The budget is the single most important policy document of governments, where policy objectives are reconciled and implemented in concrete terms. Budget transparency is defined as the full disclosure of all relevant fiscal information in a timely and systematic manner.
2. OECD Member countries are at the forefront of budget transparency practices. At its 1999 annual meeting, the OECD Working Party of Senior Budget Officials asked the Secretariat to draw together a set of Best Practices in this area based on Member countries' experiences.
3. The Best Practices are in three parts. Part I lists the principal budget reports that governments should produce and their general content. Part II describes specific disclosures to be contained in the reports. This includes both financial and non-financial performance information. Part III highlights practices for ensuring the quality and integrity of the reports.
4. The Best Practices are designed as a reference tool for Member and non-member countries to use in order to increase the degree of budget transparency in their respective countries. The Best Practices are organised around specific reports for presentational reasons only. It is recognised that different countries will have different reporting regimes and may have different areas of emphasis for transparency. The Best Practices are based on different Member countries' experiences in each area. It should be stressed that the Best Practices are not meant to constitute a formal "standard" for budget transparency.

1. Budget Reports

1.1. The Budget

- The budget is the government's key policy document. It should be comprehensive, encompassing all government revenue and expenditure, so that the necessary trade-offs between different policy options can be assessed.
- The government's draft budget should be submitted to parliament far enough in advance to allow Parliament to review it properly. In no case should this be less than 3 months prior to the start of the fiscal year. The budget should be approved by Parliament prior to the start of the fiscal year.
- The budget, or related documents, should include a detailed commentary on each revenue and expenditure programme.
- Non-financial performance data, including performance targets, should be presented for expenditure programmes where practicable.
- The budget should include a medium-term perspective illustrating how revenue and expenditure will develop during, at least, the two years beyond the next fiscal year. Similarly, the current budget proposal should be reconciled with forecasts contained in earlier fiscal reports for the same period; all significant deviations should be explained.
- Comparative information on actual revenue and expenditure during the past year and an updated forecast for the current year should be provided for each programme. Similar comparative information should be shown for any non-financial performance data.
- If revenue and expenditures are authorised in permanent legislation, the amounts of such revenue and expenditures should nonetheless be shown in the budget for information purposes along with other revenue and expenditure.
- Expenditures should be presented in gross terms. Ear-marked revenue and user charges should be clearly accounted for separately. This should be done regardless of whether particular incentive and control systems provide for the retention of some or all of the receipts by the collecting agency.
- Expenditures should be classified by administrative unit (e.g., ministry, agency). Supplementary information classifying expenditure by economic and functional categories should also be presented.
- The economic assumptions underlying the report should be made in accordance with Best Practice 2.1 (below).
- The budget should include a discussion of tax expenditures in accordance with Best Practice 2.2 (below).
- The budget should contain a comprehensive discussion of the government's financial assets and liabilities,

non-financial assets, employee pension obligations and contingent liabilities in accordance with Best Practice 2.3-2.6 (below).

The Best Practices define “government” in line with the System of National Accounts (SNA). This definition encompasses the non-commercial activities of government. Specifically, the activities of state-owned enterprises are excluded from this definition. Although the SNA definition focuses on general government, i.e. consolidating all levels of government, these Best Practices should be seen to apply to the national government.

1.2. Pre-Budget Report

- A pre-budget report serves to encourage debate on the budget aggregates and how they interact with the economy. As such, it also serves to create appropriate expectations for the budget itself. It should be released no later than one month prior to the introduction of the budget proposal.
- The report should state explicitly the government’s long-term economic and fiscal policy objectives and the government’s economic and fiscal policy intentions for the forthcoming budget and, at least, the following two fiscal years. It should highlight the total level of revenue, expenditure, deficit or surplus, and debt.
- The economic assumptions underlying the report should be made in accordance with Best Practice 2.1 (see below).

1.3. Monthly Reports

- Monthly reports show progress in implementing the budget. They should be released within four weeks of the end of each month.
- They should contain the amount of revenue and expenditure in each month and year-to-date. A comparison should be made with the forecast amounts of monthly revenue and expenditure for the same period. Any in-year adjustments to the original forecast should be shown separately.
- A brief commentary should accompany the numerical data. If a significant divergence between actual and forecast amounts occurs, an explanation should be made.
- Expenditures should be classified by major administrative units (e.g., ministry, agency). Supplementary information classifying expenditure by economic and functional categories should also be presented.
- The reports, or related documents, should also contain information on the government’s borrowing activity (see Best Practice 2.3 below).

1.4. Mid-Year Report

- The mid-year report provides a comprehensive update on the implementation of the budget, including an updated forecast of the budget outcome for the current fiscal year and, at least, the following two fiscal years. The report should be released within six weeks of the end of the mid-year period.
- The economic assumptions underlying the budget should be reviewed and the impact of any changes on the budget disclosed (see Best Practice 2.1).
- The mid-year should contain a comprehensive discussion of the government’s financial assets and liabilities, non-financial assets, employee pension obligations and contingent liabilities in accordance with Best Practices 2.3 - 2.6 (below).
- The impact of any other government decisions, or other circumstances, that may have a material effect on the budget should be disclosed.

1.5. Year-End Report

- The year-end report is the government’s key accountability document. It should be audited by the Supreme Audit Institution, in accordance with Best Practice 3.3 (below) and be released within six months of the end of the fiscal year.
- The year-end report shows compliance with the level of revenue and expenditures authorised by Parliament in the budget. Any in-year adjustments to the original budget should be shown separately. The presentation format of the year-end report should mirror the presentation format of the budget.
- The year-end report, or related documents, should include non-financial performance information, including a comparison of performance targets and actual results achieved where practicable.
- Comparative information on the level of revenue and expenditure during the preceding year should also be provided. Similar comparative information should be shown for any nonfinancial performance data.
- Expenditure should be presented in gross terms. Ear-marked revenue and user charges should be clearly accounted for separately.
- Expenditure should be classified by administrative unit (e.g., ministry, agency). Supplementary information classifying expenditure by economic and functional categories should also be presented.
- The year-end report should contain a comprehensive discussion of the government’s financial assets and financial liabilities, non-financial assets, employee pension obligations and contingent liabilities in accordance with Best Practices 2.3 - 2.6 (below).

1.6. Pre-Election Report

- A pre-election report serves to illuminate the general state of government finances immediately before an election. This fosters a more informed electorate and serves to stimulate public debate.
- The feasibility of producing this report may depend on constitutional provisions and electoral practices. Optimally, it should be released no later than two weeks prior to elections.
- The report should contain the same information as the mid-year report.
- Special care needs to be taken to assure the integrity of such reports, in accordance with Best Practice 3.2 (below).

1.7. Long-Term Report

- The long-term report assesses the long-term sustainability of current government policies. It should be released at least every five years, or when major changes are made in substantive revenue or expenditure programmes.
- The report should assess the budgetary implications of demographic change, such as population ageing and other potential developments over the long term (10-40 years).
- All key assumptions underlying the projections contained in the report should be made explicit and a range of plausible scenarios presented.

2. Specific Disclosures

2.1. Economic Assumptions

- Deviations from the forecast of the key economic assumptions underlying the budget are the government's key fiscal risk.
- All key economic assumptions should be disclosed explicitly. This includes the forecast for GDP growth, the composition of GDP growth, the rate of employment and unemployment, the current account, inflation and interest rates (monetary policy).
- A sensitivity analysis should be made of what impact changes in the key economic assumptions would have on the budget.

2.2. Tax Expenditures

- Tax expenditures are the estimated costs to the tax revenue of preferential treatment for specific activities.
- The estimated cost of key tax expenditures should be disclosed as supplementary information in the budget. To the extent practicable, a discussion of tax expenditures for specific functional areas should be incorporated into the discussion of general expenditures for those areas in order to inform budgetary choices.

2.3. Financial Liabilities and Financial Assets

- All financial liabilities and financial assets should be disclosed in the budget, the mid-year report, and the year-end report. Monthly borrowing activity should be disclosed in the monthly reports, or related documents.
- Borrowings should be classified by the currency denomination of the debt, the maturity profile of the debt, whether the debt carries a fixed or variable rate of interest, and whether it is callable.
- Financial assets should be classified by major type, including cash, marketable securities, investments in enterprises and loans advanced to other entities. Investments in enterprises should be listed individually. Loans advanced to other entities should be listed by major category reflecting their nature; historical information on defaults for each category should be disclosed where available. Financial assets should be valued at market value.
- Debt management instruments, such as forward contracts and swaps, should be disclosed.
- In the budget, a sensitivity analysis should be made showing what impact changes in interest rates and foreign exchange rates would have on financing costs.

2.4. Non-Financial Assets

- Non-financial assets, including real property and equipment, should be disclosed.
- Non-financial assets will be recognised under full accrual based accounting and budgeting. This will require the valuation of such assets and the selection of appropriate depreciation schedules. The valuation and depreciation methods should be fully disclosed.
- Where full accrual basis is not adopted, a register of assets should be maintained and summary information from this register provided in the budget, the mid-year report and the year-end report.

2.5. Employee Pension Obligations

- Employee pension obligations should be disclosed in the budget, the mid-year report and the year-end report. Employee pension obligations are the difference between accrued benefits arising from past service and the contributions that the government has made towards those benefits.
- Key actuarial assumptions underlying the calculation of employee pension obligations should be disclosed. Any assets belonging to employee pension plans should be valued at market value.

2.6. Contingent Liabilities

- Contingent liabilities are liabilities whose budgetary impact is dependent on future events which may or may not occur. Common examples include government loan guarantees, government insurance programmes, and legal claims against the government.
- All significant contingent liabilities should be disclosed in the budget, the mid-year report and the annual financial statements.
- Where feasible, the total amount of contingent liabilities should be disclosed and classified by major category reflecting their nature; historical information on defaults for each category should be disclosed where available. In cases where contingent liabilities cannot be quantified, they should be listed and described.

3. Integrity, Control and Accountability

3.1. Accounting Policies

- A summary of relevant accounting policies should accompany all reports. These should describe the basis of accounting applied (e.g., cash, accrual) in preparing the reports and disclose any deviations from generally accepted accounting practices.
- The same accounting policies should be used for all fiscal reports.
- If a change in accounting policies is required, then the nature of the change and the reasons for the change should be fully disclosed. Information for previous reporting periods should be adjusted, as practicable, to allow comparisons to be made between reporting periods.

3.2. Systems and Responsibility

- A dynamic system of internal financial controls, including internal audit, should be in place to assure the integrity of information provided in the reports.
- Each report should contain a statement of responsibility by the finance minister and the senior official responsible for producing the report. The minister certifies that all government decisions with a fiscal impact have been included in the report. The senior official certifies that the finance ministry has used its best professional judgement in producing the report.

3.3. Audit

- The year-end report should be audited by the Supreme Audit Institution in accordance with generally accepted auditing practices.
- Audit reports prepared by the Supreme Audit Institution should be scrutinised by Parliament.

3.4. Public and Parliamentary Scrutiny

- Parliament should have the opportunity and the resources to effectively examine any fiscal report that it deems necessary.
- All fiscal reports referred to in these Best Practices should be made publicly available. This includes the availability of all reports free of charge on the Internet.
- The finance ministry should actively promote an understanding of the budget process by individual citizens and non-governmental organisations.

Organisation for Economic Co-operation and Development (OECD), Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (1997, Paris, France)

Preamble

The Parties,

CONSIDERING that bribery is a widespread phenomenon in international business transactions, including trade and investment, which raises serious moral and political concerns, undermines good governance and economic development, and distorts international competitive conditions;

CONSIDERING that all countries share a responsibility to combat bribery in international business transactions;

HAVING REGARD to the Revised Recommendation on Combating Bribery in International Business Transactions, adopted by the Council of the Organisation for Economic Co-operation and Development (OECD) on 23 May 1997, C(97)123/FINAL, which, inter alia, called for effective measures to deter, prevent and combat the bribery of foreign public officials in connection with international business transactions, in particular the prompt criminalisation of such bribery in an effective and co-ordinated manner and in conformity with the agreed common elements set out in that Recommendation and with the jurisdictional and other basic legal principles of each country;

WELCOMING other recent developments which further advance international understanding and co-operation in combating bribery of public officials, including actions of the United Nations, the World Bank, the International Monetary Fund, the World Trade Organisation, the Organisation of American States, the Council of Europe and the European Union;

WELCOMING the efforts of companies, business organisations and trade unions as well as other non-governmental organisations to combat bribery;

RECOGNISING the role of governments in the prevention of solicitation of bribes from individuals and enterprises in international business transactions;

RECOGNISING that achieving progress in this field requires not only efforts on a national level but also multilateral co-operation, monitoring and follow-up;

RECOGNISING that achieving equivalence among the measures to be taken by the Parties is an essential object and purpose of the Convention, which requires that the Convention be ratified without derogations affecting this equivalence;

Have agreed as follows:

Article 1 The Offence of Bribery of Foreign Public Officials

1. Each Party shall take such measures as may be necessary to establish that it is a criminal offence under its law for any person intentionally to offer, promise or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business.
2. Each Party shall take any measures necessary to establish that complicity in, including incitement, aiding and abetting, or authorisation of an act of bribery of a foreign public official shall be a criminal offence. Attempt and conspiracy to bribe a foreign public official shall be criminal offences to the same extent as attempt and conspiracy to bribe a public official of that Party.
3. The offences set out in paragraphs 1 and 2 above are hereinafter referred to as "bribery of a foreign public official".
4. For the purpose of this Convention:
 - a. "foreign public official" means any person holding a legislative, administrative or judicial office of a foreign country, whether appointed or elected; any person exercising a public function for a foreign country, including for a public agency or public enterprise; and any official or agent of a public international organisation;
 - b. "foreign country" includes all levels and subdivisions of government, from national to local;
 - c. "act or refrain from acting in relation to the performance of official duties" includes any use of the public official's position, whether or not within the official's authorised competence.

Article 2 Responsibility of Legal Persons

Each Party shall take such measures as may be necessary, in accordance with its legal principles, to establish the

liability of legal persons for the bribery of a foreign public official.

Article 3 Sanctions

1. The bribery of a foreign public official shall be punishable by effective, proportionate and dissuasive criminal penalties. The range of penalties shall be comparable to that applicable to the bribery of the Party's own public officials and shall, in the case of natural persons, include deprivation of liberty sufficient to enable effective mutual legal assistance and extradition.
2. In the event that, under the legal system of a Party, criminal responsibility is not applicable to legal persons, that Party shall ensure that legal persons shall be subject to effective, proportionate and dissuasive non-criminal sanctions, including monetary sanctions, for bribery of foreign public officials.
3. Each Party shall take such measures as may be necessary to provide that the bribe and the proceeds of the bribery of a foreign public official, or property the value of which corresponds to that of such proceeds, are subject to seizure and confiscation or that monetary sanctions of comparable effect are applicable.
4. Each Party shall consider the imposition of additional civil or administrative sanctions upon a person subject to sanctions for the bribery of a foreign public official.

Article 4 Jurisdiction

1. Each Party shall take such measures as may be necessary to establish its jurisdiction over the bribery of a foreign public official when the offence is committed in whole or in part in its territory.
2. Each Party which has jurisdiction to prosecute its nationals for offences committed abroad shall take such measures as may be necessary to establish its jurisdiction to do so in respect of the bribery of a foreign public official, according to the same principles.
3. When more than one Party has jurisdiction over an alleged offence described in this Convention, the Parties involved shall, at the request of one of them, consult with a view to determining the most appropriate jurisdiction for prosecution.
4. Each Party shall review whether its current basis for jurisdiction is effective in the fight against the bribery of foreign public officials and, if it is not, shall take remedial steps.

Article 5 Enforcement

Investigation and prosecution of the bribery of a foreign public official shall be subject to the applicable rules and principles of each Party. They shall not be influenced by considerations of national economic interest, the potential effect upon relations with another State or the identity of the natural or legal persons involved.

Article 6 Statute of Limitations

Any statute of limitations applicable to the offence of bribery of a foreign public official shall allow an adequate period of time for the investigation and prosecution of this offence.

Article 7 Money Laundering

Each Party which has made bribery of its own public official a predicate offence for the purpose of the application of its money laundering legislation shall do so on the same terms for the bribery of a foreign public official, without regard to the place where the bribery occurred.

Article 8 Accounting

1. In order to combat bribery of foreign public officials effectively, each Party shall take such measures as may be necessary, within the framework of its laws and regulations regarding the maintenance of books and records, financial statement disclosures, and accounting and auditing standards, to prohibit the establishment of off-the-books accounts, the making of off-the-books or inadequately identified transactions, the recording of non-existent expenditures, the entry of liabilities with incorrect identification of their object, as well as the use of false documents, by companies subject to those laws and regulations, for the purpose of bribing foreign public officials or of hiding such bribery.
2. Each Party shall provide effective, proportionate and dissuasive civil, administrative or criminal penalties for such omissions and falsifications in respect of the books, records, accounts and financial statements of such companies.

Article 9 Mutual Legal Assistance

1. Each Party shall, to the fullest extent possible under its laws and relevant treaties and arrangements, provide prompt and effective legal assistance to another Party for the purpose of criminal investigations and proceedings brought by a Party concerning offences within the scope of this Convention and for non-criminal proceedings within the scope of this Convention brought by a Party against a legal person. The requested Party shall inform the requesting Party, without delay, of any additional information or documents needed to support the request for assistance and, where requested, of the status and outcome of the request for assistance.
2. Where a Party makes mutual legal assistance conditional upon the existence of dual criminality, dual criminality shall be deemed to exist if the offence for which the assistance is sought is within the scope of this Convention.
3. A Party shall not decline to render mutual legal assistance for criminal matters within the scope of this Convention on the ground of bank secrecy.

Article 10 Extradition

1. Bribery of a foreign public official shall be deemed to be included as an extraditable offence under the laws of the Parties and the extradition treaties between them.
2. If a Party which makes extradition conditional on the existence of an extradition treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this Convention to be the legal basis for extradition in respect of the offence of bribery of a foreign public official.
3. Each Party shall take any measures necessary to assure either that it can extradite its nationals or that it can prosecute its nationals for the offence of bribery of a foreign public official. A Party which declines a request to extradite a person for bribery of a foreign public official solely on the ground that the person is its national shall submit the case to its competent authorities for the purpose of prosecution.
4. Extradition for bribery of a foreign public official is subject to the conditions set out in the domestic law and applicable treaties and arrangements of each Party. Where a Party makes extradition conditional upon the existence of dual criminality, that condition shall be deemed to be fulfilled if the offence for which extradition is sought is within the scope of Article 1 of this Convention.

Article 11 Responsible Authorities

For the purposes of Article 4, paragraph 3, on consultation, Article 9, on mutual legal assistance and Article 10, on extradition, each Party shall notify to the Secretary-General of the OECD an authority or authorities responsible for making and receiving requests, which shall serve as channel of communication for these matters for that Party, without prejudice to other arrangements between Parties.

Article 12 Monitoring and Follow-up

The Parties shall co-operate in carrying out a programme of systematic follow-up to monitor and promote the full implementation of this Convention. Unless otherwise decided by consensus of the Parties, this shall be done in the framework of the OECD Working Group on Bribery in International Business Transactions and according to its terms of reference, or within the framework and terms of reference of any successor to its functions, and Parties shall bear the costs of the programme in accordance with the rules applicable to that body.

Article 13 Signature and Accession

1. Until its entry into force, this Convention shall be open for signature by OECD members and by non-members which have been invited to become full participants in its Working Group on Bribery in International Business Transactions.
2. Subsequent to its entry into force, this Convention shall be open to accession by any non-signatory which is a member of the OECD or has become a full participant in the Working Group on Bribery in International Business Transactions or any successor to its functions. For each such non-signatory, the Convention shall enter into force on the sixtieth day following the date of deposit of its instrument of accession.

Article 14 Ratification and Depositary

1. This Convention is subject to acceptance, approval or ratification by the Signatories, in accordance with their respective laws.
2. Instruments of acceptance, approval, ratification or accession shall be deposited with the Secretary-General of the OECD, who shall serve as Depositary of this Convention.

Article 15 Entry into Force

1. This Convention shall enter into force on the sixtieth day following the date upon which five of the ten countries which have the ten largest export shares set out in DAF/IME/BR(97)18/FINAL (annexed), and which represent by themselves at least sixty per cent of the combined total exports of those ten countries, have deposited their instruments of acceptance, approval, or ratification. For each signatory depositing its instrument after such entry into force, the Convention shall enter into force on the sixtieth day after deposit of its instrument.
2. If, after 31 December 1998, the Convention has not entered into force under paragraph 1 above, any signatory which has deposited its instrument of acceptance, approval or ratification may declare in writing to the Depositary its readiness to accept entry into force of this Convention under this paragraph 2. The Convention shall enter into force for such a signatory on the sixtieth day following the date upon which such declarations have been deposited by at least two signatories. For each signatory depositing its declaration after such entry into force, the Convention shall enter into force on the sixtieth day following the date of deposit.

Article 16 Amendment

Any Party may propose the amendment of this Convention. A proposed amendment shall be submitted to the Depositary which shall communicate it to the other Parties at least sixty days before convening a meeting of the Parties to consider the proposed amendment. An amendment adopted by consensus of the Parties, or by such other means as the Parties may determine by consensus, shall enter into force sixty days after the deposit of an instrument of ratification, acceptance or approval by all of the Parties, or in such other circumstances as may be specified by the Parties at the time of adoption of the amendment.

Article 17 Withdrawal

A Party may withdraw from this Convention by submitting written notification to the Depositary. Such withdrawal

shall be effective one year after the date of the receipt of the notification. After withdrawal, co-operation shall continue between the Parties and the Party which has withdrawn on all requests for assistance or extradition made before the effective date of withdrawal which remain pending.

Annex

DAFFE/IME/BR(97)18/FINAL Statistics on OECD Exports

Notes: *1990-1995; **1991-1996; ***1993-1996

Source: OECD, (1) IMF

Concerning Belgium-Luxembourg: Trade statistics for Belgium and Luxembourg are available only on a combined basis for the two countries.

For purposes of Article 15, paragraph 1 of the Convention, if either Belgium or Luxembourg deposits its instrument of acceptance, approval or ratification, or if both Belgium and Luxembourg deposit their instruments of acceptance, approval or ratification, it shall be considered that one of the countries which have the ten largest exports shares has deposited its instrument and the joint exports of both countries will be counted towards the 60 percent of combined total exports of those ten countries, which is required for entry into force under this provision.

STATISTICS ON OECD Exports			
	1990-1996 US\$ million	1990-1996 % of Total OECD	1990-1996 % of 10 Largest
United States	287 118	15,9%	19,7%
Germany	254 746	14,1%	17,5%
Japan	212 665	11,8%	14,6%
France	138 471	7,7%	9,5%
United Kingdom	121 258	6,7%	8,3%
Italy	112 449	6,2%	7,7%
Canada	91 215	5,1%	6,3%
Korea (1)	81 364	4,5%	5,6%
Netherlands	81 264	4,5%	5,6%
Belgium-Luxembourg	78 598	4,4%	5,4%
Total 10 largest	1 459 148	81,0%	100%
Spain	42 469	2,4%	
Switzerland	40 395	2,2%	
Sweden	36 710	2,0%	
Mexico (1)	34 233	1,9%	
Australia	27 194	1,5%	
Denmark	24 145	1,3%	
Austria*	22 432	1,2%	
Norway	21 666	1,2%	
Ireland	19 217	1,1%	
Finland	17 296	1,0%	
Poland (1) **	12 652	0,7%	
Portugal	10 801	0,6%	
Turkey *	8 027	0,4%	
Hungary **	6 795	0,4%	
New Zealand	6 663	0,4%	
Czech Republic ***	6 263	0,3%	
Greece *	4 606	0,3%	
Iceland	949	0,1%	
Total OECD	1 801 661	100%	

Organisation for Economic Co-operation and Development (OECD), Guidelines on Corporate Governance of State-Owned Enterprises (2005, Paris, France)

Foreword

Corporate governance of state-owned enterprises is a major challenge in many economies. But, until now, there has not been any international benchmark to help governments assess and improve the way they exercise ownership of these enterprises, which often constitute a significant share of the economy. These OECD Guidelines on Corporate Governance of State-Owned Enterprises fill this important gap, and their development has attracted global interest from a variety of different stakeholders.

The strong support that OECD has enjoyed for this work, and the broad endorsement of the Guidelines themselves, makes me convinced that they will be widely disseminated and actively used in both OECD and non-OECD countries. The demand for these Guidelines should not come as a surprise to anyone who has followed policy developments in this field. The shared experience of countries that have started to reform corporate governance of state-owned enterprises is that this is an important but also complex undertaking. A major challenge is to find a balance between the state's responsibility for actively exercising its ownership functions, such as the nomination and election of the board, while at the same time refraining from imposing undue political interference in the management of the company. Another important challenge is to ensure that there is a level-playing field in markets where private sector companies can compete with state-owned enterprises and that governments do not distort competition in the way they use their regulatory or supervisory powers.

Building on practical experience, these Guidelines provide concrete suggestions on how such dilemmas can be solved. For example, they suggest that the state should exercise its ownership functions through a centralised ownership entity, or effectively coordinated entities, which should act independently and in accordance with a publicly disclosed ownership policy. The Guidelines also suggest the strict separation of the state's ownership and regulatory functions. If properly implemented, these and the other recommended reforms would go a long way to ensure that state ownership is exercised in a professional and accountable manner, and that the state plays a positive role in improving corporate governance across all sectors of our economies. The result would be healthier, more competitive and more transparent enterprises.

Experienced policy-makers and practitioners from a large number of OECD and non-OECD countries have contributed to the development of these Guidelines. Their input, through an open consultative process, is responsible for the quality and the relevance of these Guidelines. I extend my sincere appreciation to all members of the OECD Working Group on Privatisation and Corporate Governance of State-Owned Assets, whose constructive efforts made it possible to develop these Guidelines, and to their Chair, Mr. Lars-Johan Cederlund, whose dedication and leadership helped to bring this work to a successful conclusion. I also thank the organisations and individuals who participated in the consultations, thereby influencing successive drafts of this document. Your expertise has been indispensable and your contributions are greatly appreciated and acknowledged.

Looking ahead, these Guidelines should be widely disseminated and actively used. Their implementation in individual countries should be supported by a process of dialogue and exchange of experience among peers from many countries. The OECD will therefore continue to convene fora including OECD and non-OECD countries in order to promote good corporate governance of state-owned enterprises.

Donald Johnston

Secretary-General

Preamble

In several OECD countries, State-Owned Enterprises (SOE) still represent a substantial part of GDP, employment and market capitalisation. Moreover, State-Owned Enterprises are often prevalent in utilities and infrastructure industries, such as energy, transport and telecommunication, whose performance is of great importance to broad segments of the population and to other parts of the business sector. Consequently, the governance of SOEs will be critical to ensure their positive contribution to a country's overall economic efficiency and competitiveness. OECD experience has also shown that good corporate governance of State-Owned Enterprises is an important prerequisite for economically effective privatisation, since it will make the enterprises more attractive to prospective buyers and enhance their valuation.

A number of non-OECD countries also have a significant state-owned sector, which in some cases is even a dominant feature of the economy. These countries are in many cases reforming the way in which they organise and manage their state-owned enterprises and have sought to share their experiences with OECD countries in order to support

reforms at national level.

It is against this background that the OECD Steering Group on Corporate Governance in June 2002 asked the Working Group on Privatisation and Corporate Governance of State-Owned Assets to develop a set of non-binding guidelines and best practices on corporate governance of state-owned enterprises. The Working Group, which comprises representatives from OECD member countries and the World Bank and IMF as observers, has undertaken comprehensive consultations during the development of these Guidelines. It has consulted with a wide range of interested parties, such as board members and CEOs of state-owned enterprises, state audit bodies, unions and Parliamentarians, and has conducted extensive consultations with nonmember countries. A draft version of the Guidelines was posted on the OECD website for public comment and resulted in a significant number of useful and constructive comments, which have also been posted on the site.

These Guidelines should be viewed as a complement to the OECD Principles of Corporate Governance¹ on which they are based and with which they are fully compatible. The Guidelines are explicitly oriented to issues that are specific to corporate governance of State-Owned Enterprises and consequently take the perspective of the state as an owner, focusing on policies that would ensure good corporate governance. Nonetheless the Guidelines are not intended to, nor in their effect should they, contradict or discourage OECD countries or non-OECD countries from undertaking any privatisation policies or programmes.

Over the years, the rationale for state ownership of commercial enterprises has varied among countries and industries and has typically comprised a mix of social, economic and strategic interests. Examples include industrial policy, regional development, the supply of public goods and the existence of so called “natural” monopolies. Over the last few decades however, globalisation of markets, technological changes and deregulation of previously monopolistic markets have called for readjustment and restructuring of the state-owned sector. These developments are surveyed in two recent OECD reports that have served as input to these guidelines.²

In order to carry out its ownership responsibilities, the state can benefit from using tools that are applicable to the private sector, including the OECD Principles of Corporate Governance. This is especially true for listed SOEs.

However, SOEs also face some distinct governance challenges. One is that SOEs may suffer just as much from undue hands-on and politically motivated ownership interference as from totally passive or distant ownership by the state. There may also be a dilution of accountability. SOEs are often protected from two major threats that are essential for policing management in private sector corporations, i.e., takeover and bankruptcy. More fundamentally, corporate governance difficulties derive from the fact that the accountability for the performance of SOEs involves a complex chain of agents (management, board, ownership entities, ministries, the government), without clearly and easily identifiable, or remote, principals. To structure this complex web of accountabilities in order to ensure efficient decisions and good corporate governance is a challenge.

As the Guidelines are intended to provide general advice that will assist governments in improving the performance of SOEs, the decision to apply the Guidelines to the governance of particular SOEs should be made on a pragmatic basis. The Guidelines are primarily oriented to state-owned enterprises using a distinct legal form (i.e., separate from the public administration) and having a commercial activity (i.e. with the bulk of their income coming from sales and fees), whether or not they pursue a public policy objective as well. These SOEs may be in competitive or in non-competitive sectors of the economy. When necessary, the Guidelines distinguish between listed and non-listed SOEs, or between wholly owned, majority and minority owned SOEs since the corporate governance issues are somewhat different in each case. The Guidelines can also be applied to the subsidiaries of these aforementioned entities, whether listed or not.

While the Guidelines are primarily intended to cover commercial enterprises under central government ownership and federal ownership, authorities could also promote their use by sub-national levels of governments that own enterprises. They are also useful for non-commercial SOEs fulfilling essentially special public policy purposes, whether or not in a corporate form. It is in the governments and the public's interest that all these categories of SOEs are professionally run and apply good governance practices.

Throughout the Guidelines, the term “SOEs” refers to enterprises where the state has significant control, through full, majority, or significant minority ownership. However, many of the Guidelines are also useful in cases where the state retains a relatively small stake in a company, but should nevertheless act as a responsible and informed shareholder. In the same vein, the term “ownership entity” refers to the state entity responsible for executing the ownership rights of the state, whether it is a specific Department within a Ministry, an autonomous agency or other. Finally, as in the OECD Principles, the term “board” as used in this document is meant to embrace the different national models of board structures found in OECD and non-OECD countries. In the typical two tier system, found in some countries, “boards” refers to “supervisory board” while “key executive” refers to the “management board”.

The following document is divided into two parts. The Guidelines presented in the first part of the document cover the following areas:

I) Ensuring an Effective Legal and Regulatory Framework for State-Owned Enterprises; II) The State Acting as an Owner; III) Equitable Treatment of Shareholders; IV) Relations with Stakeholders; V) Transparency and Disclosure; VI)

Notes

1. OECD Principles of Corporate Governance, 2004.

2. Corporate Governance of State-Owned Enterprises: A Survey of OECD Countries”, OECD, 2005 and “Privatising State-Owned Enterprise, An Overview of Policies and Practices in OECD Countries”, OECD, 2003.

The Responsibilities of Boards of State-Owned Enterprises. Each of the sections is headed by a single Guideline that appears in bold italics and is followed by a number of supporting sub-Guidelines. In the second part of the document, the Guidelines are supplemented by annotations that contain commentary on the Guidelines and are intended to help readers understand their rationale. The annotations may also contain descriptions of dominant trends and offer alternative implementation methods and examples that may be useful in making the Guidelines operational.

I. Ensuring an Effective Legal and Regulatory Framework for State-Owned Enterprises

The legal and regulatory framework for state-owned enterprises should ensure a level-playing field in markets where state-owned enterprises and private sector companies compete in order to avoid market distortions. The framework should build on, and be fully compatible with, the OECD Principles of Corporate Governance.

- A. There should be a clear separation between the state's ownership function and other state functions that may influence the conditions for state-owned enterprises, particularly with regard to market regulation.
- B. Governments should strive to simplify and streamline the operational practices and the legal form under which SOEs operate. Their legal form should allow creditors to press their claims and to initiate insolvency procedures.
- C. Any obligations and responsibilities that an SOE is required to undertake in terms of public services beyond the generally accepted norm should be clearly mandated by laws or regulations. Such obligations and responsibilities should also be disclosed to the general public and related costs should be covered in a transparent manner.
- D. SOEs should not be exempt from the application of general laws and regulations. Stakeholders, including competitors, should have access to efficient redress and an even-handed ruling when they consider that their rights have been violated.
- E. The legal and regulatory framework should allow sufficient flexibility for adjustments in the capital structure of SOEs when this is necessary for achieving company objectives.
- F. SOEs should face competitive conditions regarding access to finance. Their relations with state-owned banks, state-owned financial institutions and other state-owned companies should be based on purely commercial grounds.

II. The State Acting as an Owner

The state should act as an informed and active owner and establish a clear and consistent ownership policy, ensuring that the governance of state-owned enterprises is carried out in a transparent and accountable manner, with the necessary degree of professionalism and effectiveness.

- A. The government should develop and issue an ownership policy that defines the overall objectives of state ownership, the state's role in the corporate governance of SOEs, and how it will implement its ownership policy.
- B. The government should not be involved in the day-to-day management of SOEs and allow them full operational autonomy to achieve their defined objectives.
- C. The state should let SOE boards exercise their responsibilities and respect their independence.
- D. The exercise of ownership rights should be clearly identified within the state administration. This may be facilitated by setting up a co-ordinating entity or, more appropriately, by the centralisation of the ownership function.
- E. The co-ordinating or ownership entity should be held accountable to representative bodies such as the Parliament and have clearly defined relationships with relevant public bodies, including the state supreme audit institutions.
- F. The state as an active owner should exercise its ownership rights according to the legal structure of each company. Its prime responsibilities include:
 1. Being represented at the general shareholders meetings and voting the state shares.
 2. Establishing well structured and transparent board nomination processes in fully or majority owned SOEs, and actively participating in the nomination of all SOEs' boards.
 3. Setting up reporting systems allowing regular monitoring and assessment of SOE performance.
 4. When permitted by the legal system and the state's level of ownership, maintaining continuous dialogue with external auditors and specific state control organs.
 5. Ensuring that remuneration schemes for SOE board members foster the long term interest of the company and can attract and motivate qualified professionals.

III. Equitable Treatment of Shareholders

The state and state-owned enterprises should recognise the rights of all shareholders and in accordance with the OECD Principles of Corporate Governance ensure their equitable treatment and equal access to corporate information.

- A. The co-ordinating or ownership entity and SOEs should ensure that all shareholders are treated equitably.
- B. SOEs should observe a high degree of transparency towards all shareholders.
- C. SOEs should develop an active policy of communication and consultation with all shareholders.
- D. The participation of minority shareholders in shareholder meetings should be facilitated in order to allow them to take part in fundamental corporate decisions such as board election.

IV. Relations with Stakeholders

The state ownership policy should fully recognise the state-owned enterprises' responsibilities towards stakeholders and request that they report on their relations with stakeholders.

- A. Governments, the co-ordinating or ownership entity and SOEs themselves should recognise and respect stakeholders' rights established by law or through mutual agreements, and refer to the OECD Principles of Corporate Governance in this regard.
- B. Listed or large SOEs, as well as SOEs pursuing important public policy objectives, should report on stakeholder relations.
- C. The board of SOEs should be required to develop, implement and communicate compliance programmes for internal codes of ethics. These codes of ethics should be based on country norms, in conformity with international commitments and apply to the company and its subsidiaries.

V. Transparency and Disclosure

State-owned enterprises should observe high standards of transparency in accordance with the OECD Principles of Corporate Governance.

- A. The co-ordinating or ownership entity should develop consistent and aggregate reporting on state-owned enterprises and publish annually an aggregate report on SOEs.
- B. SOEs should develop efficient internal audit procedures and establish an internal audit function that is monitored by and reports directly to the board and to the audit committee or the equivalent company organ.
- C. SOEs, especially large ones, should be subject to an annual independent external audit based on international standards. The existence of specific state control procedures does not substitute for an independent external audit.
- D. SOEs should be subject to the same high quality accounting and auditing standards as listed companies. Large or listed SOEs should disclose financial and non-financial information according to high quality internationally recognised standards.
- E. SOEs should disclose material information on all matters described in the OECD Principles of Corporate Governance and in addition focus on areas of significant concern for the state as an owner and the general public.

Examples of such information include:

1. A clear statement to the public of the company objectives and their fulfilment.
2. The ownership and voting structure of the company.
3. Any material risk factors and measures taken to manage such risks.
4. Any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE.
5. Any material transactions with related entities.

VI. The Responsibilities of the Boards of State-Owned Enterprises

The boards of state-owned enterprises should have the necessary authority, competencies and objectivity to carry out their function of strategic guidance and monitoring of management. They should act with integrity and be held accountable for their actions.

- A. The boards of SOEs should be assigned a clear mandate and ultimate responsibility for the company's performance. The board should be fully accountable to the owners, act in the best interest of the company and treat all shareholders equitably.
- B. SOE boards should carry out their functions of monitoring of management and strategic guidance, subject to the objectives set by the government and the ownership entity. They should have the power to appoint and remove the CEO.
- C. The boards of SOEs should be composed so that they can exercise objective and independent judgement. Good practice calls for the Chair to be separate from the CEO.
- D. If employee representation on the board is mandated, mechanisms should be developed to guarantee that this representation is exercised effectively and contributes to the enhancement of the board skills, information and independence.
- E. When necessary, SOE boards should set up specialised committees to support the full board in performing its functions, particularly in respect to audit, risk management and remuneration.
- F. SOE boards should carry out an annual evaluation to appraise their performance.

Annotations to Chapter I: Ensuring an Effective Legal and Regulatory Framework for State-Owned Enterprises

The legal and regulatory framework for state-owned enterprises should ensure a level-playing field in markets where state-owned enterprises and private sector companies compete in order to avoid market distortions. The framework should build on, and be fully compatible with, the OECD Principles of Corporate Governance.

The legal and regulatory framework within which SOEs operate is often complex. If it is not consistent and coherent it can easily result in costly market distortions and undermine the accountability of both management and the state

as an owner. A clear division of responsibilities among authorities, a streamlining of legal forms together with a coherent and consistent regulatory framework will facilitate the improvement of corporate governance in SOEs.

A. There should be a clear separation between the state's ownership function and other state functions that may influence the conditions for state-owned enterprises, particularly with regard to market regulation.

The state often plays a dual role of market regulator and owner of SOEs with commercial operations, particularly in the newly deregulated and often partially privatised network industries. Whenever this is the case, the state is at the same time a major market player and an arbitrator. Full administrative separation of responsibilities for ownership and market regulation is therefore a fundamental prerequisite for creating a level playing field for SOEs and private companies and for avoiding distortion of competition. Such separation is also advocated by the OECD Principles of Regulatory Reform.

Another important case is when SOEs are used as an instrument for industrial policy. This can easily result in confusion and conflicts of interest between industrial policy and the ownership functions of the state, particularly if the responsibility for industrial policy and the ownership functions are vested with the same branch or sector ministries. A separation of industrial policy and ownership will enhance the identification of the state as an owner and will favour transparency in defining objectives and monitoring performance. However, such separation does not prevent necessary co-ordination between the two functions.

In order to prevent conflicts of interest, it is also necessary to clearly separate the ownership function from any entities within the state administration which might be clients or main suppliers to SOEs. General procurement rules should apply to SOEs as well as to any other companies.

Legal as well as non legal barriers to fair procurement should be removed. In implementing effective separation between the different state roles with regard SOEs, both perceived and real conflicts of interest should be taken into account.

B. Governments should strive to simplify and streamline the operational practices and the legal form under which SOEs operate. Their legal form should allow creditors to press their claims and to initiate insolvency procedures.

SOEs may have a specific, and sometimes different, legal form from other companies. This may reflect specific objectives or societal considerations as well as special protection granted to certain stakeholders. This particularly concerns employees whose remuneration may be fixed by regulatory acts/bodies and whom are given specific pension rights and protection against redundancies equivalent of those provided to civil servants. In a number of cases, SOEs are also to a large extent protected from insolvency or bankruptcy procedures by their specific legal status. This is sometimes due to the necessity to ensure continuity in the provision of public services.

Where this occurs, the SOEs often differ from the private limited liability companies through: i) the respective authority and power of the board, management and ministries; ii) the composition and structure of these boards; iii) the extent to which they grant consultation or decision making rights to some stakeholders, more particularly, employees; iv) disclosure requirements and, as mentioned above, the extent to which they are subjected to insolvency and bankruptcy procedures, etc. The legal form of SOEs also often includes a strict definition of the activity of the SOEs concerned, preventing them from diversifying or extending their activities in new sectors and/or overseas. These limits have been legitimately set to prevent misuse of public funds, stop overly ambitious growth strategy or prevent SOEs from exporting sensitive technologies.

In some countries, SOEs' specific legal forms have evolved significantly in recent years in response to the deregulation and an increased scrutiny of state aid and cross subsidisation. Limitations on the type of activities that SOEs are allowed to carry out according to their legal form have been relaxed. In some countries, changes in the legal form have been accompanied by the state taking on commitments regarding employees' protection, more particularly regarding pension rights.

When streamlining the legal form of SOEs, governments should base themselves as much as possible on corporate law and avoid creating a specific legal form when this is not absolutely necessary for the objectives of the enterprise. Streamlining of the legal form of SOEs would enhance transparency and facilitate oversight through benchmarking. It would also level the playing field with private competitors in increasingly deregulated and competitive markets.

The streamlining should target SOEs having a commercial activity and operating in competitive, open markets. It should focus on making those means and instruments usually available to private owners, also available to the state as an owner. Streamlining should therefore primarily concern the role and authority of the company's governance organs as well as transparency and disclosure obligations.

If the change of the legal forms of SOEs is too difficult, other options could be to streamline SOEs' operational practices, make some specific regulations more inclusive, i.e. extending their validity or coverage to SOEs with specific legal forms, or ask SOEs to voluntarily fulfil requirements from these specific regulations, particularly concerning disclosure requirements.

C. Any obligations and responsibilities that an SOE is required to undertake in terms of public services beyond the generally accepted norm should be clearly mandated by laws or regulations. Such obligations and responsibilities should also be disclosed to the general public and related costs should be covered in a transparent manner.

In some cases SOEs are expected to fulfil special responsibilities and obligations for social and public policy purposes.

In some countries this includes a regulation of the prices at which SOEs have to sell their products and services. These special responsibilities and obligations may go beyond the generally accepted norm for commercial activities and should be clearly mandated and motivated by laws and regulations. They should also preferably be incorporated in the company by-laws.

The market and the general public should be clearly informed about the nature and extent of these obligations, as well as about their overall impact on the SOEs' resources and economic performance.

It is also important that related costs be clearly identified, disclosed and adequately compensated by the state budget on the basis of specific legal provisions and/or through contractual mechanisms, such as management or service contracts. Compensation should be structured in a way that avoids market distortion. This is particularly the case if the enterprises concerned are in competitive sectors of the economy.

D. SOEs should not be exempt from the application of general laws and regulations. Stakeholders, including competitors, should have access to efficient redress and an even-handed ruling when they consider that their rights have been violated.

Experience has shown that in some countries SOEs may be exempt from a number of laws and regulations, including in a few cases, from competition law. SOEs are often not covered by bankruptcy law and creditors sometimes have difficulties in enforcing their contracts and in obtaining payments. Such exemptions from the general legal provisions should be avoided to the fullest extent possible in order to avoid market distortions and underpinning the accountability of management. SOEs as well as the state as a shareholder should not be protected from challenge via the courts or the regulatory authorities, in case they infringe the law. Stakeholders should be able to challenge the state as an owner in the courts and be treated fairly and equitably in such case by the judicial system.

E. The legal and regulatory framework should allow sufficient flexibility for adjustments in the capital structure of SOEs when this is necessary for achieving company objectives.

The rigidity of the capital structure sometimes makes it difficult for an SOE to develop or fulfil its objectives. The state as an owner should develop an overall policy and provide mechanisms that allow appropriate changes in SOEs' capital structure.

These mechanisms could include the capacity, for the ownership function, to adjust the SOEs' capital structures in a flexible way but within clear limits. Within certain limits, this could, for example, facilitate the indirect transfer of capital from one SOE to another, such as through some reinvestment of dividends received, or the raising of capital on competitive market terms.

These mechanisms should respect the Parliament decision making power regarding the budget or the appropriate level of state ownership as well as the overall transparency in the budgetary system. Any change in the capital structure of an SOE should be clearly consistent with the state ownership objective and the SOE's specific circumstances. Decisions should be adequately documented to allow effective accountability through audits or scrutiny by the Parliament. Finally, such mechanisms should be limited and subject to careful oversight in order to avoid any form of cross-subsidisation via capital transfers.

F. SOEs should face competitive conditions regarding access to finance. Their relations with state-owned banks, state-owned financial institutions and other state-owned companies should be based on purely commercial grounds.

Creditors and the board often assume that there is an implicit state guarantee on SOEs' debts. This situation has in many instances led to excessive indebtedness, wasted resources and market distortion, to the detriment of both creditors and the taxpayers. Moreover, in some countries, state-owned banks and other financial institutions tend to be the most significant if not the main creditor of SOEs. This environment leaves great scope for conflicts of interest. It may lead to bad loans by state-owned banks as the enterprise might feel itself under no obligation to repay the loan. This may shelter SOEs from a crucial source of market monitoring and pressure, thereby distort their incentive structure.

A clear distinction is necessary between the state and SOEs' respective responsibilities in relation to creditors. The state often grants guarantees to SOEs to compensate for its inability to provide them with equity capital, but this facility is often widely abused. As a general principle, the state should not give an automatic guarantee in respect of SOE liabilities. Fair practices with regard to the disclosure and remuneration of state guarantees should also be developed and SOEs should be encouraged to seek financing from capital markets.

Mechanisms should be developed to manage conflicts of interests and ensure that SOEs develop relations with state-owned banks, other financial institutions as well as other SOEs based on purely commercial grounds. State-owned banks should grant credit to SOEs on the same terms and conditions as for private companies. These mechanisms could also include limits and careful scrutiny on SOEs' board members sitting on the board of state-owned banks.

Annotations to Chapter II: The State Acting as an Owner

The state should act as an informed and active owner and establish a clear and consistent ownership policy, ensuring that the governance of state-owned enterprises is carried out in a transparent and accountable manner, with the necessary degree of professionalism and effectiveness.

In order to carry out its ownership functions, the government should refer to private and public sector governance standards, notably the OECD Principles of Corporate Governance, which are also applicable to SOEs. In addition to

the OECD Principles of Corporate Governance, there are specific aspects of SOE governance that either merit special attention or should be documented in more detail in order to guide SOE board members, management and the state entity responsible for executing the ownership rights of the state in effectively performing their respective roles.

A. The government should develop and issue an ownership policy that defines the overall objectives of state ownership, the state's role in the corporate governance of SOEs, and how it will implement its ownership policy.

It is often the multiple and contradictory objectives of state ownership that lead to either a very passive conduct of ownership functions, or conversely results in the state's excessive intervention in matters or decisions which should be left to the company and its governance organs.

In order for the state to clearly position itself as an owner, it should clarify and prioritise its objectives. The objectives may include avoiding market distortion and the pursuit of profitability, expressed in the form of specific targets, such as rate-of-return and dividend policy. Setting objectives may include trade-offs, for example between shareholder value, public service and even job security. The state should therefore go further than defining its main objectives as an owner; it should also indicate its priorities and clarify how inherent trade-offs shall be handled. In doing so, the state should avoid interfering in operational matters, and thereby respect the independence of the board. A clear ownership policy will help in avoiding the situation where SOEs are given excessive autonomy in setting their own objectives or in defining the nature and extent of their public service obligations.

Moreover, the state should strive to be consistent in its ownership policy and avoid modifying the overall objectives too often. A clear, consistent and explicit ownership policy will provide SOEs, the market and the general public with predictability and a clear understanding of the state's objectives as an owner as well as of its long term commitments.

In developing and updating the state's ownership policy, governments should make appropriate use of public consultation. The ownership policy and associated company objectives should be public documents accessible to the general public and widely circulated amongst the relevant ministries, agencies, SOE boards, management, and the legislature. It is also important that relevant civil servants endorse the ownership policy and that the SOE General shareholders meeting, the board and senior management endorse the corporate objectives statements.

B. The government should not be involved in the day-to-day management of SOEs and allow them full operational autonomy to achieve their defined objectives.

The prime means for an active and informed ownership by the state is a clear and consistent ownership strategy, a structured board nomination process and an effective exercise of established ownership rights. Any involvement in the day-to-day management of SOEs should be avoided. The ownership or co-ordinating entity's ability to give direction to the SOE or its board should be limited to strategic issues and policies. It should be publicly disclosed and specified in which areas and types of decisions the ownership or co-ordinating entity is competent to give instructions. Along the same lines, strict limits should also be put on the ability of any other government bodies to intervene in day-to-day management of SOEs.

C. The state should let SOE boards exercise their responsibilities and respect their independence.

In the nomination and election of board members, the ownership entity should focus on the need for SOE boards to exercise their responsibilities in a professional and independent manner. As stated in the OECD Principles, it is important that individual board members when they carry out their duties do not act as representatives for different constituencies. Independence requires that all board members carry out their duties in an even-handed manner with respect to all shareholders. Except when this is compatible with the company charter or the explicit objectives of the company, this means that board members should not be guided by any political concerns when carrying out their board duties.

When the state is a controlling owner, it is in a unique position to nominate and elect the board without the consent of other shareholders. This legitimate right comes with a high degree of responsibility for identifying, nominating and electing board members. In this process, and in order to minimize possible conflicts of interest, the ownership entity should avoid electing an excessive number of board members from the state administration. This is particularly relevant for partly owned SOEs and for SOEs in competitive industries. Some countries have decided to avoid nominating or electing anyone from the ownership entity or other state officials on SOE boards. This aims at clearly depriving the government from the possibility to directly intervene in the SOE's business or management and at limiting the state responsibility for decisions taken by SOE boards.

Employees of the ownership entity, professionals from other parts of the administration or from the political constituencies should only be elected on SOE boards if they meet the required competence level for all board members and if they do not act as a conduit for undue political influence. They should have the same duties and responsibilities as the other board members and act in the interest of the SOE and all its shareholders. Disqualification conditions and situations of conflict of interest should be carefully evaluated and guidance provided about how to handle and resolve them. The professionals concerned should have neither excessive inherent nor perceived conflicts of interest. In particular this implies that they should neither take part in regulatory decisions concerning the same SOE nor have any specific obligations or restrictions that would prevent them from acting in the company's interest. More generally, all potential conflicts of interests concerning any member of the board should be reported to the board which should then disclose these together with information on how they are being managed.

It is particularly necessary to clarify the respective personal and state liability when state officials are on SOE boards. The state officials concerned might have to disclose any personal ownership they have in the SOE and follow the

relevant insider trading regulation. Guidelines or codes of ethics for members of the ownership entity and other state officials serving as SOE board members could be developed by the co-ordinating or ownership entity. These Guidelines or codes of ethics should also indicate how confidential information passed on to the state from these board members should be handled.

Direction in terms of broader political objectives should be channelled through the co-ordinating or ownership entity and enunciated as enterprise objectives rather than imposed directly through board participation. SOE boards should not respond to policy signals until they are authorised by the Parliament or approved by specific procedures.

D. The exercise of ownership rights should be clearly identified within the state administration. This may be facilitated by setting up a co-ordinating entity or, more appropriately, by the centralisation of the ownership function.

It is critical for the ownership function within the state administration to be clearly identified, whether it is located at a central ministry such as the finance or economics ministries, in a separate administrative entity, or within a specific sector ministry.

To achieve a clear identification of the ownership function, it can be centralised in a single entity, which is independent or under the authority of one ministry. This approach would help in clarifying the ownership policy and its orientation, and would also ensure its more consistent implementation.

Centralisation of the ownership function could also allow for reinforcing and bringing together relevant competencies by organising “pools” of experts on key matters, such as financial reporting or board nomination. In this way, centralisation can be a major force in the development of aggregate reporting on state ownership. Finally, centralisation is also an effective way to clearly separate the exercise of ownership functions from other activities performed by the state, particularly market regulation and industrial policy as mentioned in guideline I.A above.

If the ownership function is not centralised, a minimum requirement is to establish a strong co-ordinating entity among the different administrative departments involved. This will help to ensure that each SOE has a clear mandate and receives a coherent message in terms of strategic guidance or reporting requirements. The co-ordinating entity would harmonise and co-ordinate the actions and policies undertaken by different ownership departments in various ministries. The co-ordinating entity should also be in charge of establishing an overall ownership policy, developing specific guidelines and unifying practices among the various ministries.

Centralisation of the ownership function in a single entity is probably most relevant for SOEs in competitive sectors and is not necessarily applicable to SOEs that are mainly pursuing public policy objectives. Such SOEs are not the primary target of these Guidelines, and in their case, sector ministries may remain the most relevant and competent entities to exercise ownership rights which might be indistinguishable from policy objectives.

When centralisation of the ownership function is considered, it should not give rise to a new and overly powerful bureaucratic layer.

When the ownership function can not be handled by a single entity, some key functions could nevertheless be centralised in order to make use of specific expertise and ensure independence from individual sector ministries.

One example when such partial centralisation can be useful is the nomination of board members.

The clear identification of the ownership function should be sought at different levels of government depending on where ownership is located, for example national, regional, federal or sub-federal levels. These Guidelines do not give direction to determine the appropriate level of SOE management in this respect within a state or a federation. They merely indicate that, regardless of the level of authority, the ownership function would be better centralised in or co-ordinated by a single entity. Moreover, if there are different administrative levels of ownership, harmonisation of ownership practices should be looked for. Finally, centralisation of the ownership function does not imply the centralisation of the legal ownership.

E. The co-ordinating or ownership entity should be held accountable to representative bodies such as the Parliament and have clearly defined relationships with relevant public bodies, including the state supreme audit institutions.

The relationship of the co-ordinating or ownership entity with other government bodies should be clearly defined. A number of state bodies, Ministries or administrations have different roles vis-à-vis the same SOEs. In order to increase the public confidence in the way the state manages ownership of SOEs, it is important that these different roles are clarified and explained to the general public.

In particular, the ownership entity should maintain co-operation and continuous dialogue with the state supreme audit institutions responsible for auditing the SOEs. It should support the work of the state audit institution and take appropriate measures in response to audit findings, following in this regard the INTOSAI Lima Declaration of Guidelines on Auditing Precepts.

The co-ordinating or ownership entity should also be held clearly accountable for the way it carries out the state ownership function. Its accountability should be, directly or indirectly, to bodies representing the interests of the general public, such as the Parliament. Its accountability to the legislature should be clearly defined, as well as the accountability of SOEs themselves, which should not be diluted by virtue of the intermediary reporting relationship.

Accountability should go beyond ensuring that the exercise of ownership does not interfere with the legislature's prerogative as regards budget policy.

The ownership entity should report on its own performance in exercising state ownership and in achieving the state objectives in this regards. It should provide quantitative and reliable information to the public and its representatives on how the SOEs are managed in the interests of their owners.

Specific mechanisms such as ad hoc or permanent commissions could be set up to maintain the dialogue between the co-ordinating or ownership entity and the legislature. In the case of Parliament hearings, confidentiality issues should be dealt with through specific procedures such as confidential or closed meetings. While generally accepted as a useful procedure, the form, frequency and content of this dialogue may differ according to the constitutional law and the different parliamentary traditions and roles.

The accountability requirements should not restrict unduly the autonomy of the co-ordinating or ownership entity in fulfilling their responsibilities. For example, cases where the co-ordinating or ownership entity needs to obtain the legislature's ex ante approval should be limited and include significant changes in the overall ownership policy, significant changes in the size of the state sector and significant transactions investments or disinvestment.

More generally, the ownership entity should enjoy a certain degree of flexibility vis-à-vis its responsible ministry in the way it organises itself and takes decisions with regards to procedures and processes. The ownership entity could also enjoy a certain degree of budgetary autonomy that can allow flexibility in recruiting, remunerating and retaining the necessary expertise, including from the private sector.

F. The state as an active owner should exercise its ownership rights according to the legal structure of each company.

To avoid either undue political interference or passive state ownership, it is important for the co-ordinating or ownership entity to focus on the effective exercising of ownership rights. The state as an owner should typically conduct itself as any major shareholder when it is in a position to significantly influence the company and be an informed and active shareholder when holding a minority post. It would be well advised to exercise its rights in order to protect its ownership and optimise its value.

As defined by the OECD Principles of Corporate Governance, four basic shareholder rights are: i) to participate and vote in shareholder meetings; ii) to obtain relevant and sufficient information on the corporation on a timely and regular basis; iii) to elect and remove members of the board; and iv) to approve extraordinary transactions. The co-ordinating or ownership entity should exercise these rights fully and judiciously, as this would allow the necessary influence on SOEs without infringing on their day-to-day management. The effectiveness and credibility of SOE governance and oversight will, to a large extent, depend on the ability of the ownership entity to make an informed use of its shareholder rights and effectively exercise its ownership functions in SOEs.

An ownership entity needs unique competencies and should have professionals with legal, financial, economic and management skills that are experienced in carrying out fiduciary responsibilities. Such professionals must also clearly understand their roles and responsibilities as civil servants with respect to the SOEs. In addition, the ownership entity should include competencies related to the specific obligations that some SOEs under their supervision are required to undertake in terms of public service provisions.

The co-ordinating or ownership entity should also have the possibility to have recourse to outside advice and to contract-out some aspects of the ownership function, in order to exercise the state's ownership rights in a better manner. They could, for example, make use of specialists for carrying out evaluation, active monitoring, or proxy voting on its behalf where deemed necessary and appropriate.

Its prime responsibilities include:

1. Being represented at the general shareholders meetings and voting the state shares

The state as an owner should fulfil its fiduciary duty by exercising its voting rights, or at least explain if it does not do so. The state should not find itself in the position of not having reacted to propositions put before the SOEs' general shareholder meetings.

For the state to be able to express its view on issues submitted for approval at shareholders' meetings, it is necessary that the co-ordinating or ownership entity organises itself to be able to present an informed view on these issues and articulate it to SOE boards via the general shareholders meeting.

It is important to establish appropriate procedures for state representation in general shareholders meetings. This could be achieved for example by clearly identifying the co-ordinating or ownership entity as representing the state's shares.

2. Establishing well structured and transparent board nomination processes in fully or majority owned SOEs, and actively participating in the nomination of all SOEs' boards

The co-ordinating or ownership entity should ensure that SOEs have efficient and well-functioning professional boards, with the required mix of competencies to fulfil their responsibilities. This will involve establishing a structured nomination process and playing an active role in this process. This will be facilitated if the ownership entity is given sole responsibility for organising the state's participation in the nomination process.

The nomination of SOE boards should be transparent, clearly structured and based on an appraisal of the variety of skills, competencies and experiences required. Competence and experience requirements should derive from an evaluation of the incumbent board and the demands aligned with the company's long term strategy. These evaluations should also take into consideration the role played by employee board representation when this is required by law or mutual agreements. To base nominations on such explicit competence requirements and

evaluations will likely lead to more professional, accountable and business oriented boards.

Where the state is not the sole owner, the co-ordinating or ownership entity should consult with other shareholders ahead of the general shareholders meetings. SOE boards should also be able to make recommendations to the ownership entity based on the approved board member profiles, skill requirements and board member evaluations. Setting up nomination committees may be useful, helping to focus the search for good candidates and in structuring further the nomination process. In some countries, it is also considered to be good practice to establish a specialised commission or “public board” to oversee nominations in SOE boards. Even though such commissions or public boards might have only recommendation powers, they could have a strong influence in practice on increasing the independence and professionalism of SOE boards. Proposed nominations should be published in advance of the general shareholders meeting, with adequate information about the professional background and expertise of the respective candidates.

It could also be useful if ownership entities maintain a database of qualified candidates, developed through an open competitive process. The use of professional staffing agencies or international advertisements is another means to enhance the quality of the search process. These practices would help in enlarging the pool of qualified candidates for SOE boards, particularly in terms of private sector expertise and international experience. The process may also favour greater board diversity, including gender diversity.

3. Setting up reporting systems allowing regular monitoring and assessment of SOE performance

In order for the co-ordinating or ownership entity to make informed decisions on key corporate matters, they should ensure that they receive all necessary and relevant information in a timely manner. They should also establish means that make it possible to monitor SOEs’ activity and performance on a continuous basis.

The co-ordinating or ownership entity should ensure that adequate external reporting systems are in place for all SOEs. The reporting systems should give the co-ordinating or ownership entity a true picture of the SOE’s performance and financial situation, enabling them to react on time and to be selective in their intervention.

The co-ordinating or ownership entity should develop the appropriate devices and select proper valuation methods to monitor SOEs’ performance in respect of established objectives. It could be helped in this regard by developing systematic benchmarking of SOE performance, with private or public sector entities, both domestically and abroad. This benchmarking should cover productivity and the efficient use of labour, assets and capital. This benchmarking is particularly important for SOEs in non-competitive sectors. It would allow the SOEs, the co-ordinating or ownership entity and the general public to better assess SOE performance and reflect on their development.

Effective monitoring of SOE performance can be facilitated by having adequate accounting and audit competencies within the co-ordinating or ownership entity to ensure appropriate communication with relevant counterparts, both with SOEs’ financial services, external auditors and specific state controllers.

4. When permitted by the legal system and the state’s level of ownership, maintaining continuous dialogue with external auditors and specific state control organs

Depending on the legislation, the co-ordinating or ownership entity may be entitled to nominate and even appoint the external auditors. Regarding wholly-owned SOEs, the co-ordinating or ownership entity should maintain a continuous dialogue with external auditors, as well as with the specific state controllers when these latter exist. This continuous dialogue could take the form of regular exchange of information, meetings or ad hoc discussions when specific problems occur. External auditors will provide the co-ordinating or ownership entity with an external, independent and qualified view on the SOE performance and financial situation. However, continuous dialogue of the ownership entity with external auditors and state controllers should not be at the expense of the board’s responsibility.

When SOEs are publicly traded or partially-owned, the co-ordinating or ownership entity must respect the rights and fair treatment of minority shareholders. The dialogue with external auditors should not give the co-ordinating or ownership entity any privileged information and should respect regulation regarding privileged and confidential information.

5. Ensuring that remuneration schemes for SOE board members foster the long term interest of the company and can attract and motivate qualified professionals

There is a strong trend to bring the remuneration of board members of SOEs closer to private sector practices. However, in a majority of OECD countries, this remuneration is still far below market levels for the competencies and experience required, as well as for responsibilities involved.

Annotations to Chapter III: Equitable Treatment of Shareholders

The state and state-owned enterprises should recognise the rights of all shareholders and in accordance with the OECD Principles of Corporate Governance ensure their equitable treatment and equal access to corporate information.

It is in the state’s interest to ensure that, in all enterprises where it has a stake, minority shareholders are treated equitably, since its reputation in this respect will influence its capacity of attracting outside funding and the valuation of the company. It should therefore ensure that other shareholders do not perceive the state as an opaque, unpredictable and unfair owner. The state should on the contrary establish itself as exemplary and follow best practices regarding the treatment of minority shareholders.

A. The co-ordinating or ownership entity and SOEs should ensure that all shareholders are treated equitably.

Whenever a part of an SOEs' capital is held by private shareholders, institutional or individual, the state should recognise their rights. It is in the interest of the co-ordinating or ownership entity and SOEs themselves to refer to the OECD Principles of Corporate Governance with regard to minority shareholders' rights. The Principles state that "Minority shareholders should be protected from abusive action, by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress". The Principles also prohibit insider trading and abusive self-dealing. Finally, the annotations to the OECD Principles suggest pre-emptive rights and qualified majorities for certain shareholder decisions as an ex-ante means of minority shareholders protection.

As a dominant shareholder, the state is in many cases able to make decisions in general shareholders meetings without the agreement of any other shareholders. It is usually in a position to decide on the composition of the board of directors. While such decision making power is a legitimate right that follows with ownership, it is important that the state doesn't abuse its role as a dominant shareholder, for example by pursuing objectives that are not in the interest of the company and thereby to the detriment of other shareholders. Abuse can occur through inappropriate related party transactions, biased business decisions or changes in the capital structure favouring controlling shareholders. The measures which can be taken include better disclosure, a duty of loyalty of board members, as well as qualified majorities for certain shareholder's decisions.

The co-ordinating or ownership entity should develop guidelines regarding equitable treatment of minority shareholders. It should ensure that individual SOEs, and more particularly their boards, are fully aware of the importance of the relationship with minority shareholders and are active in enhancing it.

As stated in the OECD Principles of Corporate Governance, "the potential for abuse is marked when the legal system allows, and the market accepts, controlling shareholders to exercise a level of control which does not correspond to the level of risk that they assume as owners through exploiting legal devices to separate ownership from control". Therefore governments should, as far as possible, limit the use of Golden Shares and disclose shareholders' agreements and capital structures that allow a shareholder to exercise a degree of control over the corporation disproportionate to the shareholders' equity ownership in the company.

B. SOEs should observe a high degree of transparency towards all shareholders.

A crucial condition for protecting minority and other shareholders is to ensure a high degree of transparency. The OECD Principles of Corporate Governance "support simultaneous reporting of information to all shareholders in order to ensure their equitable treatment. In maintaining close relations with investors and market participants, companies must be careful not to violate this fundamental principle of equitable treatment."

Minority and other shareholders should have access to all the necessary information to be able to make informed investment decisions. Meanwhile, significant shareholders, including the co-ordinating or ownership entity, should not make any abusive use of the information they might obtain as controlling shareholders or board members. For non-listed SOEs, other shareholders are usually well identified and often have privileged access to information, through board seats for example. However, whatever the quality and completeness of the legal and regulatory framework concerning disclosure of information, the co-ordinating or ownership entity should ensure that all enterprises where the state has shares put mechanisms and procedures in place to guarantee easy and equitable access to information by all shareholders.

Any shareholder agreements, including information agreements covering board members, should be disclosed.

C. SOEs should develop an active policy of communication and consultation with all shareholders.

SOEs, including any enterprise in which the state is a minority shareholder, should identify their shareholders and keep them duly informed in a timely and systematic fashion about material events and forthcoming shareholder meetings. They should also provide them with sufficient background information on issues that will be subject to decision. It is the responsibility of SOEs' boards to make sure that the company fulfils its obligations in terms of information to the shareholders. In doing so, SOEs should not only apply the existing legal and regulatory framework, but are encouraged to go beyond it when relevant in order to build credibility and confidence. Where possible, active consultation with minority shareholders will help in improving the decision making process and the acceptance of key decisions.

D. The participation of minority shareholders' in shareholder meetings should be facilitated in order to allow them to take part in fundamental corporate decisions such as board election.

Minority shareholders may be concerned about actual decisions being made outside the company's shareholder meetings or board meetings. This is a legitimate concern for listed companies with a significant or controlling shareholder, but it can also be an issue in companies where the state is the dominant shareholder. It might be appropriate for the state as an owner to reassure minority shareholders that their interests are taken into consideration.

As underlined in the OECD Principles of Corporate Governance, the right to participate in general shareholder meetings is a fundamental shareholder right. To encourage minority shareholders to actively participate in SOEs general shareholder meetings and to facilitate the exercise of their rights, specific mechanisms could be adopted by SOEs, in the same vein as those recommended for listed companies in the OECD Principles. These could include qualified majorities for certain shareholder decisions and, when deemed useful by the circumstances, the possibility to use special election rules, such as cumulative voting. Additional measures should include facilitating voting in absentia or developing the use of electronic means as a way to reduce participation costs. Moreover, employee-

shareholder participation in general shareholders meetings could be facilitated by, for example, the collection of proxy votes from employee-shareholders.

It is important that any special mechanism for minority protection is carefully balanced. It should favour all minority shareholders and in no respect contradict the concept of equitable treatment. It should neither prevent the state as a majority shareholder from exercising its legitimate influence on the decisions nor should it allow minority shareholders to holdup the decision-making process.

Annotations to Chapter IV: Relations with Stakeholders

The state ownership policy should fully recognise the state-owned enterprises' responsibilities towards stakeholders and request that they report on their relations with stakeholders.

In some OECD countries, legal status, regulations or mutual agreements contracts grant certain stakeholders specific rights in SOEs. Some SOEs might even be characterised by distinct governance structures as regard the rights granted to stakeholders, principally employee board level representation, or other consultation/decision making rights to employees' representatives and consumer organisations, for example through advisory councils.

SOEs should acknowledge the importance of stakeholder relations for building sustainable and financially sound enterprises. Stakeholder relations are particularly important for SOEs as they may be critical for the fulfilment of general service obligations whenever these exist and as SOEs may have, in some infrastructure sectors, a vital impact on the economic development potential and on the communities in which they are active. Moreover, some investors increasingly consider stakeholder related issues in their investment decisions and appreciate potential litigation risks linked to stakeholder issues.

It is therefore important that the co-ordinating or ownership entity and SOEs recognise the impact that an active stakeholder policy may have on the company's long term strategic goal and reputation. They should thus develop and adequately disclose clear stakeholder policies.

However, the government should not use SOEs to further goals which differ from those which apply to the private sector, unless compensated in some form. Any specific rights granted to stakeholders or influence on the decision making process should be explicit. Whatever rights granted to stakeholders by the law or special obligations that have to be fulfilled by the SOE in this regard, the company organs, principally the general shareholders meeting and the board, should retain their decision making powers.

A. Governments, the co-ordinating or ownership entity and SOEs themselves should recognise and respect stakeholders' rights established by law or through mutual agreements, and refer to the OECD Principles of Corporate Governance in this regard.

As a dominant shareholder, the state may control corporate decision making and be in a position to take decisions to the detriment of stakeholders. It is therefore important to establish mechanisms and procedures to protect stakeholder rights. The co-ordinating or ownership entity should have a clear policy in this regard. SOEs should fully respect the rights of stakeholders, as established by law, regulations and mutual agreements. They should act in the same way as private sector listed companies and refer to the OECD Principles of Corporate Governance regarding relations with stakeholders.

Implementation of the OECD Principles of Corporate Governance implies full recognition of the contribution of various stakeholders and encourages active and wealth-creating co-operation with them. To this end, SOEs should ensure that stakeholders have access to relevant, sufficient and reliable information on a timely and regular basis to be able to exercise their rights.

Stakeholders should have access to legal redress in the event their rights are violated. Employees should also be able to freely communicate their concerns about illegal or unethical practices to the board and their rights should not be compromised for doing that.

Performance enhancing mechanisms for employee participation should be permitted to develop when considered relevant with regard to the importance of stakeholder relations for some SOEs. However, when deciding on the relevance and desired development of such mechanisms, the state should give careful consideration to the inherent difficulties in transforming entitlement legacies into effective performance enhancing mechanisms.

B. Listed or large SOEs, as well as SOEs pursuing important public policy objectives, should report on stakeholder relations.

Good practice increasingly requires listed companies to report on stakeholder issues. By doing so, SOEs will demonstrate their willingness to operate more transparently and their commitment to co-operation with stakeholders. This will in turn foster trust and improve their reputation.

Consequently, listed or large SOEs should communicate with investors, stakeholders and the public at large on their stakeholder policies and provide information on their effective implementation. This should also be the case for any SOE pursuing important public policy objectives or having general services obligations, with due care to the costs involved related to their size.

Reports on stakeholder relations should include information on social and environmental policies, whenever SOEs have specific objectives in this regard.

To this end, they could refer to best practice and follow guidelines on social and environmental responsibility disclosure, which have been developed in the past few years.

It might also be advisable that SOEs have their stakeholder reports independently scrutinised in order to strengthen their credibility. The co-ordinating or ownership entity could in turn strengthen disclosure on stakeholder matters by having both a clear policy and possibly developing aggregate disclosure to the general public.

C. The board of SOEs should be required to develop, implement and communicate compliance programmes for internal codes of ethics. These codes of ethics should be based on country norms, in conformity with international commitments and apply to the company and its subsidiaries.

The OECD Principles of Corporate Governance recommend that boards apply high ethical standards. This is in the long term interest of any company as a means to make it credible and trustworthy in its day-to-day operations and with respect to its longer term commitments. In the case of SOEs, there may be more pressures to deviate from high ethical standards given the interaction of business considerations with political and public policy ones. Moreover, as SOEs might play an important role in setting the business tone of the country, it is also important for them to maintain high ethical standards.

SOEs and their officers should conduct themselves according to high ethical standards. SOEs should develop internal codes of ethics, committing themselves to comply with country norms and in conformity with broader codes of behaviour. This should include a commitment to comply with the OECD Guidelines for Multinational Enterprises, which have been adopted by all OECD states and reflect all four principles contained in the ILO Declaration on Fundamental Principles and Rights at Work, and the OECD Anti-Bribery convention. The ethical code should apply to the SOEs as a whole and to their subsidiaries.

The ethical code should give clear and detailed guidance as to the expected conduct of all employees and compliance programs should be established. It is considered as a good practice for these codes to be developed in a participatory way in order to involve all the employees and stakeholders concerned. These codes should also be fully supported and implemented by the boards and senior management.

The code of ethics should include guidance on procurement processes, as well as develop specific mechanisms protecting and encouraging stakeholders, and particularly employees, to report on illegal or unethical conduct by corporate officers. In this regard, the ownership entities should ensure that SOEs under their responsibility effectively put in place safe harbours for complaints for employees, either personally or through their representative bodies, or for others outside the company. SOE boards could grant employees or their representatives a confidential direct access to someone independent on the board, or to an ombudsman within the company. The codes of ethics should also comprise disciplinary measures, should the allegations be found to be without merit and not made in good faith, frivolous or vexatious in nature.

Annotations to Chapter V: Transparency and Disclosure

State-owned enterprises should observe high standards of transparency in accordance with the OECD Principles of Corporate Governance.

A. The co-ordinating or ownership entities should develop consistent and aggregate reporting on state-owned enterprises and publish annually an aggregate report on SOEs.

Co-ordinating or centralised ownership entities should develop aggregate reporting that covers all SOEs and make it a key disclosure tool directed to the general public, the Parliament and the media. This reporting should be developed in a way that allows all readers to obtain a clear view of the overall performance and evolution of the SOEs. In addition, aggregate reporting is also instrumental for the co-ordinating or ownership entities in deepening their understanding of SOE performance and in clarifying their own policy.

The aggregate reporting should result in an annual aggregate report issued by the state. This aggregate report should primarily focus on financial performance and the value of the SOEs. It should at least provide an indication of the total value of the state's portfolio. It should also include a general statement on the state's ownership policy and information on how the state has implemented this policy. Information on the organisation of the ownership function should also be provided, as well as an overview of the evolution of SOEs, aggregate financial information and reporting on changes in SOEs' boards. The aggregate report should provide main financial indicators including turnover, profit, cash flow from operating activities, gross investment, return on equity, equity/asset ratio and dividends. Information should also be provided on the methods used to aggregate data. The aggregate report could also include individual reporting on the most significant SOEs. It is important to underline that aggregate reporting should not duplicate but complement existing reporting requirements, for example, annual reports to Parliaments. Some ownership entities could aim at publishing only "partial" aggregate reports, i.e. covering SOEs active in comparable sectors. Finally, publishing bi-annually aggregate reports would further improve transparency of state ownership.

In some countries it has proven useful for the co-ordinating or ownership entity to develop a website, which allows the general public easy access to information. Such websites could provide information both on the organisation of the ownership function and the general ownership policy, as well as information about the size, evolution, performance and value of the state sector.

B. SOEs should develop efficient internal audit procedures and establish an internal audit function that is monitored by and reports directly to the board and to the audit committee or the equivalent company organ.

As in large public companies, it is necessary for large SOEs to put in place an internal audit system. "Internal auditing is an independent, objective assurance and consulting activity designed to add value and improve an organisation's

operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes.*” Internal auditors are important to ensure an efficient and robust disclosure process and proper internal controls in the broad sense. They should define procedures to collect, compile and present sufficiently detailed information. They should also ensure that company procedures are adequately implemented and be able to guarantee the quality of the information disclosed by the company.

To increase their independence and authority, the internal auditors should work on behalf of, and report directly to the board and its audit committee in one-tier systems, to the supervisory board in two-tier systems or the audit boards when these exist. Internal auditors should have unrestricted access to the Chair and members of the entire board and its audit committee. Their reporting is important for the board’s ability to evaluate actual company operations and performance. Consultation between external and internal auditors should be encouraged. Finally, it is also recommended as good practice that an internal control report is included in the financial statements, describing the internal control structure and procedures for financial reporting.

C. SOEs, especially large ones, should be subject to an annual independent external audit based on international standards. The existence of specific state control procedures does not substitute for an independent external audit.

SOEs are not necessarily required to be audited by external, independent auditors. This is often due to specific state audit and control systems that are sometimes considered sufficient to guarantee the quality and comprehensiveness of accounting information. These financial controls are typically performed by specialised state or “supreme” audit entities, which may inspect both SOEs and the co-ordinating or ownership entity. In many cases they also attend board meetings and are often reporting directly to the Parliament on the performance of SOEs. However, these specific controls are designed to monitor the use of public funds and budget resources, rather than the operations of the SOE as a whole.

To reinforce trust in the information provided, the state should require that, in addition to special state audits, at least all large SOEs are subject to external audits that are carried out in accordance with international standards. Adequate procedures should be developed for the selection of external auditors and it is crucial that they are independent from the management as well as large shareholders, i.e. the state in the case of SOEs.

Moreover, external auditors should be subject to the same criteria of independence as for private sector companies. This generally includes limits on providing consulting or other non-audit services to the audited SOE, as well as periodic rotation of audit partners or audit firms.

D. SOEs should be subject to the same high quality accounting and auditing standards as listed companies. Large or listed SOEs should disclose financial and non-financial information according to high quality internationally recognised standards.

In the interest of the general public, SOEs should be as transparent as publicly traded corporations. Regardless of their legal status and even if they are not listed, all SOEs should report according to best practice accounting and auditing standards.

All SOEs should disclose financial and non-financial information, and large and listed ones should do so according to high quality internationally recognised standard. This implies that SOE board members sign financial reports and that CEOs and CFOs certify that these reports in all material respects appropriately and fairly present the operations and financial condition of the SOE.

To the extent possible, a cost-benefit analysis should be carried out to determine which SOEs should be submitted to high quality internationally recognised standard. This analysis should consider that demanding disclosure requirements are also both an incentive and a means for the board and management to perform their duties professionally. SOEs under a certain size could be excluded, provided that they do not pursue important public policy objectives. Such exceptions could only be decided on a pragmatic basis and will vary among countries, industrial sectors and the size of the state sector.

A high level of disclosure is also valuable for SOEs pursuing important public policy objectives. It is particularly important when they have a significant impact on the state budget, on the risks carried by the state, or when they have a more global societal impact. In the EU, for example, companies that are entitled to state subsidies for carrying out services of general interests are required to keep separate accounts for these activities.

E. SOEs should disclose material information on all matters described in the OECD Principles of Corporate Governance and in addition focus on areas of significant concern for the state as an owner and the general public.

The OECD Principles of Corporate Governance describe what the main elements of disclosure for a public company should be. SOEs should at least comply with these requirements, including financial and operating results, remuneration policies, related party transactions, governance structures and governance policies. SOEs should disclose if they follow any code of corporate governance and, if so, indicate which one. With regards remuneration of board members and key executives, it is viewed as good practice to carry this out on an individual basis. The information should include termination and retirement provisions, as well as any specific facility or in kind remuneration provided to board members. SOEs should be particularly vigilant and improve transparency in the following areas.

* Definition of the Institute of Internal Auditors (www.theiia.org).

Examples of such information include:

1. A clear statement to the public of the company objectives and their fulfilment

It is important that each SOE is clear about its overall objectives. Regardless of the existing performance monitoring system, a limited set of basic overall objectives should be identified together with information about how the enterprise is dealing with trade-offs between objectives that could be conflicting.

When the state is a majority shareholder or effectively controls the SOE, company objectives should be made clear to all other investors, the market and the general public. Such disclosure obligations will encourage company officials to clarify the objectives to themselves, and could also increase management's commitment in pursuing these objectives. It will provide a reference point for all shareholders, the market and the general public for considering the strategy adopted and decisions taken by the management.

SOEs should report on how they fulfilled their objectives by disclosing key performance indicators. When the SOE is also used for public policy objectives, such as general services obligations, it should also report on how these are being achieved.

2. The ownership and voting structure of the company

It is important that the ownership and voting structures of SOEs are transparent so that all shareholders have a clear understanding of their share of cash-flow and voting rights. It should also be clear who retains legal ownership of the state's shares and where the responsibility for exercising the state's ownership rights are located. Any special rights or agreements that may distort the ownership or control structure of the SOE, such as golden shares and power of veto, should be disclosed.

3. Any material risk factors and measures taken to manage such risks

Severe difficulties arise when SOEs undertake ambitious strategies without clearly identifying, assessing or duly reporting on the related risks. Disclosure of material risk factors is particularly important when SOEs operate in newly de-regulated and increasingly internationalised industries where they are facing a series of new risks, such as political, operational, or exchange rate risks. Without adequate reporting of material risk factors, SOEs may give a false representation of their financial situation and overall performance. This in turn may lead to inappropriate strategic decisions and unexpected financial losses.

Appropriate disclosure by SOEs of the nature and extent of risk incurred in their operations requires the establishment of sound internal risk management systems to identify, manage, control and report on risks. SOEs should report according to new and evolving standards and disclose all off-balance-sheet assets and liabilities. When appropriate, such reporting could cover risk management strategies as well as systems put in place to implement them. Companies in extracting industries should disclose their reserves according to best practices in this regard, as this may be a key element of their value and risk profile.

Public Private Partnerships should also be adequately disclosed. Such ventures are often characterised by transfers of risks, resources and rewards between public and private partners for the provision of public services or public infrastructure and may consequently induce new and specific material risks.

4. Any financial assistance, including guarantees, received from the state and commitments made on behalf of the SOE

To give a fair and complete picture of an SOE's financial situation, it is necessary that mutual obligations, financial assistance or risk sharing mechanisms between the state and the SOEs are appropriately disclosed.

Disclosure should include details on any state grant or subsidy received by the SOE, any guarantee granted by the state to the SOE for its operations, as well as any commitment that the state undertakes on behalf of an SOE. Disclosure of guarantees could be done by SOEs themselves or by the state. It is considered good practice that Parliaments monitor state guarantees in order to respect budgetary procedures.

5. Any material transactions with related entities

Transactions between SOEs and related entities, such as an equity investment of one SOE in another, might be a source of potential abuse and should be disclosed. Reporting on transactions with related entities should provide all information that is necessary for assessing the fairness and appropriateness of these transactions.

Annotations for Chapter VI: The Responsibilities of the Boards of State-Owned Enterprises

The boards of state-owned enterprises should have the necessary authority, competencies and objectivity to carry out their function of strategic guidance and monitoring of management. They should act with integrity and be held accountable for their actions.

In a number of countries, SOE boards tend to be too large, lack business perspective and independent judgment. They may also include an excessive number of members from the state administration. Moreover, they may not be entrusted with the full range of board responsibilities and can therefore be overruled by senior management and by the ownership entities themselves. Moreover, their function may also be duplicated by specific state regulatory bodies in some areas.

Empowering and improving the quality of SOE boards is a fundamental step in improving the corporate governance of SOEs. It is important that SOEs have strong boards that can act in the interest of the company and effectively monitor management without undue political interference. To this end, it will be necessary to ensure the

competency of SOE boards, enhance their independence and improve the way they function. It is also necessary to allow them clear and full responsibility for their functions and ensure that they act with integrity.

A. The boards of SOEs should be assigned a clear mandate and ultimate responsibility for the company's performance. The board should be fully accountable to the owners, act in the best interest of the company and treat all shareholders equitably.

SOE boards should, in principle, have the same responsibilities and liabilities as stipulated in company law. However, in practice, board members may have a reduced liability, particularly the ones nominated by the state.

The responsibilities of SOE boards should be articulated in relevant legislation, regulations, the government ownership policy and the company charters. It is essential and should be emphasised that all board members have the legal obligation to act in the best interests of the company and to treat all shareholders equitably. The collective and individual liability of board members should be clearly stated. There should not be any difference between the liabilities of different board members, whether they are nominated by the state or any other shareholders or stakeholders. Training should be required in order to inform SOE board members of their responsibilities and liabilities.

To encourage board responsibility and in order for boards to function effectively, they should follow best practices adhered to in the private sector and be limited in size. Experience indicates that smaller boards allow for real strategic discussion and are less prone to become rubberstamping entities.

To underline the board's responsibilities, a Directors' Report should be provided along with the annual statements and submitted to the external auditors. The Directors' Report should give information and comment on the organisation, financial performance, material risk factors, significant events, relations with stakeholders, and the effects of directions from the co-ordinating or ownership entity.

B. SOE boards should carry out their functions of monitoring of management and strategic guidance, subject to the objectives set by the government and the ownership entity. They should have the power to appoint and remove the CEO.

In many instances, SOE boards are not granted full responsibility and the authority required for strategic guidance, monitoring of management and control over disclosure. SOE boards may see their roles and responsibilities encroached from two ends; by the ownership entities and by management. The co-ordinating or ownership entity, if not the government itself, may be tempted to become too involved in strategic issues, although it is their responsibility to define the overall objectives of the company, particularly since the difference between defining objectives and setting strategies can be rather unclear. SOE boards may also encounter difficulties in monitoring management as they do not always have the legitimacy, or even the authority, to do so. Furthermore, in certain countries, there is a strong link between the management and the ownership function or directly with the government.

SOE senior management tends to report to the ownership function or the government directly and thereby circumvent the board.

In order to carry out their role, SOE boards should actively i) formulate, monitor and review corporate strategy, within the framework of the overall corporate objectives; ii) establish appropriate performance indicators and identify key risks; iii) monitor the disclosure and communication processes, ensuring that the financial statements fairly present the affairs of the SOE and reflect the risks incurred; iv) assess and follow management performance; v) develop effective succession plans for key executives.

One key function of SOE boards should be the appointment and dismissal of CEOs. Without this authority it is difficult for SOE boards to fully exercise their monitoring function and feel responsible for SOEs' performance. In some cases, this might be done in concurrence or consultation with the ownership entity. In some countries, a full owner can directly appoint a CEO and this possibility extends to SOE. This may also occur when the state is a dominant owner in SOEs that are assigned important public service purposes. To ensure that the integrity of the board is maintained, good practice would require consultation with the board. Regardless of the procedure, appointments should be based on professional criteria. Rules and procedures for nominating and appointing the CEO should be transparent and respect the line of accountability between the CEO, the board and the ownership entity. Any shareholder agreements with respect to CEO nomination should be disclosed.

It follows from their obligation to assess and follow management performance that the SOE boards should also have a decisive influence over the compensation of the CEO. They should ensure that the CEO's remuneration is tied to performance and duly disclosed.

C. The boards of SOEs should be composed so that they can exercise objective and independent judgement. Good practice calls for the Chair to be separate from the CEO.

A central prerequisite in empowering SOE boards is to structure them so that they can effectively exercise objective and independent judgement, be in position to monitor senior management and take strategic decisions. As underlined in the Principles, "in order to exercise its duties of monitoring managerial performance, preventing conflicts of interest and balancing competing demands on the corporation, it is essential that the board is able to exercise objective judgement". All board members should be nominated through a transparent process and it should be clear that it is their duty to act in the best interests of the company as a whole. They should not act as individual representatives of the constituencies that appointed them. SOE boards should also be protected from undue and direct political interference that could detract them from focusing on achieving the objectives agreed on

with the government and the ownership entity.

A central requirement to enhance the objectivity of SOE boards is to nominate a sufficient number of competent non-executive board members who are capable of independent judgement. These board members should have the relevant competence and experience and it is advisable that they be recruited from the private sector. It will help in making boards more business-oriented, particularly for SOEs that operate in competitive markets. Their expertise could also include qualifications related to the SOE's specific obligations and policy objectives. In some countries, diversity in board composition is also an issue and it includes gender consideration. All board members should disclose any conflicts of interest to the board which must decide how they should be managed.

Mechanisms to evaluate and maintain the effectiveness of board performance and independence should be developed. These include, for example, limits on the possible number of reappointments and resources granted to the board to have access to independent information or to carry out independent expertise.

For enhancing board independence, the OECD Principles of Corporate Governance also consider that it may be regarded as a good practice that the Chair person is separated from the CEO in single board structures. Separation of the Chair from the CEO helps in "achieving an appropriate balance of power, increasing accountability and improving the board's capacity for decision making independent of management". An adequate and clear definition of the functions of the board and of its Chair would prevent situations where the separation might give rise to inefficient opposition between the two company officers. In the case of two-tier board systems, it is similarly considered good practice that the head of the lower board (management board) does not become the Chair of the Supervisory Board on retirement.

Separation of the Chair from the CEO is particularly important in SOEs, where it is usually considered necessary to empower the board's independence from management. The Chair has a key role in guiding the board, ensuring its efficient running and encouraging the active involvement of individual board members in the strategic guidance of the SOE. When the Chairman and the CEO are separate, the Chairman should also have a role in agreeing with the ownership entity on the skills and experience that the board should contain for its effective operation. The separation of the Chair from the CEO should therefore be considered as a fundamental step in establishing efficient SOE boards.

D. If employee representation on the board is mandated, mechanisms should be developed to guarantee that this representation is exercised effectively and contributes to the enhancement of the board skills, information and independence.

When employee representation on SOE boards is mandated by the law or collective agreements, it should be applied so that it contributes to the SOE boards' independence, competence and information. Employee representatives should have the same duties and responsibilities as all other board members, should act in the best interests of the company and treat all shareholders equitably. Employee representation on SOE boards should not in itself be considered as a threat to board independence.

Procedures should be established to facilitate the professionalism and the true independence of employee board members, and to make sure that they respect their duty of confidentiality. These procedures should include adequate, transparent and democratic election procedures, training and clear procedures for managing conflicts of interest. A positive contribution to the board's work will also require acceptance and collaboration by other members of the board as well as by the SOE management.

E. When necessary, SOE boards should set up specialised committees to support the full board in performing its functions, particularly in respect to audit, risk management and remuneration.

The use of specialised board committees in SOEs has increased, in line with practices in the private sector. The type of special committees that boards make use of can vary between companies and industries and includes:

audit committees, remuneration committees, strategy committees, ethics committees, and in some cases risk and procurement committees. In some countries, an equivalent body to the audit committee performs a similar function.

The setting up of specialised board committees could be instrumental in reinforcing the competency of SOE boards and in underpinning their critical responsibility in matters such as risk management and audit. They may be also effective in changing the board culture and reinforcing its independence and legitimacy in areas where there is a potential for conflicts of interests, such as with regards to procurement, related party transactions and remuneration issues.

When board committees are not mandated by law, the co-ordinating or ownership entity should develop a policy to define in which cases specialised board committees should be considered. This policy should be based on a combination of criteria, including the size of the SOE and specific risks faced or competencies which should be reinforced within SOE boards. Large SOEs should at least be required to have an audit committee or equivalent body with powers to meet with any officer of the company.

It is essential that specialised board committees are chaired by a nonexecutive and include a sufficient number of independent members. The proportion of independent members as well as the type of independence required (e.g. from management or from the main owner) will depend on the type of committee, the sensitivity of the issue to conflicts of interests, and the SOE sector. The audit committee, for example, should be composed of only independent and financially literate board members.

The existence of specialised board committees should not excuse the board from its collective responsibility for all matters. Specialised board committees should have written terms of reference that define their duties, authority and

composition. Specialised board committees should report to the full board and the minutes of their meetings should be circulated to all board members. SOE boards could also establish a nomination committee to co-operate with the ownership entity with regards to the board nomination process. In some countries it is the practice that nomination committees can also be set up outside the board structure, particularly including several main owners. Regardless of who establishes the nomination committee, it is important to involve the board in thinking about its own composition and succession planning, through its involvement in the search process and its ability to make recommendations. This can contribute to making the nomination process focused on competence.

F. SOE boards should carry out an annual evaluation to appraise their performance.

A systematic evaluation process is a necessary tool in enhancing SOE board professionalism, since it highlights the responsibilities of the board and the duties of its members. It is also instrumental in identifying necessary competencies and board member profiles. Finally, it is a useful incentive for individual board members to devote sufficient time and effort to their duties as board members.

The evaluation should scrutinise both the overall board performance and could also include the effectiveness and contribution of individual board members. However, the evaluation of individual board members should not impede the desired and necessary collegiality of board work.

Board evaluation should be carried out under the responsibility of the Chair and according to evolving best practices. The board evaluation should provide input to the review of issues such as board size, composition and remuneration of board members. The evaluations could also be instrumental in developing effective and appropriate induction and training programmes for new and existing SOE board members. In carrying out the evaluation, the SOE boards could seek advice from external and independent experts as well as by the ownership entity.

Organisation for Economic Co-operation and Development (OECD), Principles of Corporate Governance (2004, Paris, France)

FOREWORD

The *OECD Principles of Corporate Governance* were endorsed by OECD Ministers in 1999 and have since become an international benchmark for policy makers, investors, corporations and other stakeholders worldwide. They have advanced the corporate governance agenda and provided specific guidance for legislative and regulatory initiatives in both OECD and non OECD countries. The Financial Stability Forum has designated the *Principles* as one of the 12 key standards for sound financial systems. The *Principles* also provide the basis for an extensive programme of cooperation between OECD and non-OECD countries and underpin the corporate governance component of World Bank/IMF Reports on the Observance of Standards and Codes (ROSC).

The *Principles* have now been thoroughly reviewed to take account of recent developments and experiences in OECD member and non-member countries. Policy makers are now more aware of the contribution good corporate governance makes to financial market stability, investment and economic growth. Companies better understand how good corporate governance contributes to their competitiveness. Investors – especially collective investment institutions and pension funds acting in a fiduciary capacity – realise they have a role to play in ensuring good corporate governance practices, thereby underpinning the value of their investments. In today's economies, interest in corporate governance goes beyond that of shareholders in the performance of individual companies. As companies play a pivotal role in our economies and we rely increasingly on private sector institutions to manage personal savings and secure retirement incomes, good corporate governance is important to broad and growing segments of the population.

The review of the *Principles* was undertaken by the OECD Steering Group on Corporate Governance under a mandate from OECD Ministers in 2002. The review was supported by a comprehensive survey of how member countries addressed the different corporate governance challenges they faced. It also drew on experiences in economies outside the OECD area where the OECD, in co-operation with the World Bank and other sponsors, organises Regional Corporate Governance Roundtables to support regional reform efforts.

The review process benefited from contributions from many parties. Key international institutions participated and extensive consultations were held with the private sector, labour, civil society and representatives from non-OECD countries. The process also benefited greatly from the insights of internationally recognised experts who participated in two high level informal gatherings I convened. Finally, many constructive suggestions were received when a draft of the *Principles* was made available for public comment on the internet.

The *Principles* are a living instrument offering non-binding standards and good practices as well as guidance on implementation, which can be adapted to the specific circumstances of individual countries and regions. The OECD offers a forum for ongoing dialogue and exchange of experiences among member and non-member countries. To stay abreast of constantly changing circumstances, the OECD will closely follow developments in corporate governance, identifying trends and seeking remedies to new challenges.

These *Revised Principles* will further reinforce OECD's contribution and commitment to collective efforts to strengthen the fabric of corporate governance around the world in the years ahead. This work will not eradicate criminal activity, but such activity will be made more difficult as rules and regulations are adopted in accordance with the *Principles*.

Importantly, our efforts will also help develop a culture of values for professional and ethical behaviour on which well functioning markets depend. Trust and integrity play an essential role in economic life and for the sake of business and future prosperity we have to make sure that they are properly rewarded.

Donald J. Johnston

OECD Secretary-General

OECD Principles of Corporate Governance

The OECD Principles of Corporate Governance were originally developed in response to a call by the OECD Council Meeting at Ministerial level on 27-28 April 1998, to develop, in conjunction with national governments, other relevant international organisations and the private sector, a set of corporate governance standards and guidelines. Since the Principles were agreed in 1999, they have formed the basis for corporate governance initiatives in both OECD and non-OECD countries alike. Moreover, they have been adopted as one of the Twelve Key Standards for Sound Financial Systems by the Financial Stability Forum. Accordingly, they form the basis of the corporate governance component of the World Bank/IMF Reports on the Observance of Standards and Codes (ROSC).

The OECD Council Meeting at Ministerial Level in 2002 agreed to survey developments in OECD countries and to assess the Principles in light of developments in corporate governance. This task was entrusted to the OECD Steering Group on Corporate Governance, which comprises representatives from OECD countries. In addition, the World

Bank, the Bank for International Settlements (BIS) and the International Monetary Fund (IMF) were observers to the Group. For the assessment, the Steering Group also invited the Financial Stability Forum, the Basel Committee, and the International Organization of Securities Commissions (IOSCO) as ad hoc observers.

In its review of the Principles, the Steering Group has undertaken comprehensive consultations and has prepared with the assistance of members the Survey of Developments in OECD Countries. The consultations have included experts from a large number of countries which have participated in the Regional Corporate Governance Roundtables that the OECD organises in Russia, Asia, South East Europe, Latin America and Eurasia with the support of the Global Corporate Governance Forum and others, and in co-operation with the World Bank and other non-OECD countries as well. Moreover, the Steering Group has consulted a wide range of interested parties such as the business sector, investors, professional groups at national and international levels, trade unions, civil society organisations and international standard setting bodies. A draft version of the Principles was put on the OECD website for public comment and resulted in a large number of responses. These have been made public on the OECD web site.

On the basis of the discussions in the Steering Group, the Survey and the comments received during the wide ranging consultations, it was concluded that the 1999 Principles should be revised to take into account new developments and concerns. It was agreed that the revision should be pursued with a view to maintaining a non-binding principles-based approach, which recognises the need to adapt implementation to varying legal economic and cultural circumstances. The revised Principles contained in this document thus build upon a wide range of experience not only in the OECD area but also in non-OECD countries.

Preamble

The Principles are intended to assist OECD and non-OECD governments in their efforts to evaluate and improve the legal, institutional and regulatory framework for corporate governance in their countries, and to provide guidance and suggestions for stock exchanges, investors, corporations, and other parties that have a role in the process of developing good corporate governance. The Principles focus on publicly traded companies, both financial and non-financial. However, to the extent they are deemed applicable, they might also be a useful tool to improve corporate governance in non-traded companies, for example, privately held and stateowned enterprises. The Principles represent a common basis that OECD member countries consider essential for the development of good governance practices. They are intended to be concise, understandable and accessible to the international community. They are not intended to substitute for government, semi-government or private sector initiatives to develop more detailed "best practice" in corporate governance.

Increasingly, the OECD and its member governments have recognised the synergy between macroeconomic and structural policies in achieving fundamental policy goals. Corporate governance is one key element in improving economic efficiency and growth as well as enhancing investor confidence. Corporate governance involves a set of relationships between a company's management, its board, its shareholders and other stakeholders. Corporate governance also provides the structure through which the objectives of the company are set, and the means of attaining those objectives and monitoring performance are determined. Good corporate governance should provide proper incentives for the board and management to pursue objectives that are in the interests of the company and its shareholders and should facilitate effective monitoring. The presence of an effective corporate governance system, within an individual company and across an economy as a whole, helps to provide a degree of confidence that is necessary for the proper functioning of a market economy. As a result, the cost of capital is lower and firms are encouraged to use resources more efficiently, thereby underpinning growth.

Corporate governance is only part of the larger economic context in which firms operate that includes, for example, macroeconomic policies and the degree of competition in product and factor markets. The corporate governance framework also depends on the legal, regulatory, and institutional environment. In addition, factors such as business ethics and corporate awareness of the environmental and societal interests of the communities in which a company operates can also have an impact on its reputation and its long-term success.

While a multiplicity of factors affect the governance and decisionmaking processes of firms, and are important to their long-term success, the Principles focus on governance problems that result from the separation of ownership and control. However, this is not simply an issue of the relationship between shareholders and management, although that is indeed the central element. In some jurisdictions, governance issues also arise from the power of certain controlling shareholders over minority shareholders. In other countries, employees have important legal rights irrespective of their ownership rights. The Principles therefore have to be complementary to a broader approach to the operation of checks and balances. Some of the other issues relevant to a company's decision-making processes, such as environmental, anti-corruption or ethical concerns, are taken into account but are treated more explicitly in a number of other OECD instruments including the Guidelines for Multinational Enterprises and the Convention on Combating Bribery of Foreign Public Officials in International Transactions) and the instruments of other international organisations.

Corporate governance is affected by the relationships among participants in the governance system. Controlling shareholders, which may be individuals, family holdings, bloc alliances, or other corporations acting through a holding company or cross shareholdings, can significantly influence corporate behaviour. As owners of equity, institutional investors are increasingly demanding a voice in corporate governance in some markets. Individual shareholders usually do not seek to exercise governance rights but may be highly concerned about obtaining fair

treatment from controlling shareholders and management. Creditors play an important role in a number of governance systems and can serve as external monitors over corporate performance. Employees and other stakeholders play an important role in contributing to the long-term success and performance of the corporation, while governments establish the overall institutional and legal framework for corporate governance. The role of each of these participants and their interactions vary widely among OECD countries and among non-OECD countries as well. These relationships are subject, in part, to law and regulation and, in part, to voluntary adaptation and, most importantly, to market forces.

The degree to which corporations observe basic principles of good corporate governance is an increasingly important factor for investment decisions. Of particular relevance is the relation between corporate governance practices and the increasingly international character of investment. International flows of capital enable companies to access financing from a much larger pool of investors. If countries are to reap the full benefits of the global capital market, and if they are to attract long-term “patient” capital, corporate governance arrangements must be credible, well understood across borders and adhere to internationally accepted principles. Even if corporations do not rely primarily on foreign sources of capital, adherence to good corporate governance practices will help improve the confidence of domestic investors, reduce the cost of capital, underpin the good functioning of financial markets, and ultimately induce more stable sources of financing.

There is no single model of good corporate governance. However, work carried out in both OECD and non-OECD countries and within the Organisation has identified some common elements that underlie good corporate governance. The Principles build on these common elements and are formulated to embrace the different models that exist. For example, they do not advocate any particular board structure and the term “board” as used in this document is meant to embrace the different national models of board structures found in OECD and non-OECD countries. In the typical two tier system, found in some countries, “board” as used in the Principles refers to the “supervisory board” while “key executives” refers to the “management board”. In systems where the unitary board is overseen by an internal auditor’s body, the principles applicable to the board are also, *mutatis mutandis*, applicable. The terms “corporation” and “company” are used interchangeably in the text.

The Principles are non-binding and do not aim at detailed prescriptions for national legislation. Rather, they seek to identify objectives and suggest various means for achieving them. Their purpose is to serve as a reference point. They can be used by policy makers as they examine and develop the legal and regulatory frameworks for corporate governance that reflect their own economic, social, legal and cultural circumstances, and by market participants as they develop their own practices.

The Principles are evolutionary in nature and should be reviewed in light of significant changes in circumstances. To remain competitive in a changing world, corporations must innovate and adapt their corporate governance practices so that they can meet new demands and grasp new opportunities. Similarly, governments have an important responsibility for shaping an effective regulatory framework that provides for sufficient flexibility to allow markets to function effectively and to respond to expectations of shareholders and other stakeholders. It is up to governments and market participants to decide how to apply these Principles in developing their own frameworks for corporate governance, taking into account the costs and benefits of regulation.

The following document is divided into two parts. The Principles presented in the first part of the document cover the following areas: I) Ensuring the basis for an effective corporate governance framework; II) The rights of shareholders and key ownership functions; III) The equitable treatment of shareholders; IV) The role of stakeholders; V) Disclosure and transparency; and VI) The responsibilities of the board. Each of the sections is headed by a single Principle that appears in bold italics and is followed by a number of supporting sub-principles. In the second part of the document, the Principles are supplemented by annotations that contain commentary on the Principles and are intended to help readers understand their rationale. The annotations may also contain descriptions of dominant trends and offer alternative implementation methods and examples that may be useful in making the Principles operational.

Part One The OECD Principles of Corporate Governance

I. Ensuring the Basis for an Effective Corporate Governance Framework

The corporate governance framework should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities.

- A. The corporate governance framework should be developed with a view to its impact on overall economic performance, market integrity and the incentives it creates for market participants and the promotion of transparent and efficient markets.
- B. The legal and regulatory requirements that affect corporate governance practices in a jurisdiction should be consistent with the rule of law, transparent and enforceable.
- C. The division of responsibilities among different authorities in a jurisdiction should be clearly articulated and ensure that the public interest is served.
- D. Supervisory, regulatory and enforcement authorities should have the authority, integrity and resources to fulfil their duties in a professional and objective manner. Moreover, their rulings should be timely, transparent and fully explained.

II. The Rights of Shareholders and Key Ownership Functions

The corporate governance framework should protect and facilitate the exercise of shareholders' rights.

- A. Basic shareholder rights should include the right to: 1) secure methods of ownership registration; 2) convey or transfer shares; 3) obtain relevant and material information on the corporation on a timely and regular basis; 4) participate and vote in general shareholder meetings; 5) elect and remove members of the board; and 6) share in the profits of the corporation.
- B. Shareholders should have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as: 1) amendments to the statutes, or articles of incorporation or similar governing documents of the company; 2) the authorisation of additional shares; and 3) extraordinary transactions, including the transfer of all or substantially all assets, that in effect result in the sale of the company.
- C. Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern general shareholder meetings:
 1. Shareholders should be furnished with sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting.
 2. Shareholders should have the opportunity to ask questions to the board, including questions relating to the annual external audit, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations.
 3. Effective shareholder participation in key corporate governance decisions, such as the nomination and election of board members, should be facilitated. Shareholders should be able to make their views known on the remuneration policy for board members and key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval.
 4. Shareholders should be able to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.
- D. Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed.
- E. Markets for corporate control should be allowed to function in an efficient and transparent manner.
 1. The rules and procedures governing the acquisition of corporate control in the capital markets, and extraordinary transactions such as mergers, and sales of substantial portions of corporate assets, should be clearly articulated and disclosed so that investors understand their rights and recourse. Transactions should occur at transparent prices and under fair conditions that protect the rights of all shareholders according to their class.
 2. Anti-take-over devices should not be used to shield management and the board from accountability.
- F. The exercise of ownership rights by all shareholders, including institutional investors, should be facilitated.
 1. Institutional investors acting in a fiduciary capacity should disclose their overall corporate governance and voting policies with respect to their investments, including the procedures that they have in place for deciding on the use of their voting rights.
 2. Institutional investors acting in a fiduciary capacity should disclose how they manage material conflicts of interest that may affect the exercise of key ownership rights regarding their investments.
- G. Shareholders, including institutional shareholders, should be allowed to consult with each other on issues concerning their basic shareholder rights as defined in the Principles, subject to exceptions to prevent abuse.

III. The Equitable Treatment of Shareholders

The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.

- A. All shareholders of the same series of a class should be treated equally.
 1. Within any series of a class, all shares should carry the same rights. All investors should be able to obtain information about the rights attached to all series and classes of shares before they purchase. Any changes in voting rights should be subject to approval by those classes of shares which are negatively affected.
 2. Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress.
 3. Votes should be cast by custodians or nominees in a manner agreed upon with the beneficial owner of the shares.
 4. Impediments to cross border voting should be eliminated.
 5. Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes.
- B. Insider trading and abusive self-dealing should be prohibited.
- C. Members of the board and key executives should be required to disclose to the board whether they, directly,

indirectly or on behalf of third parties, have a material interest in any transaction or matter directly affecting the corporation.

IV. The Role of Stakeholders in Corporate Governance

The corporate governance framework should recognise the rights of stakeholders established by law or through mutual agreements and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises.

- A. The rights of stakeholders that are established by law or through mutual agreements are to be respected.
- B. Where stakeholder interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights.
- C. Performance-enhancing mechanisms for employee participation should be permitted to develop.
- D. Where stakeholders participate in the corporate governance process, they should have access to relevant, sufficient and reliable information on a timely and regular basis.
- E. Stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or unethical practices to the board and their rights should not be compromised for doing this.
- F. The corporate governance framework should be complemented by an effective, efficient insolvency framework and by effective enforcement of creditor rights.

V. Disclosure and Transparency

The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company.

- A. Disclosure should include, but not be limited to, material information on:
 - 1. The financial and operating results of the company.
 - 2. Company objectives.
 - 3. Major share ownership and voting rights.
 - 4. Remuneration policy for members of the board and key executives, and information about board members, including their qualifications, the selection process, other company directorships and whether they are regarded as independent by the board.
 - 5. Related party transactions.
 - 6. Foreseeable risk factors.
 - 7. Issues regarding employees and other stakeholders.
 - 8. Governance structures and policies, in particular, the content of any corporate governance code or policy and the process by which it is implemented.
- B. Information should be prepared and disclosed in accordance with high quality standards of accounting and financial and non-financial disclosure.
- C. An annual audit should be conducted by an independent, competent and qualified, auditor in order to provide an external and objective assurance to the board and shareholders that the financial statements fairly represent the financial position and performance of the company in all material respects.
- D. External auditors should be accountable to the shareholders and owe a duty to the company to exercise due professional care in the conduct of the audit.
- E. Channels for disseminating information should provide for equal, timely and cost efficient access to relevant information by users.
- F. The corporate governance framework should be complemented by an effective approach that addresses and promotes the provision of analysis or advice by analysts, brokers, rating agencies and others, that is relevant to decisions by investors, free from material conflicts of interest that might compromise the integrity of their analysis or advice.

VI. The Responsibilities of the Board

The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders.

- A. Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and the shareholders.
- B. Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly.
- C. The board should apply high ethical standards. It should take into account the interests of stakeholders.
- D. The board should fulfil certain key functions, including:
 - 1. Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business

plans; setting performance objectives; monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures.

2. Monitoring the effectiveness of the company's governance practices and making changes as needed.
 3. Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning.
 4. Aligning key executive and board remuneration with the longer term interests of the company and its shareholders.
 5. Ensuring a formal and transparent board nomination and election process.
 6. Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions.
 7. Ensuring the integrity of the corporation's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.
 8. Overseeing the process of disclosure and communications.
- E. The board should be able to exercise objective independent judgement on corporate affairs.
1. Boards should consider assigning a sufficient number of non-executive board members capable of exercising independent judgement to tasks where there is a potential for conflict of interest. Examples of such key responsibilities are ensuring the integrity of financial and non-financial reporting, the review of related party transactions, nomination of board members and key executives, and board remuneration.
 2. When committees of the board are established, their mandate, composition and working procedures should be well defined and disclosed by the board.
 3. Board members should be able to commit themselves effectively to their responsibilities.
- F. In order to fulfil their responsibilities, board members should have access to accurate, relevant and timely information.

Part Two Annotations to the OECD Principles of Corporate Governance

I. Ensuring the Basis for an Effective Corporate Governance Framework

The corporate governance framework should promote transparent and efficient markets, be consistent with the rule of law and clearly articulate the division of responsibilities among different supervisory, regulatory and enforcement authorities.

To ensure an effective corporate governance framework, it is necessary that an appropriate and effective legal, regulatory and institutional foundation is established upon which all market participants can rely in establishing their private contractual relations. This corporate governance framework typically comprises elements of legislation, regulation, selfregulatory arrangements, voluntary commitments and business practices that are the result of a country's specific circumstances, history and tradition. The desirable mix between legislation, regulation, self-regulation, voluntary standards, etc. in this area will therefore vary from country to country. As new experiences accrue and business circumstances change, the content and structure of this framework might need to be adjusted.

Countries seeking to implement the Principles should monitor their corporate governance framework, including regulatory and listing requirements and business practices, with the objective of maintaining and strengthening its contribution to market integrity and economic performance. As part of this, it is important to take into account the interactions and complementarity between different elements of the corporate governance framework and its overall ability to promote ethical, responsible and transparent corporate governance practices. Such analysis should be viewed as an important tool in the process of developing an effective corporate governance framework. To this end, effective and continuous consultation with the public is an essential element that is widely regarded as good practice. Moreover, in developing a corporate governance framework in each jurisdiction, national legislators and regulators should duly consider the need for, and the results from, effective international dialogue and cooperation. If these conditions are met, the governance system is more likely to avoid over-regulation, support the exercise of entrepreneurship and limit the risks of damaging conflicts of interest in both the private sector and in public institutions.

- A. The corporate governance framework should be developed with a view to its impact on overall economic performance, market integrity and the incentives it creates for market participants and the promotion of transparent and efficient markets.**

The corporate form of organisation of economic activity is a powerful force for growth. The regulatory and legal environment within which corporations operate is therefore of key importance to overall economic outcomes. Policy makers have a responsibility to put in place a framework that is flexible enough to meet the needs of corporations operating in widely different circumstances, facilitating their development of new opportunities to create value and to determine the most efficient deployment of resources. To achieve this goal, policy makers should remain focussed on ultimate economic outcomes and when considering policy options, they will need to undertake an analysis of the impact on key variables that affect the functioning of markets, such as incentive structures, the efficiency of self-regulatory systems and dealing with systemic conflicts of interest. Transparent and efficient markets serve to discipline market participants and to promote accountability.

B. The legal and regulatory requirements that affect corporate governance practices in a jurisdiction should be consistent with the rule of law, transparent and enforceable.

If new laws and regulations are needed, such as to deal with clear cases of market imperfections, they should be designed in a way that makes them possible to implement and enforce in an efficient and even handed manner covering all parties. Consultation by government and other regulatory authorities with corporations, their representative organisations and other stakeholders, is an effective way of doing this. Mechanisms should also be established for parties to protect their rights. In order to avoid over-regulation, unenforceable laws, and unintended consequences that may impede or distort business dynamics, policy measures should be designed with a view to their overall costs and benefits. Such assessments should take into account the need for effective enforcement, including the ability of authorities to deter dishonest behaviour and to impose effective sanctions for violations.

Corporate governance objectives are also formulated in voluntary codes and standards that do not have the status of law or regulation. While such codes play an important role in improving corporate governance arrangements, they might leave shareholders and other stakeholders with uncertainty concerning their status and implementation. When codes and principles are used as a national standard or as an explicit substitute for legal or regulatory provisions, market credibility requires that their status in terms of coverage, implementation, compliance and sanctions is clearly specified.

C. The division of responsibilities among different authorities in a jurisdiction should be clearly articulated and ensure that the public interest is served.

Corporate governance requirements and practices are typically influenced by an array of legal domains, such as company law, securities regulation, accounting and auditing standards, insolvency law, contract law, labour law and tax law. Under these circumstances, there is a risk that the variety of legal influences may cause unintentional overlaps and even conflicts, which may frustrate the ability to pursue key corporate governance objectives. It is important that policy-makers are aware of this risk and take measures to limit it. Effective enforcement also requires that the allocation of responsibilities for supervision, implementation and enforcement among different authorities is clearly defined so that the competencies of complementary bodies and agencies are respected and used most effectively. Overlapping and perhaps contradictory regulations between national jurisdictions is also an issue that should be monitored so that no regulatory vacuum is allowed to develop i.e. issues slipping through in which no authority has explicit responsibility) and to minimise the cost of compliance with multiple systems by corporations.

When regulatory responsibilities or oversight are delegated to non-public bodies, it is desirable to explicitly assess why, and under what circumstances, such delegation is desirable. It is also essential that the governance structure of any such delegated institution be transparent and encompass the public interest.

D. Supervisory, regulatory and enforcement authorities should have the authority, integrity and resources to fulfil their duties in a professional and objective manner. Moreover, their rulings should be timely, transparent and fully explained.

Regulatory responsibilities should be vested with bodies that can pursue their functions without conflicts of interest and that are subject to judicial review. As the number of public companies, corporate events and the volume of disclosures increase, the resources of supervisory, regulatory and enforcement authorities may come under strain. As a result, in order to follow developments, they will have a significant demand for fully qualified staff to provide effective oversight and investigative capacity which will need to be appropriately funded. The ability to attract staff on competitive terms will enhance the quality and independence of supervision and enforcement.

II. The Rights of Shareholders and Key Ownership Functions

The corporate governance framework should protect and facilitate the exercise of shareholders' rights.

Equity investors have certain property rights. For example, an equity share in a publicly traded company can be bought, sold, or transferred. An equity share also entitles the investor to participate in the profits of the corporation, with liability limited to the amount of the investment. In addition, ownership of an equity share provides a right to information about the corporation and a right to influence the corporation, primarily by participation in general shareholder meetings and by voting.

As a practical matter, however, the corporation cannot be managed by shareholder referendum. The shareholding body is made up of individuals and institutions whose interests, goals, investment horizons and capabilities vary. Moreover, the corporation's management must be able to take business decisions rapidly. In light of these realities and the complexity of managing the corporation's affairs in fast moving and ever changing markets, shareholders are not expected to assume responsibility for managing corporate activities. The responsibility for corporate strategy and operations is typically placed in the hands of the board and a management team that is selected, motivated and, when necessary, replaced by the board.

Shareholders' rights to influence the corporation centre on certain fundamental issues, such as the election of board members, or other means of influencing the composition of the board, amendments to the company's organic documents, approval of extraordinary transactions, and other basic issues as specified in company law and internal company statutes. This Section can be seen as a statement of the most basic rights of shareholders, which are recognised by law in virtually all OECD countries. Additional rights such as the approval or election of auditors, direct

nomination of board members, the ability to pledge shares, the approval of distributions of profits, etc., can be found in various jurisdictions.

- A. **Basic shareholder rights should include the right to:** 1) secure methods of ownership registration; 2) convey or transfer shares; 3) obtain relevant and material information on the corporation on a timely and regular basis; 4) participate and vote in general shareholder meetings; 5) elect and remove members of the board; and 6) share in the profits of the corporation.
- B. **Shareholders should have the right to participate in, and to be sufficiently informed on, decisions concerning fundamental corporate changes such as:** 1) amendments to the statutes, or articles of incorporation or similar governing documents of the company; 2) the authorisation of additional shares; and 3) extraordinary transactions, including the transfer of all or substantially all assets, that in effect result in the sale of the company.

The ability of companies to form partnerships and related companies and to transfer operational assets, cash flow rights and other rights and obligations to them is important for business flexibility and for delegating accountability in complex organisations. It also allows a company to divest itself of operational assets and to become only a holding company. However, without appropriate checks and balances such possibilities may also be abused.

- C. **Shareholders should have the opportunity to participate effectively and vote in general shareholder meetings and should be informed of the rules, including voting procedures, that govern general shareholder meetings:**

- 1. **Shareholders should be furnished with sufficient and timely information concerning the date, location and agenda of general meetings, as well as full and timely information regarding the issues to be decided at the meeting.**
- 2. **Shareholders should have the opportunity to ask questions to the board, including questions relating to the annual external audit, to place items on the agenda of general meetings, and to propose resolutions, subject to reasonable limitations.**

In order to encourage shareholder participation in general meetings, some companies have improved the ability of shareholders to place items on the agenda by simplifying the process of filing amendments and resolutions. Improvements have also been made in order to make it easier for shareholders to submit questions in advance of the general meeting and to obtain replies from management and board members. Shareholders should also be able to ask questions relating to the external audit report. Companies are justified in assuring that abuses of such opportunities do not occur. It is reasonable, for example, to require that in order for shareholder resolutions to be placed on the agenda, they need to be supported by shareholders holding a specified market value or percentage of shares or voting rights.

This threshold should be determined taking into account the degree of ownership concentration, in order to ensure that minority shareholders are not effectively prevented from putting any items on the agenda. Shareholder resolutions that are approved and fall within the competence of the shareholders' meeting should be addressed by the board.

- 3. **Effective shareholder participation in key corporate governance decisions, such as the nomination and election of board members, should be facilitated. Shareholders should be able to make their views known on the remuneration policy for board members and key executives. The equity component of compensation schemes for board members and employees should be subject to shareholder approval.**

To elect the members of the board is a basic shareholder right. For the election process to be effective, shareholders should be able to participate in the nomination of board members and vote on individual nominees or on different lists of them. To this end, shareholders have access in a number of countries to the company's proxy materials which are sent to shareholders, although sometimes subject to conditions to prevent abuse. With respect to nomination of candidates, boards in many companies have established nomination committees to ensure proper compliance with established nomination procedures and to facilitate and coordinate the search for a balanced and qualified board. It is increasingly regarded as good practice in many countries for independent board members to have a key role on this committee. To further improve the selection process, the Principles also call for full disclosure of the experience and background of candidates for the board and the nomination process, which will allow an informed assessment of the abilities and suitability of each candidate.

The Principles call for the disclosure of remuneration policy by the board. In particular, it is important for shareholders to know the specific link between remuneration and company performance when they assess the capability of the board and the qualities they should seek in nominees for the board. Although board and executive contracts are not an appropriate subject for approval by the general meeting of shareholders, there should be a means by which they can express their views. Several countries have introduced an advisory vote which conveys the strength and tone of shareholder sentiment to the board without endangering employment contracts. In the case of equity-based schemes, their potential to dilute shareholders' capital and to powerfully determine managerial incentives means that they should be approved by shareholders, either for individuals or for the policy of the scheme as a whole. In an increasing number of jurisdictions, any material changes to existing schemes must also be approved.

4. Shareholders should be able to vote in person or in absentia, and equal effect should be given to votes whether cast in person or in absentia.

The Principles recommend that voting by proxy be generally accepted. Indeed, it is important to the promotion and protection of shareholder rights that investors can place reliance upon directed proxy voting. The corporate governance framework should ensure that proxies are voted in accordance with the direction of the proxy holder and that disclosure is provided in relation to how undirected proxies will be voted. In those jurisdictions where companies are allowed to obtain proxies, it is important to disclose how the Chairperson of the meeting (as the usual recipient of shareholder proxies obtained by the company) will exercise the voting rights attaching to undirected proxies. Where proxies are held by the board or management for company pension funds and for employee stock ownership plans, the directions for voting should be disclosed.

The objective of facilitating shareholder participation suggests that companies consider favourably the enlarged use of information technology in voting, including secure electronic voting in absentia.

D. Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership should be disclosed.

Some capital structures allow a shareholder to exercise a degree of control over the corporation disproportionate to the shareholders' equity ownership in the company. Pyramid structures, cross shareholdings and shares with limited or multiple voting rights can be used to diminish the capability of noncontrolling shareholders to influence corporate policy.

In addition to ownership relations, other devices can affect control over the corporation. Shareholder agreements are a common means for groups of shareholders, who individually may hold relatively small shares of total equity, to act in concert so as to constitute an effective majority, or at least the largest single block of shareholders. Shareholder agreements usually give those participating in the agreements preferential rights to purchase shares if other parties to the agreement wish to sell. These agreements can also contain provisions that require those accepting the agreement not to sell their shares for a specified time. Shareholder agreements can cover issues such as how the board or the Chairman will be selected. The agreements can also oblige those in the agreement to vote as a block. Some countries have found it necessary to closely monitor such agreements and to limit their duration.

Voting caps limit the number of votes that a shareholder may cast, regardless of the number of shares the shareholder may actually possess. Voting caps therefore redistribute control and may affect the incentives for shareholder participation in shareholder meetings.

Given the capacity of these mechanisms to redistribute the influence of shareholders on company policy, shareholders can reasonably expect that all such capital structures and arrangements be disclosed.

E. Markets for corporate control should be allowed to function in an efficient and transparent manner.

1. The rules and procedures governing the acquisition of corporate control in the capital markets, and extraordinary transactions such as mergers, and sales of substantial portions of corporate assets, should be clearly articulated and disclosed so that investors understand their rights and recourse. Transactions should occur at transparent prices and under fair conditions that protect the rights of all shareholders according to their class.

2. Anti-take-over devices should not be used to shield management and the board from accountability.

In some countries, companies employ anti-take-over devices. However, both investors and stock exchanges have expressed concern over the possibility that widespread use of anti-take-over devices may be a serious impediment to the functioning of the market for corporate control. In some instances, take-over defences can simply be devices to shield the management or the board from shareholder monitoring. In implementing any anti-takeover devices and in dealing with take-over proposals, the fiduciary duty of the board to shareholders and the company must remain paramount.

F. The exercise of ownership rights by all shareholders, including institutional investors, should be facilitated.

As investors may pursue different investment objectives, the Principles do not advocate any particular investment strategy and do not seek to prescribe the optimal degree of investor activism. Nevertheless, in considering the costs and benefits of exercising their ownership rights, many investors are likely to conclude that positive financial returns and growth can be obtained by undertaking a reasonable amount of analysis and by using their rights.

1. Institutional investors acting in a fiduciary capacity should disclose their overall corporate governance and voting policies with respect to their investments, including the procedures that they have in place for deciding on the use of their voting rights.

It is increasingly common for shares to be held by institutional investors. The effectiveness and credibility of the entire corporate governance system and company oversight will, therefore, to a large extent depend on institutional investors that can make informed use of their shareholder rights and effectively exercise their ownership functions in companies in which they invest. While this principle does not require institutional investors to vote their shares, it calls for disclosure of how they exercise their ownership rights with due consideration to cost effectiveness. For institutions acting in a fiduciary capacity, such as pension funds,

collective investment schemes and some activities of insurance companies, the right to vote can be considered part of the value of the investment being undertaken on behalf of their clients. Failure to exercise the ownership rights could result in a loss to the investor who should therefore be made aware of the policy to be followed by the institutional investors.

In some countries, the demand for disclosure of corporate governance policies to the market is quite detailed and includes requirements for explicit strategies regarding the circumstances in which the institution will intervene in a company; the approach they will use for such intervention; and how they will assess the effectiveness of the strategy. In several countries institutional investors are either required to disclose their actual voting records or it is regarded as good practice and implemented on an “apply or explain” basis. Disclosure is either to their clients (only with respect to the securities of each client) or, in the case of investment advisors to registered investment companies, to the market, which is a less costly procedure. A complementary approach to participation in shareholders’ meetings is to establish a continuing dialogue with portfolio companies. Such a dialogue between institutional investors and companies should be encouraged, especially by lifting unnecessary regulatory barriers, although it is incumbent on the company to treat all investors equally and not to divulge information to the institutional investors which is not at the same time made available to the market. The additional information provided by a company would normally therefore include general background information about the markets in which the company is operating and further elaboration of information already available to the market.

When fiduciary institutional investors have developed and disclosed a corporate governance policy, effective implementation requires that they also set aside the appropriate human and financial resources to pursue this policy in a way that their beneficiaries and portfolio companies can expect.

2. Institutional investors acting in a fiduciary capacity should disclose how they manage material conflicts of interest that may affect the exercise of key ownership rights regarding their investments.

The incentives for intermediary owners to vote their shares and exercise key ownership functions may, under certain circumstances, differ from those of direct owners. Such differences may sometimes be commercially sound but may also arise from conflicts of interest which are particularly acute when the fiduciary institution is a subsidiary or an affiliate of another financial institution, and especially an integrated financial group.

When such conflicts arise from material business relationships, for example, through an agreement to manage the portfolio company’s funds, such conflicts should be identified and disclosed.

At the same time, institutions should disclose what actions they are taking to minimise the potentially negative impact on their ability to exercise key ownership rights. Such actions may include the separation of bonuses for fund management from those related to the acquisition of new business elsewhere in the organisation.

G. Shareholders, including institutional shareholders, should be allowed to consult with each other on issues concerning their basic shareholder rights as defined in the Principles, subject to exceptions to prevent abuse.

It has long been recognised that in companies with dispersed ownership, individual shareholders might have too small a stake in the company to warrant the cost of taking action or for making an investment in monitoring performance. Moreover, if small shareholders did invest resources in such activities, others would also gain without having contributed (i.e. they are “free riders”). This effect, which serves to lower incentives for monitoring, is probably less of a problem for institutions, particularly financial institutions acting in a fiduciary capacity, in deciding whether to increase their ownership to a significant stake in individual companies, or to rather simply diversify. However, other costs with regard to holding a significant stake might still be high. In many instances institutional investors are prevented from doing this because it is beyond their capacity or would require investing more of their assets in one company than may be prudent. To overcome this asymmetry which favours diversification, they should be allowed, and even encouraged, to co-operate and co-ordinate their actions in nominating and electing board members, placing proposals on the agenda and holding discussions directly with a company in order to improve its corporate governance. More generally, shareholders should be allowed to communicate with each other without having to comply with the formalities of proxy solicitation.

It must be recognised, however, that co-operation among investors could also be used to manipulate markets and to obtain control over a company without being subject to any takeover regulations. Moreover, co-operation might also be for the purposes of circumventing competition law. For this reason, in some countries, the ability of institutional investors to co-operate on their voting strategy is either limited or prohibited. Shareholder agreements may also be closely monitored. However, if co-operation does not involve issues of corporate control, or conflict with concerns about market efficiency and fairness, the benefits of more effective ownership may still be obtained. Necessary disclosure of co-operation among investors, institutional or otherwise, may have to be accompanied by provisions which prevent trading for a period so as to avoid the possibility of market manipulation.

III. The Equitable Treatment of Shareholders

The corporate governance framework should ensure the equitable treatment of all shareholders, including minority and foreign shareholders. All shareholders should have the opportunity to obtain effective redress for violation of their rights.

Investors' confidence that the capital they provide will be protected from misuse or misappropriation by corporate managers, board members or controlling shareholders is an important factor in the capital markets. Corporate boards, managers and controlling shareholders may have the opportunity to engage in activities that may advance their own interests at the expense of non-controlling shareholders. In providing protection to investors, a distinction can usefully be made between ex-ante and ex-post shareholder rights. Ex-ante rights are, for example, pre-emptive rights and qualified majorities for certain decisions. Ex-post rights allow the seeking of redress once rights have been violated. In jurisdictions where the enforcement of the legal and regulatory framework is weak, some countries have found it desirable to strengthen the ex-ante rights of shareholders such as by low share ownership thresholds for placing items on the agenda of the shareholders meeting or by requiring a supermajority of shareholders for certain important decisions. The Principles support equal treatment for foreign and domestic shareholders in corporate governance. They do not address government policies to regulate foreign direct investment.

One of the ways in which shareholders can enforce their rights is to be able to initiate legal and administrative proceedings against management and board members. Experience has shown that an important determinant of the degree to which shareholder rights are protected is whether effective methods exist to obtain redress for grievances at a reasonable cost and without excessive delay. The confidence of minority investors is enhanced when the legal system provides mechanisms for minority shareholders to bring lawsuits when they have reasonable grounds to believe that their rights have been violated. The provision of such enforcement mechanisms is a key responsibility of legislators and regulators.

There is some risk that a legal system, which enables any investor to challenge corporate activity in the courts, can become prone to excessive litigation. Thus, many legal systems have introduced provisions to protect management and board members against litigation abuse in the form of tests for the sufficiency of shareholder complaints, so-called safe harbours for management and board member actions (such as the business judgement rule) as well as safe harbours for the disclosure of information. In the end, a balance must be struck between allowing investors to seek remedies for infringement of ownership rights and avoiding excessive litigation. Many countries have found that alternative adjudication procedures, such as administrative hearings or arbitration procedures organised by the securities regulators or other regulatory bodies, are an efficient method for dispute settlement, at least at the first instance level.

A. All shareholders of the same series of a class should be treated equally.

- 1. Within any series of a class, all shares should carry the same rights. All investors should be able to obtain information about the rights attached to all series and classes of shares before they purchase. Any changes in voting rights should be subject to approval by those classes of shares which are negatively affected.**

The optimal capital structure of the firm is best decided by the management and the board, subject to the approval of the shareholders. Some companies issue preferred (or preference) shares which have a preference in respect of receipt of the profits of the firm but which normally have no voting rights. Companies may also issue participation certificates or shares without voting rights, which would presumably trade at different prices than shares with voting rights. All of these structures may be effective in distributing risk and reward in ways that are thought to be in the best interests of the company and to cost-efficient financing. The Principles do not take a position on the concept of "one share one vote". However, many institutional investors and shareholder associations support this concept.

Investors can expect to be informed regarding their voting rights before they invest. Once they have invested, their rights should not be changed unless those holding voting shares have had the opportunity to participate in the decision. Proposals to change the voting rights of different series and classes of shares should be submitted for approval at general shareholders meetings by a specified majority of voting shares in the affected categories.

- 2. Minority shareholders should be protected from abusive actions by, or in the interest of, controlling shareholders acting either directly or indirectly, and should have effective means of redress.**

Many publicly traded companies have a large controlling shareholder. While the presence of a controlling shareholder can reduce the agency problem by closer monitoring of management, weaknesses in the legal and regulatory framework may lead to the abuse of other shareholders in the company. The potential for abuse is marked where the legal system allows, and the market accepts, controlling shareholders to exercise a level of control which does not correspond to the level of risk that they assume as owners through exploiting legal devices to separate ownership from control, such as pyramid structures or multiple voting rights. Such abuse may be carried out in various ways, including the extraction of direct private benefits via high pay and bonuses for employed family members and associates, inappropriate related party transactions, systematic bias in business decisions and changes in the capital structure through special issuance of shares favouring the controlling shareholder.

In addition to disclosure, a key to protecting minority shareholders is a clearly articulated duty of loyalty by board members to the company and to all shareholders. Indeed, abuse of minority shareholders is most pronounced in those countries where the legal and regulatory framework is weak in this regard. A particular issue arises in some jurisdictions where groups of companies are prevalent and where the duty of loyalty of a board member might be ambiguous and even interpreted as to the group. In these cases, some countries

are now moving to control negative effects by specifying that a transaction in favour of another group company must be offset by receiving a corresponding benefit from other companies of the group.

Other common provisions to protect minority shareholders, which have proven effective, include preemptive rights in relation to share issues, qualified majorities for certain shareholder decisions and the possibility to use cumulative voting in electing members of the board. Under certain circumstances, some jurisdictions require or permit controlling shareholders to buy-out the remaining shareholders at a share-price that is established through an independent appraisal. This is particularly important when controlling shareholders decide to de-list an enterprise. Other means of improving minority shareholder rights include derivative and class action law suits. With the common aim of improving market credibility, the choice and ultimate design of different provisions to protect minority shareholders necessarily depends on the overall regulatory framework and the national legal system.

3. Votes should be cast by custodians or nominees in a manner agreed upon with the beneficial owner of the shares.

In some OECD countries it was customary for financial institutions which held shares in custody for investors to cast the votes of those shares. Custodians such as banks and brokerage firms holding securities as nominees for customers were sometimes required to vote in support of management unless specifically instructed by the shareholder to do otherwise.

The trend in OECD countries is to remove provisions that automatically enable custodian institutions to cast the votes of shareholders. Rules in some countries have recently been revised to require custodian institutions to provide shareholders with information concerning their options in the use of their voting rights. Shareholders may elect to delegate all voting rights to custodians. Alternatively, shareholders may choose to be informed of all upcoming shareholder votes and may decide to cast some votes while delegating some voting rights to the custodian. It is necessary to draw a reasonable balance between assuring that shareholder votes are not cast by custodians without regard for the wishes of shareholders and not imposing excessive burdens on custodians to secure shareholder approval before casting votes. It is sufficient to disclose to the shareholders that, if no instruction to the contrary is received, the custodian will vote the shares in the way it deems consistent with shareholder interest.

It should be noted that this principle does not apply to the exercise of voting rights by trustees or other persons acting under a special legal mandate (such as, for example, bankruptcy receivers and estate executors).

Holders of depository receipts should be provided with the same ultimate rights and practical opportunities to participate in corporate governance as are accorded to holders of the underlying shares. Where the direct holders of shares may use proxies, the depository, trust office or equivalent body should therefore issue proxies on a timely basis to depository receipt holders. The depository receipt holders should be able to issue binding voting instructions with respect to the shares, which the depository or trust office holds on their behalf.

4. Impediments to cross border voting should be eliminated.

Foreign investors often hold their shares through chains of intermediaries. Shares are typically held in accounts with securities intermediaries, that in turn hold accounts with other intermediaries and central securities depositories in other jurisdictions, while the listed company resides in a third country. Such cross-border chains cause special challenges with respect to determining the entitlement of foreign investors to use their voting rights, and the process of communicating with such investors. In combination with business practices which provide only a very short notice period, shareholders are often left with only very limited time to react to a convening notice by the company and to make informed decisions concerning items for decision. This makes cross border voting difficult. The legal and regulatory framework should clarify who is entitled to control the voting rights in cross border situations and where necessary to simplify the depository chain. Moreover, notice periods should ensure that foreign investors in effect have similar opportunities to exercise their ownership functions as domestic investors. To further facilitate voting by foreign investors, laws, regulations and corporate practices should allow participation through means which make use of modern technology.

5. Processes and procedures for general shareholder meetings should allow for equitable treatment of all shareholders. Company procedures should not make it unduly difficult or expensive to cast votes.

The right to participate in general shareholder meetings is a fundamental shareholder right. Management and controlling investors have at times sought to discourage non-controlling or foreign investors from trying to influence the direction of the company. Some companies have charged fees for voting. Other impediments included prohibitions on proxy voting and the requirement of personal attendance at general shareholder meetings to vote. Still other procedures may make it practically impossible to exercise ownership rights. Proxy materials may be sent too close to the time of general shareholder meetings to allow investors adequate time for reflection and consultation. Many companies in OECD countries are seeking to develop better channels of communication and decision-making with shareholders. Efforts by companies to remove artificial barriers to participation in general meetings are encouraged and the corporate governance framework should facilitate the use of electronic voting in absentia.

B. Insider trading and abusive self-dealing should be prohibited.

Abusive self-dealing occurs when persons having close relationships to the company, including controlling shareholders, exploit those relationships to the detriment of the company and investors. As insider trading entails manipulation of the capital markets, it is prohibited by securities regulations, company law and/or criminal law in most OECD countries. However, not all jurisdictions prohibit such practices, and in some cases enforcement is not vigorous. These practices can be seen as constituting a breach of good corporate governance inasmuch as they violate the principle of equitable treatment of shareholders.

The Principles reaffirm that it is reasonable for investors to expect that the abuse of insider power be prohibited. In cases where such abuses are not specifically forbidden by legislation or where enforcement is not effective, it will be important for governments to take measures to remove any such gaps.

C. Members of the board and key executives should be required to disclose to the board whether they, directly, indirectly or on behalf of third parties, have a material interest in any transaction or matter directly affecting the corporation.

Members of the board and key executives have an obligation to inform the board where they have a business, family or other special relationship outside of the company that could affect their judgement with respect to a particular transaction or matter affecting the company. Such special relationships include situations where executives and board members have a relationship with the company via their association with a shareholder who is in a position to exercise control. Where a material interest has been declared, it is good practice for that person not to be involved in any decision involving the transaction or matter.

IV. The Role of Stakeholders in Corporate Governance

The corporate governance framework should recognise the rights of stakeholders established by law or through mutual agreements and encourage active co-operation between corporations and stakeholders in creating wealth, jobs, and the sustainability of financially sound enterprises.

A key aspect of corporate governance is concerned with ensuring the flow of external capital to companies both in the form of equity and credit. Corporate governance is also concerned with finding ways to encourage the various stakeholders in the firm to undertake economically optimal levels of investment in firm-specific human and physical capital. The competitiveness and ultimate success of a corporation is the result of teamwork that embodies contributions from a range of different resource providers including investors, employees, creditors, and suppliers. Corporations should recognise that the contributions of stakeholders constitute a valuable resource for building competitive and profitable companies. It is, therefore, in the long-term interest of corporations to foster wealth-creating cooperation among stakeholders. The governance framework should recognise that the interests of the corporation are served by recognising the interests of stakeholders and their contribution to the long-term success of the corporation.

A. The rights of stakeholders that are established by law or through mutual agreements are to be respected.

In all OECD countries, the rights of stakeholders are established by law (e.g. labour, business, commercial and insolvency laws) or by contractual relations. Even in areas where stakeholder interests are not legislated, many firms make additional commitments to stakeholders, and concern over corporate reputation and corporate performance often requires the recognition of broader interests.

B. Where stakeholder interests are protected by law, stakeholders should have the opportunity to obtain effective redress for violation of their rights.

The legal framework and process should be transparent and not impede the ability of stakeholders to communicate and to obtain redress for the violation of rights.

C. Performance-enhancing mechanisms for employee participation should be permitted to develop.

The degree to which employees participate in corporate governance depends on national laws and practices, and may vary from company to company as well. In the context of corporate governance, performance enhancing mechanisms for participation may benefit companies directly as well as indirectly through the readiness by employees to invest in firm specific skills. Examples of mechanisms for employee participation include: employee representation on boards; and governance processes such as works councils that consider employee viewpoints in certain key decisions. With respect to performance enhancing mechanisms, employee stock ownership plans or other profit sharing mechanisms are to be found in many countries. Pension commitments are also often an element of the relationship between the company and its past and present employees. Where such commitments involve establishing an independent fund, its trustees should be independent of the company's management and manage the fund for all beneficiaries.

D. Where stakeholders participate in the corporate governance process, they should have access to relevant, sufficient and reliable information on a timely and regular basis.

Where laws and practice of corporate governance systems provide for participation by stakeholders, it is important that stakeholders have access to information necessary to fulfil their responsibilities.

E. Stakeholders, including individual employees and their representative bodies, should be able to freely communicate their concerns about illegal or unethical practices to the board and their rights should not be compromised for doing this.

Unethical and illegal practices by corporate officers may not only violate the rights of stakeholders but also be to the detriment of the company and its shareholders in terms of reputation effects and an increasing risk of future financial liabilities. It is therefore to the advantage of the company and its shareholders to establish procedures and safe-harbours for complaints by employees, either personally or through their representative bodies, and others outside the company, concerning illegal and unethical behaviour. In many countries the board is being encouraged by laws and or principles to protect these individuals and representative bodies and to give them confidential direct access to someone independent on the board, often a member of an audit or an ethics committee. Some companies have established an ombudsman to deal with complaints. Several regulators have also established confidential phone and e-mail facilities to receive allegations. While in certain countries representative employee bodies undertake the tasks of conveying concerns to the company, individual employees should not be precluded from, or be less protected, when acting alone. When there is an inadequate response to a complaint regarding contravention of the law, the OECD Guidelines for Multinational Enterprises encourage them to report their bona fide complaint to the competent public authorities. The company should refrain from discriminatory or disciplinary actions against such employees or bodies.

F. The corporate governance framework should be complemented by an effective, efficient insolvency framework and by effective enforcement of creditor rights.

Especially in emerging markets, creditors are a key stakeholder and the terms, volume and type of credit extended to firms will depend importantly on their rights and on their enforceability. Companies with a good corporate governance record are often able to borrow larger sums and on more favourable terms than those with poor records or which operate in nontransparent markets. The framework for corporate insolvency varies widely across countries. In some countries, when companies are nearing insolvency, the legislative framework imposes a duty on directors to act in the interests of creditors, who might therefore play a prominent role in the governance of the company. Other countries have mechanisms which encourage the debtor to reveal timely information about the company's difficulties so that a consensual solution can be found between the debtor and its creditors.

Creditor rights vary, ranging from secured bond holders to unsecured creditors. Insolvency procedures usually require efficient mechanisms for reconciling the interests of different classes of creditors. In many jurisdictions provision is made for special rights such as through "debtor in possession" financing which provides incentives/protection for new funds made available to the enterprise in bankruptcy.

V. Disclosure and Transparency

The corporate governance framework should ensure that timely and accurate disclosure is made on all material matters regarding the corporation, including the financial situation, performance, ownership, and governance of the company.

In most OECD countries a large amount of information, both mandatory and voluntary, is compiled on publicly traded and large unlisted enterprises, and subsequently disseminated to a broad range of users. Public disclosure is typically required, at a minimum, on an annual basis though some countries require periodic disclosure on a semi-annual or quarterly basis, or even more frequently in the case of material developments affecting the company. Companies often make voluntary disclosure that goes beyond minimum disclosure requirements in response to market demand.

A strong disclosure regime that promotes real transparency is a pivotal feature of market-based monitoring of companies and is central to shareholders' ability to exercise their ownership rights on an informed basis. Experience in countries with large and active equity markets shows that disclosure can also be a powerful tool for influencing the behaviour of companies and for protecting investors. A strong disclosure regime can help to attract capital and maintain confidence in the capital markets. By contrast, weak disclosure and non-transparent practices can contribute to unethical behaviour and to a loss of market integrity at great cost, not just to the company and its shareholders but also to the economy as a whole. Shareholders and potential investors require access to regular, reliable and comparable information in sufficient detail for them to assess the stewardship of management, and make informed decisions about the valuation, ownership and voting of shares. Insufficient or unclear information may hamper the ability of the markets to function, increase the cost of capital and result in a poor allocation of resources. Disclosure also helps improve public understanding of the structure and activities of enterprises, corporate policies and performance with respect to environmental and ethical standards, and companies' relationships with the communities in which they operate. The OECD Guidelines for Multinational Enterprises are relevant in this context. Disclosure requirements are not expected to place unreasonable administrative or cost burdens on enterprises. Nor are companies expected to disclose information that may endanger their competitive position unless disclosure is necessary to fully inform the investment decision and to avoid misleading the investor. In order to determine what information should be disclosed at a minimum, many countries apply the concept of materiality. Material information can be defined as information whose omission or misstatement could influence the economic decisions taken by users of information.

The Principles support timely disclosure of all material developments that arise between regular reports. They also support simultaneous reporting of information to all shareholders in order to ensure their equitable treatment. In maintaining close relations with investors and market participants, companies must be careful not to violate this fundamental principle of equitable treatment.

A. Disclosure should include, but not be limited to, material information on:**1. The financial and operating results of the company.**

Audited financial statements showing the financial performance and the financial situation of the company (most typically including the balance sheet, the profit and loss statement, the cash flow statement and notes to the financial statements) are the most widely used source of information on companies. In their current form, the two principal goals of financial statements are to enable appropriate monitoring to take place and to provide the basis to value securities. Management's discussion and analysis of operations is typically included in annual reports. This discussion is most useful when read in conjunction with the accompanying financial statements. Investors are particularly interested in information that may shed light on the future performance of the enterprise.

Arguably, failures of governance can often be linked to the failure to disclose the "whole picture", particularly where off-balance sheet items are used to provide guarantees or similar commitments between related companies. It is therefore important that transactions relating to an entire group of companies be disclosed in line with high quality internationally recognised standards and include information about contingent liabilities and off-balance sheet transactions, as well as special purpose entities.

2. Company objectives.

In addition to their commercial objectives, companies are encouraged to disclose policies relating to business ethics, the environment and other public policy commitments. Such information may be important for investors and other users of information to better evaluate the relationship between companies and the communities in which they operate and the steps that companies have taken to implement their objectives.

3. Major share ownership and voting rights.

One of the basic rights of investors is to be informed about the ownership structure of the enterprise and their rights vis-à-vis the rights of other owners. The right to such information should also extend to information about the structure of a group of companies and intra-group relations. Such disclosures should make transparent the objectives, nature and structure of the group. Countries often require disclosure of ownership data once certain thresholds of ownership are passed. Such disclosure might include data on major shareholders and others that, directly or indirectly, control or may control the company through special voting rights, shareholder agreements, the ownership of controlling or large blocks of shares, significant cross shareholding relationships and cross guarantees.

Particularly for enforcement purposes, and to identify potential conflicts of interest, related party transactions and insider trading, information about record ownership may have to be complemented with information about beneficial ownership. In cases where major shareholdings are held through intermediary structures or arrangements, information about the beneficial owners should therefore be obtainable at least by regulatory and enforcement agencies and/or through the judicial process. The OECD template Options for Obtaining Beneficial Ownership and Control Information can serve as a useful self-assessment tool for countries that wish to ensure necessary access to information about beneficial ownership.

4. Remuneration policy for members of the board and key executives, and information about board members, including their qualifications, the selection process, other company directorships and whether they are regarded as independent by the board.

Investors require information on individual board members and key executives in order to evaluate their experience and qualifications and assess any potential conflicts of interest that might affect their judgement. For board members, the information should include their qualifications, share ownership in the company, membership of other boards and whether they are considered by the board to be an independent member. It is important to disclose membership of other boards not only because it is an indication of experience and possible time pressures facing a member of the board, but also because it may reveal potential conflicts of interest and makes transparent the degree to which there are inter-locking boards.

A number of national principles, and in some cases laws, lay down specific duties for board members who can be regarded as independent and in some instances recommend that a majority of the board should be independent. In many countries, it is incumbent on the board to set out the reasons why a member of the board can be considered independent. It is then up to the shareholders, and ultimately the market, to determine if those reasons are justified. Several countries have concluded that companies should disclose the selection process and especially whether it was open to a broad field of candidates. Such information should be provided in advance of any decision by the general shareholder's meeting or on a continuing basis if the situation has changed materially.

Information about board and executive remuneration is also of concern to shareholders. Of particular interest is the link between remuneration and company performance. Companies are generally expected to disclose information on the remuneration of board members and key executives so that investors can assess the costs and benefits of remuneration plans and the contribution of incentive schemes, such as stock option schemes, to company performance. Disclosure on an individual basis (including termination and retirement provisions) is increasingly regarded as good practice and is now mandated in several countries. In these cases, some jurisdictions call for remuneration of a certain number of the highest paid executives to be disclosed, while

in others it is confined to specified positions.

5. Related party transactions.

It is important for the market to know whether the company is being run with due regard to the interests of all its investors. To this end, it is essential for the company to fully disclose material related party transactions to the market, either individually, or on a grouped basis, including whether they have been executed at arms-length and on normal market terms. In a number of jurisdictions this is indeed already a legal requirement. Related parties can include entities that control or are under common control with the company, significant shareholders including members of their families and key management personnel.

Transactions involving the major shareholders (or their close family, relations etc.), either directly or indirectly, are potentially the most difficult type of transactions. In some jurisdictions, shareholders above a limit as low as 5 per cent shareholding are obliged to report transactions. Disclosure requirements include the nature of the relationship where control exists and the nature and amount of transactions with related parties, grouped as appropriate. Given the inherent opaqueness of many transactions, the obligation may need to be placed on the beneficiary to inform the board about the transaction, which in turn should make a disclosure to the market. This should not absolve the firm from maintaining its own monitoring, which is an important task for the board.

6. Foreseeable risk factors.

Users of financial information and market participants need information on reasonably foreseeable material risks that may include: risks that are specific to the industry or the geographical areas in which the company operates; dependence on commodities; financial market risks including interest rate or currency risk; risk related to derivatives and off-balance sheet transactions; and risks related to environmental liabilities.

The Principles do not envision the disclosure of information in greater detail than is necessary to fully inform investors of the material and foreseeable risks of the enterprise. Disclosure of risk is most effective when it is tailored to the particular industry in question. Disclosure about the system for monitoring and managing risk is increasingly regarded as good practice.

7. Issues regarding employees and other stakeholders.

Companies are encouraged, and in some countries even obliged, to provide information on key issues relevant to employees and other stakeholders that may materially affect the performance of the company. Disclosure may include management/employee relations, and relations with other stakeholders such as creditors, suppliers, and local communities.

Some countries require extensive disclosure of information on human resources. Human resource policies, such as programmes for human resource development and training, retention rates of employees and employee share ownership plans, can communicate important information on the competitive strengths of companies to market participants.

8. Governance structures and policies, in particular, the content of any corporate governance code or policy and the process by which it is implemented.

Companies should report their corporate governance practices, and in a number of countries such disclosure is now mandated as part of the regular reporting. In several countries, companies must implement corporate governance principles set, or endorsed, by the listing authority with mandatory reporting on a “comply or explain” basis. Disclosure of the governance structures and policies of the company, in particular the division of authority between shareholders, management and board members is important for the assessment of a company’s governance.

As a matter of transparency, procedures for shareholders meetings should ensure that votes are properly counted and recorded, and that a timely announcement of the outcome is made.

B. Information should be prepared and disclosed in accordance with high quality standards of accounting and financial and non-financial disclosure.

The application of high quality standards is expected to significantly improve the ability of investors to monitor the company by providing increased reliability and comparability of reporting, and improved insight into company performance. The quality of information substantially depends on the standards under which it is compiled and disclosed. The Principles support the development of high quality internationally recognised standards, which can serve to improve transparency and the comparability of financial statements and other financial reporting between countries. Such standards should be developed through open, independent, and public processes involving the private sector and other interested parties such as professional associations and independent experts. High quality domestic standards can be achieved by making them consistent with one of the internationally recognised accounting standards. In many countries, listed companies are required to use these standards.

C. An annual audit should be conducted by an independent, competent and qualified, auditor in order to provide an external and objective assurance to the board and shareholders that the financial statements fairly represent the financial position and performance of the company in all material respects.

In addition to certifying that the financial statements represent fairly the financial position of a company, the audit statement should also include an opinion on the way in which financial statements have been prepared

and presented. This should contribute to an improved control environment in the company.

Many countries have introduced measures to improve the independence of auditors and to tighten their accountability to shareholders. A number of countries are tightening audit oversight through an independent entity. Indeed, the Principles of Auditor Oversight issued by IOSCO in 2002 states that effective auditor oversight generally includes, *inter alia*, mechanisms: "...to provide that a body, acting in the public interest, provides oversight over the quality and implementation, and ethical standards used in the jurisdiction, as well as audit quality control environments"; and "...to require auditors to be subject to the discipline of an auditor oversight body that is independent of the audit profession, or, if a professional body acts as the oversight body, is overseen by an independent body". It is desirable for such an auditor oversight body to operate in the public interest, and have an appropriate membership, an adequate charter of responsibilities and powers, and adequate funding that is not under the control of the auditing profession, to carry out those responsibilities.

It is increasingly common for external auditors to be recommended by an independent audit committee of the board or an equivalent body and to be appointed either by that committee/body or by shareholders directly. Moreover, the IOSCO Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence states that, "standards of auditor independence should establish a framework of principles, supported by a combination of prohibitions, restrictions, other policies and procedures and disclosures, that addresses at least the following threats to independence: self-interest, self-review, advocacy, familiarity and intimidation".

The audit committee or an equivalent body is often specified as providing oversight of the internal audit activities and should also be charged with overseeing the overall relationship with the external auditor including the nature of non-audit services provided by the auditor to the company. Provision of non-audit services by the external auditor to a company can significantly impair their independence and might involve them auditing their own work. To deal with the skewed incentives which may arise, a number of countries now call for disclosure of payments to external auditors for non-audit services. Examples of other provisions to underpin auditor independence include, a total ban or severe limitation on the nature of non-audit work which can be undertaken by an auditor for their audit client, mandatory rotation of auditors either partners or in some cases the audit partnership, a temporary ban on the employment of an ex-auditor by the audited company and prohibiting auditors or their dependents from having a financial stake or management role in the companies they audit. Some countries take a more direct regulatory approach and limit the percentage of non-audit income that the auditor can receive from a particular client or limit the total percentage of auditor income that can come from one client.

An issue which has arisen in some jurisdictions concerns the pressing need to ensure the competence of the audit profession. In many cases there is a registration process for individuals to confirm their qualifications. This needs, however, to be supported by ongoing training and monitoring of work experience to ensure an appropriate level of professional competence.

D. External auditors should be accountable to the shareholders and owe a duty to the company to exercise due professional care in the conduct of the audit.

The practice that external auditors are recommended by an independent audit committee of the board or an equivalent body and that external auditors are appointed either by that committee/body or by the shareholders' meeting directly can be regarded as good practice since it clarifies that the external auditor should be accountable to the shareholders. It also underlines that the external auditor owes a duty of due professional care to the company rather than any individual or group of corporate managers that they may interact with for the purpose of their work.

E. Channels for disseminating information should provide for equal, timely and cost-efficient access to relevant information by users.

Channels for the dissemination of information can be as important as the content of the information itself. While the disclosure of information is often provided for by legislation, filing and access to information can be cumbersome and costly. Filing of statutory reports has been greatly enhanced in some countries by electronic filing and data retrieval systems. Some countries are now moving to the next stage by integrating different sources of company information, including shareholder filings. The Internet and other information technologies also provide the opportunity for improving information dissemination.

A number of countries have introduced provisions for ongoing disclosure often prescribed by law or by listing rules which includes periodic disclosure and continuous or current disclosure which must be provided on an ad hoc basis. With respect to continuous/current disclosure, good practice is to call for "immediate" disclosure of material developments, whether this means "as soon as possible" or is defined as a prescribed maximum number of specified days. The IOSCO Principles for Ongoing Disclosure and Material Development Reporting by Listed Entities set forth common principles of ongoing disclosure and material development reporting for listed companies.

F. The corporate governance framework should be complemented by an effective approach that addresses and promotes the provision of analysis or advice by analysts, brokers, rating agencies and others, that is relevant to decisions by investors, free from material conflicts of interest that might compromise the integrity of their analysis or advice.

In addition to demanding independent and competent auditors, and to facilitate timely dissemination of information, a number of countries have taken steps to ensure the integrity of those professions and activities that serve as conduits of analysis and advice to the market. These intermediaries, if they are operating free from conflicts and with integrity, can play an important role in providing incentives for company boards to follow good corporate governance practices.

Concerns have arisen, however, in response to evidence that conflicts of interest often arise and may affect judgement. This could be the case when the provider of advice is also seeking to provide other services to the company in question, or where the provider has a direct material interest in the company or its competitors. The concern identifies a highly relevant dimension of the disclosure and transparency process that targets the professional standards of stock market research analysts, rating agencies, investment banks, etc.

Experience in other areas indicates that the preferred solution is to demand full disclosure of conflicts of interest and how the entity is choosing to manage them. Particularly important will be disclosure about how the entity is structuring the incentives of its employees in order to eliminate the potential conflict of interest. Such disclosure allows investors to judge the risks involved and the likely bias in the advice and information. IOSCO has developed statements of principles relating to analysts and rating agencies IOSCO Statement of Principles for Addressing Sell-side Securities Analyst Conflicts of Interest; IOSCO Statement of Principles Regarding the Activities of Credit Rating Agencies.

VI. The Responsibilities of the Board

The corporate governance framework should ensure the strategic guidance of the company, the effective monitoring of management by the board, and the board's accountability to the company and the shareholders.

Board structures and procedures vary both within and among OECD countries. Some countries have two-tier boards that separate the supervisory function and the management function into different bodies. Such systems typically have a "supervisory board" composed of non-executive board members and a "management board" composed entirely of executives. Other countries have "unitary" boards, which bring together executive and nonexecutive board members. In some countries there is also an additional statutory body for audit purposes. The Principles are intended to be sufficiently general to apply to whatever board structure is charged with the functions of governing the enterprise and monitoring management.

Together with guiding corporate strategy, the board is chiefly responsible for monitoring managerial performance and achieving an adequate return for shareholders, while preventing conflicts of interest and balancing competing demands on the corporation. In order for boards to effectively fulfil their responsibilities they must be able to exercise objective and independent judgement. Another important board responsibility is to oversee systems designed to ensure that the corporation obeys applicable laws, including tax, competition, labour, environmental, equal opportunity, health and safety laws. In some countries, companies have found it useful to explicitly articulate the responsibilities that the board assumes and those for which management is accountable.

The board is not only accountable to the company and its shareholders but also has a duty to act in their best interests. In addition, boards are expected to take due regard of, and deal fairly with, other stakeholder interests including those of employees, creditors, customers, suppliers and local communities. Observance of environmental and social standards is relevant in this context.

A. Board members should act on a fully informed basis, in good faith, with due diligence and care, and in the best interest of the company and the shareholders.

In some countries, the board is legally required to act in the interest of the company, taking into account the interests of shareholders, employees, and the public good. Acting in the best interest of the company should not permit management to become entrenched.

This principle states the two key elements of the fiduciary duty of board members: the duty of care and the duty of loyalty. The duty of care requires board members to act on a fully informed basis, in good faith, with due diligence and care. In some jurisdictions there is a standard of reference which is the behaviour that a reasonably prudent person would exercise in similar circumstances. In nearly all jurisdictions, the duty of care does not extend to errors of business judgement so long as board members are not grossly negligent and a decision is made with due diligence etc. The principle calls for board members to act on a fully informed basis. Good practice takes this to mean that they should be satisfied that key corporate information and compliance systems are fundamentally sound and underpin the key monitoring role of the board advocated by the Principles. In many jurisdictions this meaning is already considered an element of the duty of care, while in others it is required by securities regulation, accounting standards etc. The duty of loyalty is of central importance, since it underpins effective implementation of other principles in this document relating to, for example, the equitable treatment of shareholders, monitoring of related party transactions and the establishment of remuneration policy for key executives and board members. It is also a key principle for board members who are working within the structure of a group of companies: even though a company might be controlled by another enterprise, the duty of loyalty for a board member relates to the company and all its shareholders and not to the controlling company of the group.

B. Where board decisions may affect different shareholder groups differently, the board should treat all shareholders fairly.

In carrying out its duties, the board should not be viewed, or act, as an assembly of individual representatives for various constituencies. While specific board members may indeed be nominated or elected by certain shareholders (and sometimes contested by others) it is an important feature of the board's work that board members when they assume their responsibilities carry out their duties in an even-handed manner with respect to all shareholders. This principle is particularly important to establish in the presence of controlling shareholders that de facto may be able to select all board members.

C. The board should apply high ethical standards. It should take into account the interests of stakeholders.

The board has a key role in setting the ethical tone of a company, not only by its own actions, but also in appointing and overseeing key executives and consequently the management in general. High ethical standards are in the long term interests of the company as a means to make it credible and trustworthy, not only in day-to-day operations but also with respect to longer term commitments. To make the objectives of the board clear and operational, many companies have found it useful to develop company codes of conduct based on, inter alia, professional standards and sometimes broader codes of behaviour. The latter might include a voluntary commitment by the company including its subsidiaries to comply with the OECD Guidelines for Multinational Enterprises which reflect all four principles contained in the ILO Declaration on Fundamental Labour Rights. Company-wide codes serve as a standard for conduct by both the board and key executives, setting the framework for the exercise of judgement in dealing with varying and often conflicting constituencies. At a minimum, the ethical code should set clear limits on the pursuit of private interests, including dealings in the shares of the company. An overall framework for ethical conduct goes beyond compliance with the law, which should always be a fundamental requirement.

D. The board should fulfil certain key functions, including:

1. Reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans; setting performance objectives; monitoring implementation and corporate performance; and overseeing major capital expenditures, acquisitions and divestitures.

An area of increasing importance for boards and which is closely related to corporate strategy is risk policy. Such policy will involve specifying the types and degree of risk that a company is willing to accept in pursuit of its goals. It is thus a crucial guideline for management that must manage risks to meet the company's desired risk profile.

2. Monitoring the effectiveness of the company's governance practices and making changes as needed.

Monitoring of governance by the board also includes continuous review of the internal structure of the company to ensure that there are clear lines of accountability for management throughout the organisation. In addition to requiring the monitoring and disclosure of corporate governance practices on a regular basis, a number of countries have moved to recommend or indeed mandate self-assessment by boards of their performance as well as performance reviews of individual board members and the CEO/Chairman.

3. Selecting, compensating, monitoring and, when necessary, replacing key executives and overseeing succession planning.

In two tier board systems the supervisory board is also responsible for appointing the management board which will normally comprise most of the key executives.

4. Aligning key executive and board remuneration with the longer term interests of the company and its shareholders.

In an increasing number of countries it is regarded as good practice for boards to develop and disclose a remuneration policy statement covering board members and key executives. Such policy statements specify the relationship between remuneration and performance, and include measurable standards that emphasise the longer run interests of the company over short term considerations. Policy statements generally tend to set conditions for payments to board members for extra-board activities, such as consulting. They also often specify terms to be observed by board members and key executives about holding and trading the stock of the company, and the procedures to be followed in granting and re-pricing of options. In some countries, policy also covers the payments to be made when terminating the contract of an executive.

It is considered good practice in an increasing number of countries that remuneration policy and employment contracts for board members and key executives be handled by a special committee of the board comprising either wholly or a majority of independent directors. There are also calls for a remuneration committee that excludes executives that serve on each others' remuneration committees, which could lead to conflicts of interest.

5. Ensuring a formal and transparent board nomination and election process.

These Principles promote an active role for shareholders in the nomination and election of board members. The board has an essential role to play in ensuring that this and other aspects of the nominations and election process are respected. First, while actual procedures for nomination may differ among countries, the board or a nomination committee has a special responsibility to make sure that established procedures are transparent and respected. Second, the board has a key role in identifying potential members for the board with the appropriate knowledge, competencies and expertise to complement the existing skills of the board and thereby improve its value-adding potential for the company. In several countries there are calls for an

open search process extending to a broad range of people.

6. Monitoring and managing potential conflicts of interest of management, board members and shareholders, including misuse of corporate assets and abuse in related party transactions.

It is an important function of the board to oversee the internal control systems covering financial reporting and the use of corporate assets and to guard against abusive related party transactions. These functions are sometimes assigned to the internal auditor which should maintain direct access to the board. Where other corporate officers are responsible such as the general counsel, it is important that they maintain similar reporting responsibilities as the internal auditor.

In fulfilling its control oversight responsibilities it is important for the board to encourage the reporting of unethical/unlawful behaviour without fear of retribution. The existence of a company code of ethics should aid this process which should be underpinned by legal protection for the individuals concerned. In a number of companies either the audit committee or an ethics committee is specified as the contact point for employees who wish to report concerns about unethical or illegal behaviour that might also compromise the integrity of financial statements.

7. Ensuring the integrity of the corporation's accounting and financial reporting systems, including the independent audit, and that appropriate systems of control are in place, in particular, systems for risk management, financial and operational control, and compliance with the law and relevant standards.

Ensuring the integrity of the essential reporting and monitoring systems will require the board to set and enforce clear lines of responsibility and accountability throughout the organisation. The board will also need to ensure that there is appropriate oversight by senior management. One way of doing this is through an internal audit system directly reporting to the board. In some jurisdictions it is considered good practice for the internal auditors to report to an independent audit committee of the board or an equivalent body which is also responsible for managing the relationship with the external auditor, thereby allowing a coordinated response by the board. It should also be regarded as good practice for this committee, or equivalent body, to review and report to the board the most critical accounting policies which are the basis for financial reports. However, the board should retain final responsibility for ensuring the integrity of the reporting systems. Some countries have provided for the chair of the board to report on the internal control process.

Companies are also well advised to set up internal programmes and procedures to promote compliance with applicable laws, regulations and standards, including statutes to criminalise bribery of foreign officials that are required to be enacted by the OECD Anti-bribery Convention and measures designed to control other forms of bribery and corruption. Moreover, compliance must also relate to other laws and regulations such as those covering securities, competition and work and safety conditions. Such compliance programmes will also underpin the company's ethical code. To be effective, the incentive structure of the business needs to be aligned with its ethical and professional standards so that adherence to these values is rewarded and breaches of law are met with dissuasive consequences or penalties. Compliance programmes should also extend where possible to subsidiaries.

8. Overseeing the process of disclosure and communications.

The functions and responsibilities of the board and management with respect to disclosure and communication need to be clearly established by the board. In some companies there is now an investment relations officer who reports directly to the board.

E. The board should be able to exercise objective independent judgement on corporate affairs.

In order to exercise its duties of monitoring managerial performance, preventing conflicts of interest and balancing competing demands on the corporation, it is essential that the board is able to exercise objective judgement. In the first instance this will mean independence and objectivity with respect to management with important implications for the composition and structure of the board. Board independence in these circumstances usually requires that a sufficient number of board members will need to be independent of management. In a number of countries with single tier board systems, the objectivity of the board and its independence from management may be strengthened by the separation of the role of chief executive and chairman, or, if these roles are combined, by designating a lead non-executive director to convene or chair sessions of the outside directors. Separation of the two posts may be regarded as good practice, as it can help to achieve an appropriate balance of power, increase accountability and improve the board's capacity for decision making independent of management. The designation of a lead director is also regarded as a good practice alternative in some jurisdictions. Such mechanisms can also help to ensure high quality governance of the enterprise and the effective functioning of the board. The Chairman or lead director may, in some countries, be supported by a company secretary. In the case of two tier board systems, consideration should be given to whether corporate governance concerns might arise if there is a tradition for the head of the lower board becoming the Chairman of the Supervisory Board on retirement.

The manner in which board objectivity might be underpinned also depends on the ownership structure of the company. A dominant shareholder has considerable powers to appoint the board and the management. However, in this case, the board still has a fiduciary responsibility to the company and to all shareholders including minority shareholders.

The variety of board structures, ownership patterns and practices in different countries will thus require different approaches to the issue of board objectivity. In many instances objectivity requires that a sufficient number of board members not be employed by the company or its affiliates and not be closely related to the company or its management through significant economic, family or other ties. This does not prevent shareholders from being board members. In others, independence from controlling shareholders or another controlling body will need to be emphasised, in particular if the ex ante rights of minority shareholders are weak and opportunities to obtain redress are limited. This has led to both codes and the law in some jurisdictions to call for some board members to be independent of dominant shareholders, independence extending to not being their representative or having close business ties with them. In other cases, parties such as particular creditors can also exercise significant influence. Where there is a party in a special position to influence the company, there should be stringent tests to ensure the objective judgement of the board.

In defining independent members of the board, some national principles of corporate governance have specified quite detailed presumptions for nonindependence which are frequently reflected in listing requirements. While establishing necessary conditions, such 'negative' criteria defining when an individual is not regarded as independent can usefully be complemented by 'positive' examples of qualities that will increase the probability of effective independence.

Independent board members can contribute significantly to the decision-making of the board. They can bring an objective view to the evaluation of the performance of the board and management. In addition, they can play an important role in areas where the interests of management, the company and its shareholders may diverge such as executive remuneration, succession planning, changes of corporate control, take-over defences, large acquisitions and the audit function. In order for them to play this key role, it is desirable that boards declare who they consider to be independent and the criterion for this judgement.

- 1. Boards should consider assigning a sufficient number of non-executive board members capable of exercising independent judgement to tasks where there is a potential for conflict of interest. Examples of such key responsibilities are ensuring the integrity of financial and non-financial reporting, the review of related party transactions, nomination of board members and key executives, and board remuneration.**

While the responsibility for financial reporting, remuneration and nomination are frequently those of the board as a whole, independent nonexecutive board members can provide additional assurance to market participants that their interests are defended. The board may also consider establishing specific committees to consider questions where there is a potential for conflict of interest. These committees may require a minimum number or be composed entirely of non-executive members. In some countries, shareholders have direct responsibility for nominating and electing non-executive directors to specialised functions.

- 2. When committees of the board are established, their mandate, composition and working procedures should be well defined and disclosed by the board.**

While the use of committees may improve the work of the board they may also raise questions about the collective responsibility of the board and of individual board members. In order to evaluate the merits of board committees it is therefore important that the market receives a full and clear picture of their purpose, duties and composition. Such information is particularly important in the increasing number of jurisdictions where boards are establishing independent audit committees with powers to oversee the relationship with the external auditor and to act in many cases independently. Other such committees include those dealing with nomination and compensation. The accountability of the rest of the board and the board as a whole should be clear. Disclosure should not extend to committees set up to deal with, for example, confidential commercial transactions

- 3. Board members should be able to commit themselves effectively to their responsibilities.**

Service on too many boards can interfere with the performance of board members. Companies may wish to consider whether multiple board memberships by the same person are compatible with effective board performance and disclose the information to shareholders. Some countries have limited the number of board positions that can be held. Specific limitations may be less important than ensuring that members of the board enjoy legitimacy and confidence in the eyes of shareholders. Achieving legitimacy would also be facilitated by the publication of attendance records for individual board members (e.g. whether they have missed a significant number of meetings) and any other work undertaken on behalf of the board and the associated remuneration.

In order to improve board practices and the performance of its members, an increasing number of jurisdictions are now encouraging companies to engage in board training and voluntary self-evaluation that meets the needs of the individual company. This might include that board members acquire appropriate skills upon appointment, and thereafter remain abreast of relevant new laws, regulations, and changing commercial risks through in-house training and external courses.

- F. In order to fulfil their responsibilities, board members should have access to accurate, relevant and timely information.**

Board members require relevant information on a timely basis in order to support their decision-making. Non-executive board members do not typically have the same access to information as key managers within the

company. The contributions of non-executive board members to the company can be enhanced by providing access to certain key managers within the company such as, for example, the company secretary and the internal auditor, and recourse to independent external advice at the expense of the company. In order to fulfil their responsibilities, board members should ensure that they obtain accurate, relevant and timely information.

United Nations (UN), Convention against Corruption (2003, New York, USA)

Preamble

The States Parties to this Convention,

CONCERNED about the seriousness of problems and threats posed by corruption to the stability and security of societies, undermining the institutions and values of democracy, ethical values and justice and jeopardizing sustainable development and the rule of law,

CONCERNED ALSO about the links between corruption and other forms of crime, in particular organized crime and economic crime, including money-laundering,

CONCERNED FURTHER about cases of corruption that involve vast quantities of assets, which may constitute a substantial proportion of the resources of States, and that threaten the political stability and sustainable development of those States,

CONVINCED that corruption is no longer a local matter but a transnational phenomenon that affects all societies and economies, making international cooperation to prevent and control it essential,

CONVINCED ALSO that a comprehensive and multidisciplinary approach is required to prevent and combat corruption effectively,

CONVINCED FURTHER that the availability of technical assistance can play an important role in enhancing the ability of States, including by strengthening capacity and by institution-building, to prevent and combat corruption effectively,

CONVINCED that the illicit acquisition of personal wealth can be particularly damaging to democratic institutions, national economies and the rule of law,

DETERMINED to prevent, detect and deter in a more effective manner international transfers of illicitly acquired assets and to strengthen international cooperation in asset recovery,

ACKNOWLEDGING the fundamental principles of due process of law in criminal proceedings and in civil or administrative proceedings to adjudicate property rights,

BEARING IN MIND that the prevention and eradication of corruption is a responsibility of all States and that they must cooperate with one another, with the support and involvement of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, if their efforts in this area are to be effective,

BEARING ALSO IN MIND the principles of proper management of public affairs and public property, fairness, responsibility and equality before the law and the need to safeguard integrity and to foster a culture of rejection of corruption,

COMMENDING the work of the Commission on Crime Prevention and Criminal Justice and the United Nations Office on Drugs and Crime in preventing and combating corruption,

RECALLING the work carried out by other international and regional organizations in this field, including the activities of the African Union, the Council of Europe, the Customs Cooperation Council (also known as the World Customs Organization), the European Union, the League of Arab States, the Organisation for Economic Cooperation and Development and the Organization of American States,

TAKING NOTE WITH APPRECIATION of multilateral instruments to prevent and combat corruption, including, inter alia, the Inter-American Convention against Corruption, adopted by the Organization of American States on 29 March 1996,¹ the Convention on the Fight against Corruption involving Officials of the European Communities or Officials of Member States of the European Union, adopted by the Council of the European Union on 26 May 1997,² the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted by the Organisation for Economic Cooperation and Development on 21 November 1997,³ the Criminal Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 27 January 1999,⁴ the Civil Law Convention on Corruption, adopted by the Committee of Ministers of the Council of Europe on 4 November 1999,⁵ and the African Union Convention on Preventing and Combating Corruption, adopted by the Heads of State and Government of the African Union on 12 July 2003,

WELCOMING the entry into force on 29 September 2003 of the United Nations Convention against Transnational Organized Crime,⁶

Have agreed as follows:

¹ See E/1996/99.

² Official Journal of the European Communities, C 195, 25 June 1997.

³ See Corruption and Integrity Improvement Initiatives in Developing Countries (United Nations publication, Sales No. E.98.III.B.18).

⁴ Council of Europe, European Treaty Series, No. 173.

⁵ Ibid., No. 174.

⁶ General Assembly resolution 55/25, annex I.

Chapter I General provisions

Article 1 Statement of purpose

The purposes of this Convention are:

- a. To promote and strengthen measures to prevent and combat corruption more efficiently and effectively;
- b. To promote, facilitate and support international cooperation and technical assistance in the prevention of and fight against corruption, including in asset recovery;
- c. To promote integrity, accountability and proper management of public affairs and public property.

Article 2 Use of terms

For the purposes of this Convention:

- a. "Public official" shall mean: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a "public official" in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, "public official" may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party;
- b. "Foreign public official" shall mean any person holding a legislative, executive, administrative or judicial office of a foreign country, whether appointed or elected; and any person exercising a public function for a foreign country, including for a public agency or public enterprise;
- c. "Official of a public international organization" shall mean an international civil servant or any person who is authorized by such an organization to act on behalf of that organization;
- d. "Property" shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to or interest in such assets;
- e. "Proceeds of crime" shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;
- f. "Freezing" or "seizure" shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;
- g. "Confiscation", which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;
- h. "Predicate offence" shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in article 23 of this Convention;
- i. "Controlled delivery" shall mean the technique of allowing illicit or suspect consignments to pass out of, through or into the territory of one or more States, with the knowledge and under the supervision of their competent authorities, with a view to the investigation of an offence and the identification of persons involved in the commission of the offence.

Article 3 Scope of application

1. This Convention shall apply, in accordance with its terms, to the prevention, investigation and prosecution of corruption and to the freezing, seizure, confiscation and return of the proceeds of offences established in accordance with this Convention.
2. For the purposes of implementing this Convention, it shall not be necessary, except as otherwise stated herein, for the offences set forth in it to result in damage or harm to state property.

Article 4 Protection of sovereignty

1. States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.
2. Nothing in this Convention shall entitle a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law.

Chapter II Preventive measures

Article 5 Preventive anti-corruption policies and practices

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.
3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.
4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

Article 6 Preventive anti-corruption body or bodies

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:
 - a. Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;
 - b. Increasing and disseminating knowledge about the prevention of corruption.
2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.
3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

Article 7 Public sector

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:
 - a. That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
 - b. That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
 - c. That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
 - d. That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.
2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.
3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.
4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

Article 8 Codes of conduct for public officials

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.
2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.
4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.
5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate

authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

Article 9 Public procurement and management of public finances

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, inter alia, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, inter alia:
 - a. The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
 - b. The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;
 - c. The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;
 - d. An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;
 - e. Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.
2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:
 - a. Procedures for the adoption of the national budget;
 - b. Timely reporting on revenue and expenditure;
 - c. A system of accounting and auditing standards and related oversight;
 - d. Effective and efficient systems of risk management and internal control; and
 - e. Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.
3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

Article 10 Public reporting

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

- a. Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;
- b. Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and
- c. Publishing information, which may include periodic reports on the risks of corruption in its public administration.

Article 11 Measures relating to the judiciary and prosecution services

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.
2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

Article 12 Private sector

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector

and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.

2. Measures to achieve these ends may include, inter alia:
 - a. Promoting cooperation between law enforcement agencies and relevant private entities;
 - b. Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;
 - c. Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
 - d. Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
 - e. Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;
 - f. Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.
3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:
 - a. The establishment of off-the-books accounts;
 - b. The making of off-the-books or inadequately identified transactions;
 - c. The recording of non-existent expenditure;
 - d. The entry of liabilities with incorrect identification of their objects;
 - e. The use of false documents; and
 - f. The intentional destruction of bookkeeping documents earlier than foreseen by the law.
4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

Article 13 Participation of society

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption.
This participation should be strengthened by such measures as:
 - a. Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
 - b. Ensuring that the public has effective access to information;
 - c. Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
 - d. Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
 - i. For respect of the rights or reputations of others;
 - ii. For the protection of national security or ordre public or of public health or morals.
2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

Article 14 Measures to prevent money-laundering

1. Each State Party shall:
 - a. Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of

money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

- b. Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.
2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.
3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:
 - a. To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;
 - b. To maintain such information throughout the payment chain; and
 - c. To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.
4. In establishing a domestic regulatory and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.
5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

Chapter III Criminalization and law enforcement

Article 15 Bribery of national public officials

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

- a. The promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;
- b. The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Article 16 Bribery of foreign public officials and officials of public international organizations

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the promise, offering or giving to a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties, in order to obtain or retain business or other undue advantage in relation to the conduct of international business.
2. Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the solicitation or acceptance by a foreign public official or an official of a public international organization, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

Article 17 Embezzlement, misappropriation or other diversion of property by a public official

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally, the embezzlement, misappropriation or other diversion by a public official for his or her benefit or for the benefit of another person or entity, of any property, public or private funds or securities or any other thing of value entrusted to the public official by virtue of his or her position.

Article 18 Trading in influence

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

- a. The promise, offering or giving to a public official or any other person, directly or indirectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage for the original instigator of the act or for any other person;
- b. The solicitation or acceptance by a public official or any other person, directly or indirectly, of an undue advantage for himself or herself or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the State Party an undue advantage.

Article 19 Abuse of functions

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, the abuse of functions or position, that is, the performance of or failure to perform an act, in violation of laws, by a public official in the discharge of his or her functions, for the purpose of obtaining an undue advantage for himself or herself or for another person or entity.

Article 20 Illicit enrichment

Subject to its constitution and the fundamental principles of its legal system, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally, illicit enrichment, that is, a significant increase in the assets of a public official that he or she cannot reasonably explain in relation to his or her lawful income.

Article 21 Bribery in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally in the course of economic, financial or commercial activities:

- a. The promise, offering or giving, directly or indirectly, of an undue advantage to any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting;
- b. The solicitation or acceptance, directly or indirectly, of an undue advantage by any person who directs or works, in any capacity, for a private sector entity, for the person himself or herself or for another person, in order that he or she, in breach of his or her duties, act or refrain from acting.

Article 22 Embezzlement of property in the private sector

Each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally in the course of economic, financial or commercial activities, embezzlement by a person who directs or works, in any capacity, in a private sector entity of any property, private funds or securities or any other thing of value entrusted to him or her by virtue of his or her position.

Article 23 Laundering of proceeds of crime

1. Each State Party shall adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:
 - a. i. The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;
 - ii. The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;
 - b. Subject to the basic concepts of its legal system:
 - i. The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;
 - ii. Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.
2. For purposes of implementing or applying paragraph 1 of this article:
 - a. Each State Party shall seek to apply paragraph 1 of this article to the widest range of predicate offences;
 - b. Each State Party shall include as predicate offences at a minimum a comprehensive range of criminal offences established in accordance with this Convention;
 - c. For the purposes of subparagraph (b) above, predicate offences shall include offences committed both within and outside the jurisdiction of the State Party in question. However, offences committed outside the jurisdiction of a State Party shall constitute predicate offences only when the relevant conduct is a criminal offence under the domestic law of the State where it is committed and would be a criminal offence under the domestic law of the State Party implementing or applying this article had it been committed there;
 - d. Each State Party shall furnish copies of its laws that give effect to this article and of any subsequent changes to such laws or a description thereof to the Secretary-General of the United Nations;
 - e. If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence.

Article 24 Concealment

Without prejudice to the provisions of article 23 of this Convention, each State Party shall consider adopting such legislative and other measures as may be necessary to establish as a criminal offence, when committed intentionally after the commission of any of the offences established in accordance with this Convention without having participated in such offences, the concealment or continued retention of property when the person involved knows that such property is the result of any of the offences established in accordance with this Convention.

Article 25 Obstruction of justice

Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

- a. The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences established in accordance with this Convention;
- b. The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences established in accordance with this Convention. Nothing in this subparagraph shall prejudice the right of States Parties to have legislation that protects other categories of public official.

Article 26 Liability of legal persons

1. Each State Party shall adopt such measures as may be necessary, consistent with its legal principles, to establish the liability of legal persons for participation in the offences established in accordance with this Convention.
2. Subject to the legal principles of the State Party, the liability of legal persons may be criminal, civil or administrative.
3. Such liability shall be without prejudice to the criminal liability of the natural persons who have committed the offences.
4. Each State Party shall, in particular, ensure that legal persons held liable in accordance with this article are subject to effective, proportionate and dissuasive criminal or non-criminal sanctions, including monetary sanctions.

Article 27 Participation and attempt

1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, participation in any capacity such as an accomplice, assistant or instigator in an offence established in accordance with this Convention.
2. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, any attempt to commit an offence established in accordance with this Convention.
3. Each State Party may adopt such legislative and other measures as may be necessary to establish as a criminal offence, in accordance with its domestic law, the preparation for an offence established in accordance with this Convention.

Article 28 Knowledge, intent and purpose as elements of an offence

Knowledge, intent or purpose required as an element of an offence established in accordance with this Convention may be inferred from objective factual circumstances.

Article 29 Statute of limitations

Each State Party shall, where appropriate, establish under its domestic law a long statute of limitations period in which to commence proceedings for any offence established in accordance with this Convention and establish a longer statute of limitations period or provide for the suspension of the statute of limitations where the alleged offender has evaded the administration of justice.

Article 30 Prosecution, adjudication and sanctions

1. Each State Party shall make the commission of an offence established in accordance with this Convention liable to sanctions that take into account the gravity of that offence.
2. Each State Party shall take such measures as may be necessary to establish or maintain, in accordance with its legal system and constitutional principles, an appropriate balance between any immunities or jurisdictional privileges accorded to its public officials for the performance of their functions and the possibility, when necessary, of effectively investigating, prosecuting and adjudicating offences established in accordance with this Convention.
3. Each State Party shall endeavour to ensure that any discretionary legal powers under its domestic law relating to the prosecution of persons for offences established in accordance with this Convention are exercised to maximize the effectiveness of law enforcement measures in respect of those offences and with due regard to the need to deter the commission of such offences.
4. In the case of offences established in accordance with this Convention, each State Party shall take appropriate measures, in accordance with its domestic law and with due regard to the rights of the defence, to seek to ensure that conditions imposed in connection with decisions on release pending trial or appeal take into consideration the need to ensure the presence of the defendant at subsequent criminal proceedings.

5. Each State Party shall take into account the gravity of the offences concerned when considering the eventuality of early release or parole of persons convicted of such offences.
6. Each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures through which a public official accused of an offence established in accordance with this Convention may, where appropriate, be removed, suspended or reassigned by the appropriate authority, bearing in mind respect for the principle of the presumption of innocence.
7. Where warranted by the gravity of the offence, each State Party, to the extent consistent with the fundamental principles of its legal system, shall consider establishing procedures for the disqualification, by court order or any other appropriate means, for a period of time determined by its domestic law, of persons convicted of offences established in accordance with this Convention from:
 - a. Holding public office; and
 - b. Holding office in an enterprise owned in whole or in part by the State.
8. Paragraph 1 of this article shall be without prejudice to the exercise of disciplinary powers by the competent authorities against civil servants.
9. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic law of a State Party and that such offences shall be prosecuted and punished in accordance with that law.
10. States Parties shall endeavour to promote the reintegration into society of persons convicted of offences established in accordance with this Convention.

Article 31 Freezing, seizure and confiscation

1. Each State Party shall take, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:
 - a. Proceeds of crime derived from offences established in accordance with this Convention or property the value of which corresponds to that of such proceeds;
 - b. Property, equipment or other instrumentalities used in or destined for use in offences established in accordance with this Convention.
2. Each State Party shall take such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in paragraph 1 of this article for the purpose of eventual confiscation.
3. Each State Party shall adopt, in accordance with its domestic law, such legislative and other measures as may be necessary to regulate the administration by the competent authorities of frozen, seized or confiscated property covered in paragraphs 1 and 2 of this article.
4. If such proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this article instead of the proceeds.
5. If such proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.
6. Income or other benefits derived from such proceeds of crime, from property into which such proceeds of crime have been transformed or converted or from property with which such proceeds of crime have been intermingled shall also be liable to the measures referred to in this article, in the same manner and to the same extent as proceeds of crime.
7. For the purpose of this article and article 55 of this Convention, each State Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or seized. A State Party shall not decline to act under the provisions of this paragraph on the ground of bank secrecy.
8. States Parties may consider the possibility of requiring that an offender demonstrate the lawful origin of such alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the fundamental principles of their domestic law and with the nature of judicial and other proceedings.
9. The provisions of this article shall not be so construed as to prejudice the rights of bona fide third parties.
10. Nothing contained in this article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic law of a State Party.

Article 32 Protection of witnesses, experts and victims

1. Each State Party shall take appropriate measures in accordance with its domestic legal system and within its means to provide effective protection from potential retaliation or intimidation for witnesses and experts who give testimony concerning offences established in accordance with this Convention and, as appropriate, for their relatives and other persons close to them.
2. The measures envisaged in paragraph 1 of this article may include, inter alia, without prejudice to the rights of the defendant, including the right to due process:

- a. Establishing procedures for the physical protection of such persons, such as, to the extent necessary and feasible, relocating them and permitting, where appropriate, non-disclosure or limitations on the disclosure of information concerning the identity and whereabouts of such persons;
 - b. Providing evidentiary rules to permit witnesses and experts to give testimony in a manner that ensures the safety of such persons, such as permitting testimony to be given through the use of communications technology such as video or other adequate means.
3. States Parties shall consider entering into agreements or arrangements with other States for the relocation of persons referred to in paragraph 1 of this article.
 4. The provisions of this article shall also apply to victims insofar as they are witnesses.
 5. Each State Party shall, subject to its domestic law, enable the views and concerns of victims to be presented and considered at appropriate stages of criminal proceedings against offenders in a manner not prejudicial to the rights of the defence.

Article 33 Protection of reporting persons

Each State Party shall consider incorporating into its domestic legal system appropriate measures to provide protection against any unjustified treatment for any person who reports in good faith and on reasonable grounds to the competent authorities any facts concerning offences established in accordance with this Convention.

Article 34 Consequences of acts of corruption

With due regard to the rights of third parties acquired in good faith, each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to address consequences of corruption. In this context, States Parties may consider corruption a relevant factor in legal proceedings to annul or rescind a contract, withdraw a concession or other similar instrument or take any other remedial action.

Article 35 Compensation for damage

Each State Party shall take such measures as may be necessary, in accordance with principles of its domestic law, to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings against those responsible for that damage in order to obtain compensation.

Article 36 Specialized authorities

Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies or persons specialized in combating corruption through law enforcement. Such body or bodies or persons shall be granted the necessary independence, in accordance with the fundamental principles of the legal system of the State Party, to be able to carry out their functions effectively and without any undue influence. Such persons or staff of such body or bodies should have the appropriate training and resources to carry out their tasks.

Article 37 Cooperation with law enforcement authorities

1. Each State Party shall take appropriate measures to encourage persons who participate or who have participated in the commission of an offence established in accordance with this Convention to supply information useful to competent authorities for investigative and evidentiary purposes and to provide factual, specific help to competent authorities that may contribute to depriving offenders of the proceeds of crime and to recovering such proceeds.
2. Each State Party shall consider providing for the possibility, in appropriate cases, of mitigating punishment of an accused person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.
3. Each State Party shall consider providing for the possibility, in accordance with fundamental principles of its domestic law, of granting immunity from prosecution to a person who provides substantial cooperation in the investigation or prosecution of an offence established in accordance with this Convention.
4. Protection of such persons shall be, *mutatis mutandis*, as provided for in article 32 of this Convention.
5. Where a person referred to in paragraph 1 of this article located in one State Party can provide substantial cooperation to the competent authorities of another State Party, the States Parties concerned may consider entering into agreements or arrangements, in accordance with their domestic law, concerning the potential provision by the other State Party of the treatment set forth in paragraphs 2 and 3 of this article.

Article 38 Cooperation between national authorities

Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic law, cooperation between, on the one hand, its public authorities, as well as its public officials, and, on the other hand, its authorities responsible for investigating and prosecuting criminal offences. Such cooperation may include:

- a. Informing the latter authorities, on their own initiative, where there are reasonable grounds to believe that any of the offences established in accordance with articles 15, 21 and 23 of this Convention has been committed; or
- b. Providing, upon request, to the latter authorities all necessary information.

Article 39 Cooperation between national authorities and the private sector

1. Each State Party shall take such measures as may be necessary to encourage, in accordance with its domestic

law, cooperation between national investigating and prosecuting authorities and entities of the private sector, in particular financial institutions, relating to matters involving the commission of offences established in accordance with this Convention.

2. Each State Party shall consider encouraging its nationals and other persons with a habitual residence in its territory to report to the national investigating and prosecuting authorities the commission of an offence established in accordance with this Convention.

Article 40 Bank secrecy

Each State Party shall ensure that, in the case of domestic criminal investigations of offences established in accordance with this Convention, there are appropriate mechanisms available within its domestic legal system to overcome obstacles that may arise out of the application of bank secrecy laws.

Article 41 Criminal record

Each State Party may adopt such legislative or other measures as may be necessary to take into consideration, under such terms as and for the purpose that it deems appropriate, any previous conviction in another State of an alleged offender for the purpose of using such information in criminal proceedings relating to an offence established in accordance with this Convention.

Article 42 Jurisdiction

1. Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when:
 - a. The offence is committed in the territory of that State Party; or
 - b. The offence is committed on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time that the offence is committed.
2. Subject to article 4 of this Convention, a State Party may also establish its jurisdiction over any such offence when:
 - a. The offence is committed against a national of that State Party; or
 - b. The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory; or
 - c. The offence is one of those established in accordance with article 23, paragraph 1 (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with article 23, paragraph 1 (a) (i) or (ii) or (b) (i), of this Convention within its territory; or
 - d. The offence is committed against the State Party.
3. For the purposes of article 44 of this Convention, each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.
4. Each State Party may also take such measures as may be necessary to establish its jurisdiction over the offences established in accordance with this Convention when the alleged offender is present in its territory and it does not extradite him or her.
5. If a State Party exercising its jurisdiction under paragraph 1 or 2 of this article has been notified, or has otherwise learned, that any other States Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those States Parties shall, as appropriate, consult one another with a view to coordinating their actions.
6. Without prejudice to norms of general international law, this Convention shall not exclude the exercise of any criminal jurisdiction established by a State Party in accordance with its domestic law.

Chapter IV International cooperation

Article 43 International cooperation

1. States Parties shall cooperate in criminal matters in accordance with articles 44 to 50 of this Convention. Where appropriate and consistent with their domestic legal system, States Parties shall consider assisting each other in investigations of and proceedings in civil and administrative matters relating to corruption.
2. In matters of international cooperation, whenever dual criminality is considered a requirement, it shall be deemed fulfilled irrespective of whether the laws of the requested State Party place the offence within the same category of offence or denominate the offence by the same terminology as the requesting State Party, if the conduct underlying the offence for which assistance is sought is a criminal offence under the laws of both States Parties.

Article 44 Extradition

1. This article shall apply to the offences established in accordance with this Convention where the person who is the subject of the request for extradition is present in the territory of the requested State Party, provided that the offence for which extradition is sought is punishable under the domestic law of both the requesting State Party and the requested State Party.
2. Notwithstanding the provisions of paragraph 1 of this article, a State Party whose law so permits may grant the

extradition of a person for any of the offences covered by this Convention that are not punishable under its own domestic law.

3. If the request for extradition includes several separate offences, at least one of which is extraditable under this article and some of which are not extraditable by reason of their period of imprisonment but are related to offences established in accordance with this Convention, the requested State Party may apply this article also in respect of those offences.
4. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them. A State Party whose law so permits, in case it uses this Convention as the basis for extradition, shall not consider any of the offences established in accordance with this Convention to be a political offence.
5. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence to which this article applies.
6. A State Party that makes extradition conditional on the existence of a treaty shall:
 - a. At the time of deposit of its instrument of ratification, acceptance or approval of or accession to this Convention, inform the Secretary-General of the United Nations whether it will take this Convention as the legal basis for cooperation on extradition with other States Parties to this Convention; and
 - b. If it does not take this Convention as the legal basis for cooperation on extradition, seek, where appropriate, to conclude treaties on extradition with other States Parties to this Convention in order to implement this article.
7. States Parties that do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves.
8. Extradition shall be subject to the conditions provided for by the domestic law of the requested State Party or by applicable extradition treaties, including, *inter alia*, conditions in relation to the minimum penalty requirement for extradition and the grounds upon which the requested State Party may refuse extradition.
9. States Parties shall, subject to their domestic law, endeavour to expedite extradition procedures and to simplify evidentiary requirements relating thereto in respect of any offence to which this article applies.
10. Subject to the provisions of its domestic law and its extradition treaties, the requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.
11. A State Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence to which this article applies solely on the ground that he or she is one of its nationals, shall, at the request of the State Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic law of that State Party. The States Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.
12. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State Party to serve the sentence imposed as a result of the trial or proceedings for which the extradition or surrender of the person was sought and that State Party and the State Party seeking the extradition of the person agree with this option and other terms that they may deem appropriate, such conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 11 of this article.
13. If extradition, sought for purposes of enforcing a sentence, is refused because the person sought is a national of the requested State Party, the requested State Party shall, if its domestic law so permits and in conformity with the requirements of such law, upon application of the requesting State Party, consider the enforcement of the sentence imposed under the domestic law of the requesting State Party or the remainder thereof.
14. Any person regarding whom proceedings are being carried out in connection with any of the offences to which this article applies shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided by the domestic law of the State Party in the territory of which that person is present.
15. Nothing in this Convention shall be interpreted as imposing an obligation to extradite if the requested State Party has substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of that person's sex, race, religion, nationality, ethnic origin or political opinions or that compliance with the request would cause prejudice to that person's position for any one of these reasons.
16. States Parties may not refuse a request for extradition on the sole ground that the offence is also considered to involve fiscal matters.

17. Before refusing extradition, the requested State Party shall, where appropriate, consult with the requesting State Party to provide it with ample opportunity to present its opinions and to provide information relevant to its allegation.
18. States Parties shall seek to conclude bilateral and multilateral agreements or arrangements to carry out or to enhance the effectiveness of extradition.

Article 45 Transfer of sentenced persons

States Parties may consider entering into bilateral or multilateral agreements or arrangements on the transfer to their territory of persons sentenced to imprisonment or other forms of deprivation of liberty for offences established in accordance with this Convention in order that they may complete their sentences there.

Article 46 Mutual legal assistance

1. States Parties shall afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention.
2. Mutual legal assistance shall be afforded to the fullest extent possible under relevant laws, treaties, agreements and arrangements of the requested State Party with respect to investigations, prosecutions and judicial proceedings in relation to the offences for which a legal person may be held liable in accordance with article 26 of this Convention in the requesting State Party.
3. Mutual legal assistance to be afforded in accordance with this article may be requested for any of the following purposes:
 - a. Taking evidence or statements from persons;
 - b. Effecting service of judicial documents;
 - c. Executing searches and seizures, and freeing;
 - d. Examining objects and sites;
 - e. Providing information, evidentiary items and expert evaluations;
 - f. Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records;
 - g. Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
 - h. Facilitating the voluntary appearance of persons in the requesting State Party;
 - i. Any other type of assistance that is not contrary to the domestic law of the requested State Party;
 - j. Identifying, freezing and tracing proceeds of crime in accordance with the provisions of chapter V of this Convention;
 - k. The recovery of assets, in accordance with the provisions of chapter V of this Convention.
4. Without prejudice to domestic law, the competent authorities of a State Party may, without prior request, transmit information relating to criminal matters to a competent authority in another State Party where they believe that such information could assist the authority in undertaking or successfully concluding inquiries and criminal proceedings or could result in a request formulated by the latter State Party pursuant to this Convention.
5. The transmission of information pursuant to paragraph 4 of this article shall be without prejudice to inquiries and criminal proceedings in the State of the competent authorities providing the information. The competent authorities receiving the information shall comply with a request that said information remain confidential, even temporarily, or with restrictions on its use. However, this shall not prevent the receiving State Party from disclosing in its proceedings information that is exculpatory to an accused person. In such a case, the receiving State Party shall notify the transmitting State Party prior to the disclosure and, if so requested, consult with the transmitting State Party. If, in an exceptional case, advance notice is not possible, the receiving State Party shall inform the transmitting State Party of the disclosure without delay.
6. The provisions of this article shall not affect the obligations under any other treaty, bilateral or multilateral, that governs or will govern, in whole or in part, mutual legal assistance.
7. Paragraphs 9 to 29 of this article shall apply to requests made pursuant to this article if the States Parties in question are not bound by a treaty of mutual legal assistance. If those States Parties are bound by such a treaty, the corresponding provisions of that treaty shall apply unless the States Parties agree to apply paragraphs 9 to 29 of this article in lieu thereof. States Parties are strongly encouraged to apply those paragraphs if they facilitate cooperation.
8. States Parties shall not decline to render mutual legal assistance pursuant to this article on the ground of bank secrecy.
9.
 - a. A requested State Party, in responding to a request for assistance pursuant to this article in the absence of dual criminality, shall take into account the purposes of this Convention, as set forth in article 1;
 - b. States Parties may decline to render assistance pursuant to this article on the ground of absence of dual criminality. However, a requested State Party shall, where consistent with the basic concepts of its legal system, render assistance that does not involve coercive action. Such assistance may be refused when

requests involve matters of a de minimis nature or matters for which the cooperation or assistance sought is available under other provisions of this Convention;

- c. Each State Party may consider adopting such measures as may be necessary to enable it to provide a wider scope of assistance pursuant to this article in the absence of dual criminality.
10. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for investigations, prosecutions or judicial proceedings in relation to offences covered by this Convention may be transferred if the following conditions are met:
 - a. The person freely gives his or her informed consent;
 - b. The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.
11. For the purposes of paragraph 10 of this article:
 - a. The State Party to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State Party from which the person was transferred;
 - b. The State Party to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State Party from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States Parties;
 - c. The State Party to which the person is transferred shall not require the State Party from which the person was transferred to initiate extradition proceedings for the return of the person;
 - d. The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for time spent in the custody of the State Party to which he or she was transferred.
12. Unless the State Party from which a person is to be transferred in accordance with paragraphs 10 and 11 of this article so agrees, that person, whatever his or her nationality, shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts, omissions or convictions prior to his or her departure from the territory of the State from which he or she was transferred.
13. Each State Party shall designate a central authority that shall have the responsibility and power to receive requests for mutual legal assistance and either to execute them or to transmit them to the competent authorities for execution. Where a State Party has a special region or territory with a separate system of mutual legal assistance, it may designate a distinct central authority that shall have the same function for that region or territory. Central authorities shall ensure the speedy and proper execution or transmission of the requests received. Where the central authority transmits the request to a competent authority for execution, it shall encourage the speedy and proper execution of the request by the competent authority. The Secretary-General of the United Nations shall be notified of the central authority designated for this purpose at the time each State Party deposits its instrument of ratification, acceptance or approval of or accession to this Convention. Requests for mutual legal assistance and any communication related thereto shall be transmitted to the central authorities designated by the States Parties. This requirement shall be without prejudice to the right of a State Party to require that such requests and communications be addressed to it through diplomatic channels and, in urgent circumstances, where the States Parties agree, through the International Criminal Police Organization, if possible.
14. Requests shall be made in writing or, where possible, by any means capable of producing a written record, in a language acceptable to the requested State Party, under conditions allowing that State Party to establish authenticity. The Secretary-General of the United Nations shall be notified of the language or languages acceptable to each State Party at the time it deposits its instrument of ratification, acceptance or approval of or accession to this Convention. In urgent circumstances and where agreed by the States Parties, requests may be made orally but shall be confirmed in writing forthwith.
15. A request for mutual legal assistance shall contain:
 - a. The identity of the authority making the request;
 - b. The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding;
 - c. A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents;
 - d. A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed;
 - e. Where possible, the identity, location and nationality of any person concerned; and
 - f. The purpose for which the evidence, information or action is sought.
16. The requested State Party may request additional information when it appears necessary for the execution of the request in accordance with its domestic law or when it can facilitate such execution.

17. A request shall be executed in accordance with the domestic law of the requested State Party and, to the extent not contrary to the domestic law of the requested State Party and where possible, in accordance with the procedures specified in the request.
18. Wherever possible and consistent with fundamental principles of domestic law, when an individual is in the territory of a State Party and has to be heard as a witness or expert by the judicial authorities of another State Party, the first State Party may, at the request of the other, permit the hearing to take place by video conference if it is not possible or desirable for the individual in question to appear in person in the territory of the requesting State Party. States Parties may agree that the hearing shall be conducted by a judicial authority of the requesting State Party and attended by a judicial authority of the requested State Party.
19. The requesting State Party shall not transmit or use information or evidence furnished by the requested State Party for investigations, prosecutions or judicial proceedings other than those stated in the request without the prior consent of the requested State Party. Nothing in this paragraph shall prevent the requesting State Party from disclosing in its proceedings information or evidence that is exculpatory to an accused person. In the latter case, the requesting State Party shall notify the requested State Party prior to the disclosure and, if so requested, consult with the requested State Party. If, in an exceptional case, advance notice is not possible, the requesting State Party shall inform the requested State Party of the disclosure without delay.
20. The requesting State Party may require that the requested State Party keep confidential the fact and substance of the request, except to the extent necessary to execute the request. If the requested State Party cannot comply with the requirement of confidentiality, it shall promptly inform the requesting State Party.
21. Mutual legal assistance may be refused:
 - a. If the request is not made in conformity with the provisions of this article;
 - b. If the requested State Party considers that execution of the request is likely to prejudice its sovereignty, security, ordre public or other essential interests;
 - c. If the authorities of the requested State Party would be prohibited by its domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under their own jurisdiction;
 - d. If it would be contrary to the legal system of the requested State Party relating to mutual legal assistance for the request to be granted.
22. States Parties may not refuse a request for mutual legal assistance on the sole ground that the offence is also considered to involve fiscal matters.
23. Reasons shall be given for any refusal of mutual legal assistance.
24. The requested State Party shall execute the request for mutual legal assistance as soon as possible and shall take as full account as possible of any deadlines suggested by the requesting State Party and for which reasons are given, preferably in the request. The requesting State Party may make reasonable requests for information on the status and progress of measures taken by the requested State Party to satisfy its request. The requested State Party shall respond to reasonable requests by the requesting State Party on the status, and progress in its handling, of the request. The requesting State Party shall promptly inform the requested State Party when the assistance sought is no longer required.
25. Mutual legal assistance may be postponed by the requested State Party on the ground that it interferes with an ongoing investigation, prosecution or judicial proceeding.
26. Before refusing a request pursuant to paragraph 21 of this article or postponing its execution pursuant to paragraph 25 of this article, the requested State Party shall consult with the requesting State Party to consider whether assistance may be granted subject to such terms and conditions as it deems necessary. If the requesting State Party accepts assistance subject to those conditions, it shall comply with the conditions.
27. Without prejudice to the application of paragraph 12 of this article, a witness, expert or other person who, at the request of the requesting State Party, consents to give evidence in a proceeding or to assist in an investigation, prosecution or judicial proceeding in the territory of the requesting State Party shall not be prosecuted, detained, punished or subjected to any other restriction of his or her personal liberty in that territory in respect of acts, omissions or convictions prior to his or her departure from the territory of the requested State Party. Such safe conduct shall cease when the witness, expert or other person having had, for a period of fifteen consecutive days or for any period agreed upon by the States Parties from the date on which he or she has been officially informed that his or her presence is no longer required by the judicial authorities, an opportunity of leaving, has nevertheless remained voluntarily in the territory of the requesting State Party or, having left it, has returned of his or her own free will.
28. The ordinary costs of executing a request shall be borne by the requested State Party, unless otherwise agreed by the States Parties concerned. If expenses of a substantial or extraordinary nature are or will be required to fulfil the request, the States Parties shall consult to determine the terms and conditions under which the request will be executed, as well as the manner in which the costs shall be borne.
29. The requested State Party:
 - a. Shall provide to the requesting State Party copies of government records, documents or information in its

possession that under its domestic law are available to the general public;

- b. May, at its discretion, provide to the requesting State Party in whole, in part or subject to such conditions as it deems appropriate, copies of any government records, documents or information in its possession that under its domestic law are not available to the general public.

30. States Parties shall consider, as may be necessary, the possibility of concluding bilateral or multilateral agreements or arrangements that would serve the purposes of, give practical effect to or enhance the provisions of this article.

Article 47 Transfer of criminal proceedings

States Parties shall consider the possibility of transferring to one another proceedings for the prosecution of an offence established in accordance with this Convention in cases where such transfer is considered to be in the interests of the proper administration of justice, in particular in cases where several jurisdictions are involved, with a view to concentrating the prosecution.

Article 48 Law enforcement cooperation

1. States Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. States Parties shall, in particular, take effective measures:
 - a. To enhance and, where necessary, to establish channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the States Parties concerned deem it appropriate, links with other criminal activities;
 - b. To cooperate with other States Parties in conducting inquiries with respect to offences covered by this Convention concerning:
 - i. The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;
 - ii. The movement of proceeds of crime or property derived from the commission of such offences;
 - iii. The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;
 - c. To provide, where appropriate, necessary items or quantities of substances for analytical or investigative purposes;
 - d. To exchange, where appropriate, information with other States Parties concerning specific means and methods used to commit offences covered by this Convention, including the use of false identities, forged, altered or false documents and other means of concealing activities;
 - e. To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the States Parties concerned, the posting of liaison officers;
 - f. To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.
2. With a view to giving effect to this Convention, States Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the States Parties concerned, the States Parties may consider this Convention to be the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, States Parties shall make full use of agreements or arrangements, including international or regional organizations, to enhance the cooperation between their law enforcement agencies.
3. States Parties shall endeavour to cooperate within their means to respond to offences covered by this Convention committed through the use of modern technology.

Article 49 Joint investigations

States Parties shall consider concluding bilateral or multilateral agreements or arrangements whereby, in relation to matters that are the subject of investigations, prosecutions or judicial proceedings in one or more States, the competent authorities concerned may establish joint investigative bodies. In the absence of such agreements or arrangements, joint investigations may be undertaken by agreement on a case-by-case basis. The States Parties involved shall ensure that the sovereignty of the State Party in whose territory such investigation is to take place is fully respected.

Article 50 Special investigative techniques

1. In order to combat corruption effectively, each State Party shall, to the extent permitted by the basic principles of its domestic legal system and in accordance with the conditions prescribed by its domestic law, take such measures as may be necessary, within its means, to allow for the appropriate use by its competent authorities of controlled delivery and, where it deems appropriate, other special investigative techniques, such as electronic or other forms of surveillance and undercover operations, within its territory, and to allow for the admissibility in court of evidence derived therefrom.

2. For the purpose of investigating the offences covered by this Convention, States Parties are encouraged to conclude, when necessary, appropriate bilateral or multilateral agreements or arrangements for using such special investigative techniques in the context of cooperation at the international level. Such agreements or arrangements shall be concluded and implemented in full compliance with the principle of sovereign equality of States and shall be carried out strictly in accordance with the terms of those agreements or arrangements.
3. In the absence of an agreement or arrangement as set forth in paragraph 2 of this article, decisions to use such special investigative techniques at the international level shall be made on a case-by-case basis and may, when necessary, take into consideration financial arrangements and understandings with respect to the exercise of jurisdiction by the States Parties concerned.
4. Decisions to use controlled delivery at the international level may, with the consent of the States Parties concerned, include methods such as intercepting and allowing the goods or funds to continue intact or be removed or replaced in whole or in part.

Chapter V Asset recovery

Article 51 General provision

The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

Article 52 Prevention and detection of transfers of proceeds of crime

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.
2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:
 - a. Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and
 - b. Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.
3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.
4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.
5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.
6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

Article 53 Measures for direct recovery of property

Each State Party shall, in accordance with its domestic law:

- a. Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to

establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

- b. Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and
- c. Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

Article 54 Mechanisms for recovery of property through international cooperation in confiscation

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:
 - a. Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;
 - b. Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and
 - c. Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.
2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:
 - a. Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;
 - b. Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and
 - c. Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

Article 55 International cooperation for purposes of confiscation

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:
 - a. Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or
 - b. Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.
2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.
3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:
 - a. In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;

- b. In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;
 - c. In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.
4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.
 5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.
 6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.
 7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a de minimis value.
 8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.
 9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

Article 56 Special cooperation

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

Article 57 Return and disposal of assets

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.
2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.
3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:
 - a. In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;
 - b. In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;
 - c. In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.
4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.
5. Where appropriate, States Parties may also give special consideration to concluding agreements or mutually acceptable arrangements, on a case-by-case basis, for the final disposal of confiscated property.

Article 58 Financial intelligence unit

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

Article 59 Bilateral and multilateral agreements and arrangements

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

Chapter VI Technical assistance and information exchange**Article 60 Training and technical assistance**

1. Each State Party shall, to the extent necessary, initiate, develop or improve specific training programmes for its personnel responsible for preventing and combating corruption. Such training programmes could deal, inter alia, with the following areas:
 - a. Effective measures to prevent, detect, investigate, punish and control corruption, including the use of evidence-gathering and investigative methods;
 - b. Building capacity in the development and planning of strategic anticorruption policy;
 - c. Training competent authorities in the preparation of requests for mutual legal assistance that meet the requirements of this Convention;
 - d. Evaluation and strengthening of institutions, public service management and the management of public finances, including public procurement, and the private sector;
 - e. Preventing and combating the transfer of proceeds of offences established in accordance with this Convention and recovering such proceeds;
 - f. Detecting and freezing of the transfer of proceeds of offences established in accordance with this Convention;
 - g. Surveillance of the movement of proceeds of offences established in accordance with this Convention and of the methods used to transfer, conceal or disguise such proceeds;
 - h. Appropriate and efficient legal and administrative mechanisms and methods for facilitating the return of proceeds of offences established in accordance with this Convention;
 - i. Methods used in protecting victims and witnesses who cooperate with judicial authorities; and
 - j. Training in national and international regulations and in languages.
2. States Parties shall, according to their capacity, consider affording one another the widest measure of technical assistance, especially for the benefit of developing countries, in their respective plans and programmes to combat corruption, including material support and training in the areas referred to in paragraph 1 of this article, and training and assistance and the mutual exchange of relevant experience and specialized knowledge, which will facilitate international cooperation between States Parties in the areas of extradition and mutual legal assistance.
3. States Parties shall strengthen, to the extent necessary, efforts to maximize operational and training activities in international and regional organizations and in the framework of relevant bilateral and multilateral agreements or arrangements.
4. States Parties shall consider assisting one another, upon request, in conducting evaluations, studies and research relating to the types, causes, effects and costs of corruption in their respective countries, with a view to developing, with the participation of competent authorities and society, strategies and action plans to combat corruption.
5. In order to facilitate the recovery of proceeds of offences established in accordance with this Convention, States Parties may cooperate in providing each other with the names of experts who could assist in achieving that objective.
6. States Parties shall consider using subregional, regional and international conferences and seminars to promote cooperation and technical assistance and to stimulate discussion on problems of mutual concern, including the special problems and needs of developing countries and countries with economies in transition.
7. States Parties shall consider establishing voluntary mechanisms with a view to contributing financially to the efforts of developing countries and countries with economies in transition to apply this Convention through technical assistance programmes and projects.
8. Each State Party shall consider making voluntary contributions to the United Nations Office on Drugs and Crime for the purpose of fostering, through the Office, programmes and projects in developing countries with a view to implementing this Convention.

Article 61 Collection, exchange and analysis of information on corruption

1. Each State Party shall consider analysing, in consultation with experts, trends in corruption in its territory, as well as the circumstances in which corruption offences are committed.
2. States Parties shall consider developing and sharing with each other and through international and regional organizations statistics, analytical expertise concerning corruption and information with a view to developing, insofar as possible, common definitions, standards and methodologies, as well as information on best practices to prevent and combat corruption.
3. Each State Party shall consider monitoring its policies and actual measures to combat corruption and making assessments of their effectiveness and efficiency.

Article 62 Other measures: implementation of the Convention through economic development and technical assistance

1. States Parties shall take measures conducive to the optimal implementation of this Convention to the extent possible, through international cooperation, taking into account the negative effects of corruption on society in general, in particular on sustainable development.
2. States Parties shall make concrete efforts to the extent possible and in coordination with each other, as well as with international and regional organizations:
 - a. To enhance their cooperation at various levels with developing countries, with a view to strengthening the capacity of the latter to prevent and combat corruption;
 - b. To enhance financial and material assistance to support the efforts of developing countries to prevent and fight corruption effectively and to help them implement this Convention successfully;
 - c. To provide technical assistance to developing countries and countries with economies in transition to assist them in meeting their needs for the implementation of this Convention. To that end, States Parties shall endeavour to make adequate and regular voluntary contributions to an account specifically designated for that purpose in a United Nations funding mechanism. States Parties may also give special consideration, in accordance with their domestic law and the provisions of this Convention, to contributing to that account a percentage of the money or of the corresponding value of proceeds of crime or property confiscated in accordance with the provisions of this Convention;
 - d. To encourage and persuade other States and financial institutions as appropriate to join them in efforts in accordance with this article, in particular by providing more training programmes and modern equipment to developing countries in order to assist them in achieving the objectives of this Convention.
3. To the extent possible, these measures shall be without prejudice to existing foreign assistance commitments or to other financial cooperation arrangements at the bilateral, regional or international level.
4. States Parties may conclude bilateral or multilateral agreements or arrangements on material and logistical assistance, taking into consideration the financial arrangements necessary for the means of international cooperation provided for by this Convention to be effective and for the prevention, detection and control of corruption.

Chapter VII Mechanisms for implementation

Article 63 Conference of the States Parties to the Convention

1. A Conference of the States Parties to the Convention is hereby established to improve the capacity of and cooperation between States Parties to achieve the objectives set forth in this Convention and to promote and review its implementation.
2. The Secretary-General of the United Nations shall convene the Conference of the States Parties not later than one year following the entry into force of this Convention. Thereafter, regular meetings of the Conference of the States Parties shall be held in accordance with the rules of procedure adopted by the Conference.
3. The Conference of the States Parties shall adopt rules of procedure and rules governing the functioning of the activities set forth in this article, including rules concerning the admission and participation of observers, and the payment of expenses incurred in carrying out those activities.
4. The Conference of the States Parties shall agree upon activities, procedures and methods of work to achieve the objectives set forth in paragraph 1 of this article, including:
 - a. Facilitating activities by States Parties under articles 60 and 62 and chapters II to V of this Convention, including by encouraging the mobilization of voluntary contributions;
 - b. Facilitating the exchange of information among States Parties on patterns and trends in corruption and on successful practices for preventing and combating it and for the return of proceeds of crime, through, inter alia, the publication of relevant information as mentioned in this article;
 - c. Cooperating with relevant international and regional organizations and mechanisms and non-governmental organizations;
 - d. Making appropriate use of relevant information produced by other international and regional mechanisms for combating and preventing corruption in order to avoid unnecessary duplication of work;
 - e. Reviewing periodically the implementation of this Convention by its States Parties;
 - f. Making recommendations to improve this Convention and its implementation;
 - g. Taking note of the technical assistance requirements of States Parties with regard to the implementation of this Convention and recommending any action it may deem necessary in that respect.
5. For the purpose of paragraph 4 of this article, the Conference of the States Parties shall acquire the necessary knowledge of the measures taken by States Parties in implementing this Convention and the difficulties encountered by them in doing so through information provided by them and through such supplemental review mechanisms as may be established by the Conference of the States Parties.
6. Each State Party shall provide the Conference of the States Parties with information on its programmes, plans

and practices, as well as on legislative and administrative measures to implement this Convention, as required by the Conference of the States Parties. The Conference of the States Parties shall examine the most effective way of receiving and acting upon information, including, inter alia, information received from States Parties and from competent international organizations. Inputs received from relevant non-governmental organizations duly accredited in accordance with procedures to be decided upon by the Conference of the States Parties may also be considered.

7. Pursuant to paragraphs 4 to 6 of this article, the Conference of the States Parties shall establish, if it deems it necessary, any appropriate mechanism or body to assist in the effective implementation of the Convention.

Article 64 Secretariat

1. The Secretary-General of the United Nations shall provide the necessary secretariat services to the Conference of the States Parties to the Convention.
2. The secretariat shall:
 - a. Assist the Conference of the States Parties in carrying out the activities set forth in article 63 of this Convention and make arrangements and provide the necessary services for the sessions of the Conference of the States Parties;
 - b. Upon request, assist States Parties in providing information to the Conference of the States Parties as envisaged in article 63, paragraphs 5 and 6, of this Convention; and
 - c. Ensure the necessary coordination with the secretariats of relevant international and regional organizations.

Chapter VIII Final provisions

Article 65 Implementation of the Convention

1. Each State Party shall take the necessary measures, including legislative and administrative measures, in accordance with fundamental principles of its domestic law, to ensure the implementation of its obligations under this Convention.
2. Each State Party may adopt more strict or severe measures than those provided for by this Convention for preventing and combating corruption.

Article 66 Settlement of disputes

1. States Parties shall endeavour to settle disputes concerning the interpretation or application of this Convention through negotiation.
2. Any dispute between two or more States Parties concerning the interpretation or application of this Convention that cannot be settled through negotiation within a reasonable time shall, at the request of one of those States Parties, be submitted to arbitration. If, six months after the date of the request for arbitration, those States Parties are unable to agree on the organization of the arbitration, any one of those States Parties may refer the dispute to the International Court of Justice by request in accordance with the Statute of the Court.
3. Each State Party may, at the time of signature, ratification, acceptance or approval of or accession to this Convention, declare that it does not consider itself bound by paragraph 2 of this article. The other States Parties shall not be bound by paragraph 2 of this article with respect to any State Party that has made such a reservation.
4. Any State Party that has made a reservation in accordance with paragraph 3 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 67 Signature, ratification, acceptance, approval and accession

1. This Convention shall be open to all States for signature from 9 to 11 December 2003 in Merida, Mexico, and thereafter at United Nations Headquarters in New York until 9 December 2005.
2. This Convention shall also be open for signature by regional economic integration organizations provided that at least one member State of such organization has signed this Convention in accordance with paragraph 1 of this article.
3. This Convention is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations. A regional economic integration organization may deposit its instrument of ratification, acceptance or approval if at least one of its member States has done likewise. In that instrument of ratification, acceptance or approval, such organization shall declare the extent of its competence with respect to the matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.
4. This Convention is open for accession by any State or any regional economic integration organization of which at least one member State is a Party to this Convention. Instruments of accession shall be deposited with the Secretary-General of the United Nations. At the time of its accession, a regional economic integration organization shall declare the extent of its competence with respect to matters governed by this Convention. Such organization shall also inform the depositary of any relevant modification in the extent of its competence.

Article 68 Entry into force

1. This Convention shall enter into force on the ninetieth day after the date of deposit of the thirtieth instrument of ratification, acceptance, approval or accession. For the purpose of this paragraph, any instrument deposited

by a regional economic integration organization shall not be counted as additional to those deposited by member States of such organization.

2. For each State or regional economic integration organization ratifying, accepting, approving or acceding to this Convention after the deposit of the thirtieth instrument of such action, this Convention shall enter into force on the thirtieth day after the date of deposit by such State or organization of the relevant instrument or on the date this Convention enters into force pursuant to paragraph 1 of this article, whichever is later.

Article 69 Amendment

1. After the expiry of five years from the entry into force of this Convention, a State Party may propose an amendment and transmit it to the Secretary-General of the United Nations, who shall thereupon communicate the proposed amendment to the States Parties and to the Conference of the States Parties to the Convention for the purpose of considering and deciding on the proposal. The Conference of the States Parties shall make every effort to achieve consensus on each amendment. If all efforts at consensus have been exhausted and no agreement has been reached, the amendment shall, as a last resort, require for its adoption a two-thirds majority vote of the States Parties present and voting at the meeting of the Conference of the States Parties.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote under this article with a number of votes equal to the number of their member States that are Parties to this Convention. Such organizations shall not exercise their right to vote if their member States exercise theirs and vice versa.
3. An amendment adopted in accordance with paragraph 1 of this article is subject to ratification, acceptance or approval by States Parties.
4. An amendment adopted in accordance with paragraph 1 of this article shall enter into force in respect of a State Party ninety days after the date of the deposit with the Secretary-General of the United Nations of an instrument of ratification, acceptance or approval of such amendment.
5. When an amendment enters into force, it shall be binding on those States Parties which have expressed their consent to be bound by it. Other States Parties shall still be bound by the provisions of this Convention and any earlier amendments that they have ratified, accepted or approved.

Article 70 Denunciation

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Such denunciation shall become effective one year after the date of receipt of the notification by the Secretary-General.
2. A regional economic integration organization shall cease to be a Party to this Convention when all of its member States have denounced it.

Article 71 Depositary and languages

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

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

United Nations (UN), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984, New York, USA)

Adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984 entry into force 26 June 1987, in accordance with article 27 (1)

The States Parties to this Convention,

CONSIDERING that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

RECOGNIZING that those rights derive from the inherent dignity of the human person,

CONSIDERING the obligation of States under the Charter, in particular Article 55, to promote universal respect for, and observance of, human rights and fundamental freedoms,

HAVING REGARD to article 5 of the Universal Declaration of Human Rights and article 7 of the International Covenant on Civil and Political Rights, both of which provide that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment,

HAVING REGARD also to the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly on 9 December 1975,

DESIRING to make more effective the struggle against torture and other cruel, inhuman or degrading treatment or punishment throughout the world,

Have agreed as follows:

PART I

Article 1

1. For the purposes of this Convention, the term “torture” means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.
2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.
3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3

1. No State Party shall expel, return (“refouler”) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture.
2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:
 - a. When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;
 - b. When the alleged offender is a national of that State;
 - c. When the victim is a national of that State if that State considers it appropriate.
2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.
3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.
2. Such State shall immediately make a preliminary inquiry into the facts.
3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.
4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 7

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.
2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.
3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

Article 8

1. The offences referred to in article 4 shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of such offences. Extradition shall be subject to the other conditions provided by the law of the requested State.
3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 5, paragraph 1.

Article 9

1. States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of any of the offences referred to in article 4, including the supply of all evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of this article in conformity with any treaties on mutual judicial assistance that may exist between them.

Article 10

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and

other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

Article 11

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

Article 12

Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction.

Article 13

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

Article 14

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.
2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

Article 15

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

Article 16

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.
2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

PART II

Article 17

1. There shall be established a Committee against Torture (hereinafter referred to as the Committee) which shall carry out the functions hereinafter provided. The Committee shall consist of ten experts of high moral standing and recognized competence in the field of human rights, who shall serve in their personal capacity. The experts shall be elected by the States Parties, consideration being given to equitable geographical distribution and to the usefulness of the participation of some persons having legal experience.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals. States Parties shall bear in mind the usefulness of nominating persons who are also members of the Human Rights Committee established under the International Covenant on Civil and Political Rights and who are willing to serve on the Committee against Torture.
3. Elections of the members of the Committee shall be held at biennial meetings of States Parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
4. The initial election shall be held no later than six months after the date of the entry into force of this Convention. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within three months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

5. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these five members shall be chosen by lot by the chairman of the meeting referred to in paragraph 3 of this article.
6. If a member of the Committee dies or resigns or for any other cause can no longer perform his Committee duties, the State Party which nominated him shall appoint another expert from among its nationals to serve for the remainder of his term, subject to the approval of the majority of the States Parties. The approval shall be considered given unless half or more of the States Parties respond negatively within six weeks after having been informed by the Secretary-General of the United Nations of the proposed appointment.
7. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 18

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:
 - a. Six members shall constitute a quorum;
 - b. Decisions of the Committee shall be made by a majority vote of the members present.
3. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under this Convention.
4. The Secretary-General of the United Nations shall convene the initial meeting of the Committee. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
5. The States Parties shall be responsible for expenses incurred in connection with the holding of meetings of the States Parties and of the Committee, including reimbursement to the United Nations for any expenses, such as the cost of staff and facilities, incurred by the United Nations pursuant to paragraph 3 of this article.

Article 19

1. The States Parties shall submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have taken to give effect to their undertakings under this Convention, within one year after the entry into force of the Convention for the State Party concerned. Thereafter the States Parties shall submit supplementary reports every four years on any new measures taken and such other reports as the Committee may request.
2. The Secretary-General of the United Nations shall transmit the reports to all States Parties.
3. Each report shall be considered by the Committee which may make such general comments on the report as it may consider appropriate and shall forward these to the State Party concerned. That State Party may respond with any observations it chooses to the Committee.
4. The Committee may, at its discretion, decide to include any comments made by it in accordance with paragraph 3 of this article, together with the observations thereon received from the State Party concerned, in its annual report made in accordance with article 24. If so requested by the State Party concerned, the Committee may also include a copy of the report submitted under paragraph 1 of this article.

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.
2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.
3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.
4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.
5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered

according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure;

- a. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;
- b. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
- c. The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;
- d. The Committee shall hold closed meetings when examining communications under this article;
- e. Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;
- f. In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
- g. The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
- h. The Committee shall, within twelve months after the date of receipt of notice under subparagraph b), submit a report:
 - i. If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
 - ii. If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.
2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 22

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim to be victims of a violation by a State Party of the provisions of the Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. The Committee shall consider inadmissible any communication under this article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of this Convention.
3. Subject to the provisions of paragraph 2, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to this Convention which has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
4. The Committee shall consider communications received under this article in the light of all information made available to it by or on behalf of the individual and by the State Party concerned.
5. The Committee shall not consider any communications from an individual under this article unless it has

ascertained that:

- a. The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
 - b. The individual has exhausted all available domestic remedies; this shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention.
6. The Committee shall hold closed meetings when examining communications under this article.
 7. The Committee shall forward its views to the State Party concerned and to the individual.
 8. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by or on behalf of an individual shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 23

The members of the Committee and of the ad hoc conciliation commissions which may be appointed under article 21, paragraph 1 (e), shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 24

The Committee shall submit an annual report on its activities under this Convention to the States Parties and to the General Assembly of the United Nations.

PART III

Article 25

1. This Convention is open for signature by all States.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 26

This Convention is open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.

Article 27

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not recognize the competence of the Committee provided for in article 20.
2. Any State Party having made a reservation in accordance with paragraph 1 of this article may, at any time, withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 29

1. Any State Party to this Convention may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary General shall thereupon communicate the proposed amendment to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted by the Secretary-General to all the States Parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of this article shall enter into force when two thirds of the States Parties to this Convention have notified the Secretary-General of the United Nations that they have accepted it in accordance with their respective constitutional processes.
3. When amendments enter into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of this Convention and any earlier amendments which they have accepted.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.
3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Article 31

1. A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under this Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
3. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 32

The Secretary-General of the United Nations shall inform all States Members of the United Nations and all States which have signed this Convention or acceded to it of the following:

- a. Signatures, ratifications and accessions under articles 25 and 26;
- b. The date of entry into force of this Convention under article 27 and the date of the entry into force of any amendments under article 29;
- c. Denunciations under article 31.

Article 33

1. This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States.

United Nations (UN), Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949, New York, USA)

*Approved by General Assembly resolution 317 (IV) of 2 December 1949
Entry into force: 25 July 1951, in accordance with article 24*

Preamble

Whereas prostitution and the accompanying evil of the traffic in persons for the purpose of prostitution are incompatible with the dignity and worth of the human person and endanger the welfare of the individual, the family and the community,

Whereas, with respect to the suppression of the traffic in women and children, the following international instruments are in force:

1. International Agreement of 18 May 1904 for the Suppression of the White Slave Traffic, as amended by the Protocol approved by the General Assembly of the United Nations on 3 December 1948,
2. International Convention of 4 May 1910 for the Suppression of the White Slave Traffic, as amended by the above-mentioned Protocol,
3. International Convention of 30 September 1921 for the Suppression of the Traffic in Women and Children, as amended by the Protocol approved by the General Assembly of the United Nations on 20 October 1947,
4. International Convention of 11 October 1933 for the Suppression of the Traffic in Women of Full Age, as amended by the aforesaid Protocol,

Whereas the League of Nations in 1937 prepared a draft Convention extending the scope of the abovementioned instruments, and

Whereas developments since 1937 make feasible the conclusion of a convention consolidating the above-mentioned instruments and embodying the substance of the 1937 draft Convention as well as desirable alterations therein:

Now therefore

The Contracting parties

Hereby agree as hereinafter provided :

Article 1

The Parties to the present Convention agree to punish any person who, to gratify the passions of another:

1. Procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person;
2. Exploits the prostitution of another person, even with the consent of that person.

Article 2

The Parties to the present Convention further agree to punish any person who:

1. Keeps or manages, or knowingly finances or takes part in the financing of a brothel;
2. Knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.

Article 3

To the extent permitted by domestic law, attempts to commit any of the offences referred to in articles 1 and 2, and acts preparatory to the commission thereof, shall also be punished.

Article 4

To the extent permitted by domestic law, intentional participation in the acts referred to in articles 1 and 2 above shall also be punishable.

To the extent permitted by domestic law, acts of participation shall be treated as separate offences whenever this is necessary to prevent impunity.

Article 5

In cases where injured persons are entitled under domestic law to be parties to proceedings in respect of any of the offences referred to in the present Convention, aliens shall be so entitled upon the same terms as nationals.

Article 6

Each Party to the present Convention agrees to take all the necessary measures to repeal or abolish any existing law,

regulation or administrative provision by virtue of which persons who engage in or are suspected of engaging in prostitution are subject either to special registration or to the possession of a special document or to any exceptional requirements for supervision or notification.

Article 7

Previous convictions pronounced in foreign States for offences referred to in the present Convention shall, to the extent permitted by domestic law, be taken into account for the purposes of:

1. Establishing recidivism;
2. Disqualifying the offender from the exercise of civil rights.

Article 8

The offences referred to in articles 1 and 2 of the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereafter be concluded between any of the Parties to this Convention.

The Parties to the present Convention which do not make extradition conditional on the existence of a treaty shall henceforward recognize the offences referred to in articles 1 and 2 of the present Convention as cases for extradition between themselves.

Extradition shall be granted in accordance with the law of the State to which the request is made.

Article 9

In States where the extradition of nationals is not permitted by law, nationals who have returned to their own State after the commission abroad of any of the offences referred to in articles 1 and 2 of the present Convention shall be prosecuted in and punished by the courts of their own State. This provision shall not apply if, in a similar case between the Parties to the present Convention, the extradition of an alien cannot be granted.

Article 10

The provisions of article 9 shall not apply when the person charged with the offence has been tried in a foreign State and, if convicted, has served his sentence or had it remitted or reduced in conformity with the laws of that foreign State.

Article 11

Nothing in the present Convention shall be interpreted as determining the attitude of a Party towards the general question of the limits of criminal jurisdiction under international law.

Article 12

The present Convention does not affect the principle that the offences to which it refers shall in each State be defined, prosecuted and punished in conformity with its domestic law.

Article 13

The Parties to the present Convention shall be bound to execute letters of request relating to offences referred to in the Convention in accordance with their domestic law and practice.

The transmission of letters of request shall be effected:

1. By direct communication between the judicial authorities; or
2. By direct communication between the Ministers of Justice of the two States, or by direct communication from another competent authority of the State making the request to the Minister of Justice of the State to which the request is made; or
3. Through the diplomatic or consular representative of the State making the request in the State to which the request is made; this representative shall send the letters of request direct to the competent judicial authority or to the authority indicated by the Government of the State to which the request is made, and shall receive direct from such authority the papers constituting the execution of the letters of request.

In cases 1 and 3 a copy of the letters of request shall always be sent to the superior authority of the State to which application is made.

Unless otherwise agreed, the letters of request shall be drawn up in the language of the authority making the request, provided always that the State to which the request is made may require a translation in its own language, certified correct by the authority making the request.

Each Party to the present Convention shall notify to each of the other Parties to the Convention the method or methods of transmission mentioned above which it will recognize for the letters of request of the latter State.

Until such notification is made by a State, its existing procedure in regard to letters of request shall remain in force.

Execution of letters of request shall not give rise to a claim for reimbursement of charges or expenses of any nature whatever other than expenses of experts.

Nothing in the present article shall be construed as an undertaking on the part of the Parties to the present Convention to adopt in criminal matters any form or methods of proof contrary to their own domestic laws.

Article 14

Each Party to the present Convention shall establish or maintain a service charged with the coordination and centralization of the results of the investigation of offences referred to in the present Convention.

Such services should compile all information calculated to facilitate the prevention and punishment of the offences referred to in the present Convention and should be in close contact with the corresponding services in other States.

Article 15

To the extent permitted by domestic law and to the extent to which the authorities responsible for the services referred to in article 14 may judge desirable, they shall furnish to the authorities responsible for the corresponding services in other States the following information:

1. Particulars of any offence referred to in the present Convention or any attempt to commit such offence;
2. Particulars of any search for any prosecution, arrest, conviction, refusal of admission or expulsion of persons guilty of any of the offences referred to in the present Convention, the movements of such persons and any other useful information with regard to them.

The information so furnished shall include descriptions of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.

Article 16

The Parties to the present Convention agree to take or to encourage, through their public and private educational, health, social, economic and other related services, measures for the prevention of prostitution and for the rehabilitation and social adjustment of the victims of prostitution and of the offences referred to in the present Convention.

Article 17

The Parties to the present Convention undertake, in connection with immigration and emigration, to adopt or maintain such measures as are required, in terms of their obligations under the present Convention, to check the traffic in persons of either sex for the purpose of prostitution.

In particular they undertake:

1. To make such regulations as are necessary for the protection of immigrants or emigrants, and in particular, women and children, both at the place of arrival and departure and while en route;
2. To arrange for appropriate publicity warning the public of the dangers of the aforesaid traffic;
3. To take appropriate measures to ensure supervision of railway stations, airports, seaports and en route, and of other public places, in order to prevent international traffic in persons for the purpose of prostitution;
4. To take appropriate measures in order that the appropriate authorities be informed of the arrival of persons who appear, *prima facie*, to be the principals and accomplices in or victims of such traffic.

Article 18

The Parties to the present Convention undertake, in accordance with the conditions laid down by domestic law, to have declarations taken from aliens who are prostitutes, in order to establish their identity and civil status and to discover who has caused them to leave their State. The information obtained shall be communicated to the authorities of the State of origin of the said persons with a view to their eventual repatriation.

Article 19

The Parties to the present Convention undertake, in accordance with the conditions laid down by domestic law and without prejudice to prosecution or other action for violations thereunder and so far as possible:

1. Pending the completion of arrangements for the repatriation of destitute victims of international traffic in persons for the purpose of prostitution, to make suitable provisions for their temporary care and maintenance;
2. To repatriate persons referred to in article 18 who desire to be repatriated or who may be claimed by persons exercising authority over them or whose expulsion is ordered in conformity with the law. Repatriation shall take place only after agreement is reached with the State of destination as to identity and nationality as well as to the place and date of arrival at frontiers. Each Party to the present Convention shall facilitate the passage of such persons through its territory.

Where the persons referred to in the preceding paragraph cannot themselves repay the cost of repatriation and have neither spouse, relatives nor guardian to pay for them, the cost of repatriation as far as the nearest frontier or port of embarkation or airport in the direction of the State of origin shall be borne by the State where they are in residence, and the cost of the remainder of the journey shall be borne by the State of origin.

Article 20

The Parties to the present Convention shall, if they have not already done so, take the necessary measures for the supervision of employment agencies in order to prevent persons seeking employment, in particular women and children, from being exposed to the danger of prostitution.

Article 21

The Parties to the present Convention shall communicate to the Secretary-General of the United Nations such laws and regulations as have already been promulgated in their States, and thereafter annually such laws and regulations as may be promulgated, relating to the subjects of the present Convention, as well as all measures taken by them concerning the application of the Convention. The information received shall be published periodically by the Secretary-General and sent to all Members of the United Nations and to non-member States to which the present

Convention is officially communicated in accordance with article 23.

Article 22

If any dispute shall arise between the Parties to the present Convention relating to its interpretation or application and if such dispute cannot be settled by other means, the dispute shall, at the request of any one of the Parties to the dispute, be referred to the International Court of Justice.

Article 23

The present Convention shall be open for signature on behalf of any Member of the United Nations and also on behalf of any other State to which an invitation has been addressed by the Economic and Social Council. The present Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations. The States mentioned in the first paragraph which have not signed the Convention may accede to it. Accession shall be effected by deposit of an instrument of accession with the Secretary-General of the United Nations. For the purposes of the present Convention the word "State" shall include all the colonies and Trust Territories of a State signatory or acceding to the Convention and all territories for which such State is internationally responsible.

Article 24

The present Convention shall come into force on the ninetieth day following the date of deposit of the second instrument of ratification or accession.

For each State ratifying or acceding to the Convention after the deposit of the second instrument of ratification or accession, the Convention shall enter into force ninety days after the deposit by such State of its instrument of ratification or accession.

Article 25

After the expiration of five years from the entry into force of the present Convention, any Party to the Convention may denounce it by a written notification addressed to the Secretary-General of the United Nations.

Such denunciation shall take effect for the Party making it one year from the date upon which it is received by the Secretary-General of the United Nations.

Article 26

The Secretary-General of the United Nations shall inform all Members of the United Nations and nonmember States referred to in article 23:

- a. Of signatures, ratifications and accessions received in accordance with article 23;
- b. Of the date on which the present Convention will come into force in accordance with article 24;
- c. Of denunciations received in accordance with article 25.

Article 27

Each Party to the present Convention undertakes to adopt, in accordance with its Constitution, the legislative or other measures necessary to ensure the application of the Convention.

Article 28

The provisions of the present Convention shall supersede in the relations between the Parties thereto the provisions of the international instruments referred to in subparagraphs 1, 2, 3 and 4 of the second paragraph of the Preamble, each of which shall be deemed to be terminated when all the Parties thereto shall have become Parties to the present Convention.

Final protocol

Nothing in the present Convention shall be deemed to prejudice any legislation which ensures, for the enforcement of the provisions for securing the suppression of the traffic in persons and of the exploitation of others for purposes of prostitution, stricter conditions than those provided by the present Convention.

The provisions of articles 23 to 26 inclusive of the Convention shall apply to the present Protocol.

United Nations (UN), Convention on the Elimination of All Forms of Discrimination against Women (1979, New York, USA)

Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979

entry into force 3 September 1981, in accordance with article 27(1)

The States Parties to the present Convention,

NOTING that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women,

NOTING that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex,

NOTING that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights,

CONSIDERING the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women,

NOTING also the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights of men and women,

CONCERNED, however, that despite these various instruments extensive discrimination against women continues to exist,

RECALLING that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity,

CONCERNED that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs,

CONVINCED that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women,

EMPHASIZING that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women,

AFFIRMING that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women,

CONVINCED that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields,

BEARING IN MIND the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole,

AWARE that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women,

DETERMINED to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, the term "discrimination against women" shall mean any distinction,

exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- a. To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b. To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c. To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d. To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e. To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- f. To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g. To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 4

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.
2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures:

- a. To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- b. To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

Article 6

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

PART II

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- a. To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- b. To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- c. To participate in non-governmental organizations and associations concerned with the public and political life of the country.

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.
2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

PART III**Article 10**

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

- a. The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;
- b. Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;
- c. The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;
- d. The same opportunities to benefit from scholarships and other study grants;
- e. The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;
- f. The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;
- g. The same Opportunities to participate actively in sports and physical education;
- h. Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

Article 11

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:
 - a. The right to work as an inalienable right of all human beings;
 - b. The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
 - c. The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
 - d. The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
 - e. The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
 - f. The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.
2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:
 - a. To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
 - b. To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;
 - c. To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;
 - d. To provide special protection to women during pregnancy in types of work proved to be harmful to them.
3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health

care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph 1 of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a. The right to family benefits;
- b. The right to bank loans, mortgages and other forms of financial credit;
- c. The right to participate in recreational activities, sports and all aspects of cultural life.

Article 14

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.
2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:
 - a. To participate in the elaboration and implementation of development planning at all levels;
 - b. To have access to adequate health care facilities, including information, counselling and services in family planning;
 - c. To benefit directly from social security programmes;
 - d. To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;
 - e. To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;
 - f. To participate in all community activities;
 - g. To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;
 - h. To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

PART IV

Article 15

1. States Parties shall accord to women equality with men before the law.
2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - a. The same right to enter into marriage;
 - b. The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - c. The same rights and responsibilities during marriage and at its dissolution;
 - d. The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - e. The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - f. The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

- g. The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;
 - h. The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

PART V

Article 17

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.
6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.
7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.
9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

Article 18

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:
 - a. Within one year after the entry into force for the State concerned;
 - b. Thereafter at least every four years and further whenever the Committee so requests.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

Article 19

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

Article 20

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.
2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee.

Article 21

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.
2. The Secretary-General of the United Nations shall transmit the reports of the Committee to the Commission on the Status of Women for its information.

Article 22

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

PART VI**Article 23**

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- a. In the legislation of a State Party; or
- b. In any other international convention, treaty or agreement in force for that State.

Article 24

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

Article 25

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 26

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 27

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 28

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 30

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations. IN WITNESS WHEREOF the undersigned, duly authorized, have signed the present Convention.

United Nations (UN), Convention on the Political Rights of Women (1952, New York, USA)

Opened for signature and ratification by General Assembly resolution 640(VII) of 20 December 1952 entry into force 7 July 1954, in accordance with article VI

The Contracting Parties,

Desiring to implement the principle of equality of rights for men and women contained in the Charter of the United Nations,

RECOGNIZING that everyone has the right to take part in the government of his country directly or indirectly through freely chosen representatives, and has the right to equal access to public service in his country, and desiring to equalize the status of men and women in the enjoyment and exercise of political rights, in accordance with the provisions of the Charter of the United Nations and of the Universal Declaration of Human Rights,

HAVING RESOLVED to conclude a Convention for this purpose,

HEREBY agree as hereinafter provided:

Article I

Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.

Article II

Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.

Article III

Women shall be entitled to hold public office and to exercise all public functions, established by national law, on equal terms with men, without any discrimination.

Article IV

1. This Convention shall be open for signature on behalf of any Member of the United Nations and also on behalf of any other State to which an invitation has been addressed by the General Assembly.
2. This Convention shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article V

1. This Convention shall be open for accession to all States referred to in paragraph 1 of article IV.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article VI

1. This Convention shall come into force on the ninetieth day following the date of deposit of the sixth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession the Convention shall enter into force on the ninetieth day after deposit by such State of its instrument of ratification or accession.

Article VII

In the event that any State submits a reservation to any of the articles of this Convention at the time of signature, ratification or accession, the Secretary-General shall communicate the text of the reservation to all States which are or may become Parties to this Convention. Any State which objects to the reservation may, within a period of ninety days from the date of the said communication (or upon the date of its becoming a Party to the Convention), notify the Secretary-General that it does not accept it. In such case, the Convention shall not enter into force as between such State and the State making the reservation.

Article VIII

1. Any State may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. This Convention shall cease to be in force as from the date when the denunciation which reduces the number of Parties to less than six becomes effective.

Article IX

Any dispute which may arise between any two or more Contracting States concerning the interpretation or application of this Convention, which is not settled by negotiation, shall at the request of any one of the parties to the dispute be referred to the International Court of Justice for decision, unless they agree to another mode of settlement.

Article X

The Secretary-General of the United Nations shall notify all Members of the United Nations and the non-member States contemplated in paragraph 1 of article IV of this Convention of the following:

- a. Signatures and instruments of ratification received in accordance with article IV;
- b. Instruments of accession received in accordance with article V;
- c. The date upon which this Convention enters into force in accordance with article VI;
- d. Communications and notifications received in accordance with article VII;
- e. Notifications of denunciation received in accordance with paragraph 1 of article VIII;
- f. Abrogation in accordance with paragraph 2 of article VIII.

Article XI

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts shall be equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit a certified copy to all Members of the United Nations and to the non-member States contemplated in paragraph 1 of article IV.

United Nations (UN), Convention on the Rights of the Child (1989, New York, USA)

*Adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989
entry into force 2 September 1990, in accordance with article 49*

Preamble

The States Parties to the present Convention,

CONSIDERING that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

BEARING IN MIND that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

RECOGNIZING that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

RECALLING that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

CONVINCED that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

RECOGNIZING that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

CONSIDERING that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

BEARING IN MIND that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

BEARING IN MIND that, as indicated in the Declaration of the Rights of the Child, "the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth",

RECALLING the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice The Beijing Rules; and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict, Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

TAKING DUE ACCOUNT of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Recognizing the importance of international cooperation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed as follows:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of

discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.
3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. For respect of the rights or reputations of others; or
 - b. For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.
2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- a. Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- b. Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- c. Encourage the production and dissemination of children's books;
- d. Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- e. Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.
2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.
3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- a. Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;
- b. Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- c. Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- d. Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- e. Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.
2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or nongovernmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.
3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.
4. States Parties shall promote, in the spirit of international cooperation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.
2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:
 - a. To diminish infant and child mortality;
 - b. To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - c. To combat disease and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;
 - d. To ensure appropriate pre-natal and post-natal health care for mothers;
 - e. To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;
 - f. To develop preventive health care, guidance for parents and family planning education and services.
3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.
4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.
2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.
2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.
3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusion of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:
 - a. Make primary education compulsory and available free to all;
 - b. Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
 - c. Make higher education accessible to all on the basis of capacity by every appropriate means;
 - d. Make educational and vocational information and guidance available and accessible to all children;
 - e. Take measures to encourage regular attendance at schools and the reduction of drop-out rates.
2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.
3. States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:
 - a. The development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - b. The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;
 - c. The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;
 - d. The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;
 - e. The development of respect for the natural environment.
2. No part of the present article or article 28 shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principle set forth in paragraph 1 of the present article and to the requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.
2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:
 - a. Provide for a minimum age or minimum ages for admission to employment;
 - b. Provide for appropriate regulation of the hours and conditions of employment;
 - c. Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- a. The inducement or coercion of a child to engage in any unlawful sexual activity;
- b. The exploitative use of children in prostitution or other unlawful sexual practices;
- c. The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

- a. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;
- b. No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;
- c. Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;
- d. Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.
2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.
3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.
4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.
2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:
 - a. No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

- b. Every child alleged as or accused of having infringed the penal law has at least the following guarantees:
 - i. To be presumed innocent until proven guilty according to law;
 - ii. To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;
 - iii. To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in particular, taking into account his or her age or situation, his or her parents or legal guardians;
 - iv. Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;
 - v. If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;
 - vi. To have the free assistance of an interpreter if the child cannot understand or speak the language used;
 - vii. To have his or her privacy fully respected at all stages of the proceedings.
3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:
 - a. The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;
 - b. Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.
4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- a. The law of a State party; or
- b. International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.
2. The Committee shall consist of ten experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems.
3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.
4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.
5. The elections shall be held at meetings of States Parties convened by the Secretary-General at United Nations Headquarters. At those meetings, for which two thirds of States Parties shall constitute a quorum, the persons elected to the Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if

renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.
8. The Committee shall establish its own rules of procedure.
9. The Committee shall elect its officers for a period of two years.
10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.
11. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.
12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights
 - a. Within two years of the entry into force of the Convention for the State Party concerned;
 - b. Thereafter every five years.
2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.
3. A State Party which has submitted a comprehensive initial report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.
4. The Committee may request from States Parties further information relevant to the implementation of the Convention.
5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.
6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international cooperation in the field covered by the Convention:

- a. The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;
- b. The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request, or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;
- c. The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;
- d. The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III**Article 46**

The present Convention shall be open for signature by all States.

Article 47

The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall then inform all States. Such notification shall take effect on the date on which it is received by the Secretary-General.

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

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

IN WITNESS THEREOF the undersigned plenipotentiaries, being duly authorized thereto by their respective governments, have signed the present Convention.

United Nations (UN), Convention Relating to the Status of Refugees (1951, Geneva, Switzerland)

Adopted on 28 July 1951 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 1950 entry into force 22 April 1954, in accordance with article 43

Preamble

The High Contracting Parties,

CONSIDERING that the Charter of the United Nations and the Universal Declaration of Human Rights approved on 10 December 1948 by the General Assembly have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

CONSIDERING that the United Nations has, on various occasions, manifested its profound concern for refugees and endeavoured to assure refugees the widest possible exercise of these fundamental rights and freedoms,

CONSIDERING that it is desirable to revise and consolidate previous international agreements relating to the status of refugees and to extend the scope of and the protection accorded by such instruments by means of a new agreement,

CONSIDERING that the grant of asylum may place unduly heavy burdens on certain countries, and that a satisfactory solution of a problem of which the United Nations has recognized the international- scope and nature cannot therefore be achieved without international co-operation,

EXPRESSING the wish that all States, recognizing the social and humanitarian nature of the problem of refugees, will do everything within their power to prevent this problem from becoming a cause of tension between States,

NOTING that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner,

Have agreed as follows:

CHAPTER I GENERAL PROVISIONS

Article 1 Definition of the term "refugee"

A. For the purposes of the present Convention, the term "refugee," shall apply to any person who:

1. Has been considered a refugee under the Arrangements of 12 May 1926 and 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization.

Decisions of non-eligibility taken by the International Refugee Organization during the period of its activities shall not prevent the status of refugee being accorded to persons who fulfil the conditions of paragraph 2 of this section.

2. As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

In the case of a person who has more than one nationality, the term "the country of his nationality" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

- B. 1. For the purposes of this Convention, the words "events occurring before 1 January 1951" in article 1, section A, shall be understood to mean either (a) "events occurring in Europe before 1 January 1951"; or (b) "events occurring in Europe or elsewhere before 1 January 1951"; and each Contracting State shall make a declaration at the time of signature, ratification or accession, specifying which of these meanings it applies for the purpose of its obligations under this Convention.
2. Any Contracting State which has adopted alternative (a) may at any time extend its obligations by adopting alternative (b) by means of a notification addressed to the Secretary-General of the United Nations.
- C. This Convention shall cease to apply to any person falling under the terms of section A if:
 1. He has voluntarily re-availed himself of the protection of the country of his nationality; or
 2. Having lost his nationality, he has voluntarily reacquired it; or
 3. He has acquired a new nationality, and enjoys the protection of the country of his new nationality; or
 4. He has voluntarily re-established himself in the country which he left or outside which he remained owing to

fear of persecution; or

5. He can no longer, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;

Provided that this paragraph shall not apply to a refugee falling under section A (I) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to avail himself of the protection of the country of nationality;

6. Being a person who has no nationality he is, because the circumstances in connection with which he has been recognized as a refugee have ceased to exist, able to return to the country of his former habitual residence; Provided that this paragraph shall not apply to a refugee falling under section A (I) of this article who is able to invoke compelling reasons arising out of previous persecution for refusing to return to the country of his former habitual residence.

- D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance.

When such protection or assistance has ceased for any reason, without the position of such persons being definitively settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Convention.

- E. This Convention shall not apply to a person who is recognized by the competent authorities of the country in which he has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country.
- F. The provisions of this Convention shall not apply to any person with respect to whom there are serious reasons for considering that.
 - a. He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - b. He has committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
 - c. He has been guilty of acts contrary to the purposes and principles of the United Nations.

Article 2 General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

Article 3 Non-discrimination

The Contracting States shall apply the provisions of this Convention to refugees without discrimination as to race, religion or country of origin.

Article 4 Religion

The Contracting States shall accord to refugees within their territories treatment at least as favourable as that accorded to their nationals with respect to freedom to practise their religion and freedom as regards the religious education of their children.

Article 5 Rights granted apart from this Convention

Nothing in this Convention shall be deemed to impair any rights and benefits granted by a Contracting State to refugees apart from this Convention.

Article 6 The term "in the same circumstances"

For the purposes of this Convention, the term "in the same circumstances," implies that any requirements (including requirements as to length and conditions of sojourn or residence) which the particular individual would have to fulfil for the enjoyment of the right in question, if he were not a refugee, must be fulfilled by him, with the exception of requirements which by their nature a refugee is incapable of fulfilling.

Article 7 Exemption from reciprocity

1. Except where this Convention contains more favourable provisions, a Contracting State shall accord to refugees the same treatment as is accorded to aliens generally.
2. After a period of three years' residence, all refugees shall enjoy exemption from legislative reciprocity in the territory of the Contracting States.
3. Each Contracting State shall continue to accord to refugees the rights and benefits to which they were already entitled, in the absence of reciprocity, at the date of entry into force of this Convention for that State.
4. The Contracting States shall consider favourably the possibility of according to refugees, in the absence of reciprocity, rights and benefits beyond those to which they are entitled according to paragraphs 2 and 3, and to extending exemption from reciprocity to refugees who do not fulfil the conditions provided for in paragraphs 2 and 3.
5. The provisions of paragraphs 2 and 3 apply both to the rights and benefits referred to in articles 13, 18, 19, 21 and 22 of this Convention and to rights and benefits for which this Convention does not provide.

Article 8 Exemption from exceptional measures

With regard to exceptional measures which may be taken against the person, property or interests of nationals of a foreign State, the Contracting States shall not apply such measures to a refugee who is formally a national of the said State solely on account of such nationality. Contracting States which, under their legislation, are prevented from applying the general principle expressed in this article, shall, in appropriate cases, grant exemptions in favour of such refugees.

Article 9 Provisional measures

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security in the case of a particular person, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security.

Article 10 Continuity of residence

1. Where a refugee has been forcibly displaced during the Second World War and removed to the territory of a Contracting State, and is resident there, the period of such enforced sojourn shall be considered to have been lawful residence within that territory.
2. Where a refugee has been forcibly displaced during the Second World War from the territory of a Contracting State and has, prior to the date of entry into force of this Convention, returned there for the purpose of taking up residence, the period of residence before and after such enforced displacement shall be regarded as one uninterrupted period for any purposes for which uninterrupted residence is required.

Article 11 Refugee seamen

In the case of refugees regularly serving as crew members on board a ship flying the flag of a Contracting State, that State shall give sympathetic consideration to their establishment on its territory and the issue of travel documents to them or their temporary admission to its territory particularly with a view to facilitating their establishment in another country.

CHAPTER II JURIDICAL STATUS**Article 12 Personal status**

1. The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.
2. Rights previously acquired by a refugee and dependent on personal status, more particularly rights attaching to marriage, shall be respected by a Contracting State, subject to compliance, if this be necessary, with the formalities required by the law of that State, provided that the right in question is one which would have been recognized by the law of that State had he not become a refugee.

Article 13 Movable and immovable property

The Contracting States shall accord to a refugee treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto, and to leases and other contracts relating to movable and immovable property.

Article 14 Artistic rights and industrial property

In respect of the protection of industrial property, such as inventions, designs or models, trade marks, trade names, and of rights in literary, artistic and scientific works, a refugee shall be accorded in the country in which he has his habitual residence the same protection as is accorded to nationals of that country. In the territory of any other Contracting States, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence.

Article 15 Right of association

As regards non-political and non-profit-making associations and trade unions the Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country, in the same circumstances.

Article 16 Access to courts

1. A refugee shall have free access to the courts of law on the territory of all Contracting States.
2. A refugee shall enjoy in the Contracting State in which he has his habitual residence the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from *cautio judicatum solvi*.
3. A refugee shall be accorded in the matters referred to in paragraph 2 in countries other than that in which he has his habitual residence the treatment granted to a national of the country of his habitual residence.

CHAPTER III GAINFUL EMPLOYMENT**Article 17 Wage-earning employment**

1. The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment

accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.

2. In any case, restrictive measures imposed on aliens or the employment of aliens for the protection of the national labour market shall not be applied to a refugee who was already exempt from them at the date of entry into force of this Convention for the Contracting State concerned, or who fulfils one of the following conditions:
 - a. He has completed three years' residence in the country;
 - b. He has a spouse possessing the nationality of the country of residence. A refugee may not invoke the benefit of this provision if he has abandoned his spouse;
 - c. He has one or more children possessing the nationality of the country of residence.
3. The Contracting States shall give sympathetic consideration to assimilating the rights of all refugees with regard to wage-earning employment to those of nationals, and in particular of those refugees who have entered their territory pursuant to programmes of labour recruitment or under immigration schemes.

Article 18 Self-employment

The Contracting States shall accord to a refugee lawfully in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the right to engage on his own account in agriculture, industry, handicrafts and commerce and to establish commercial and industrial companies.

Article 19 Liberal professions

1. Each Contracting State shall accord to refugees lawfully staying in their territory who hold diplomas recognized by the competent authorities of that State, and who are desirous of practising a liberal profession, treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.
2. The Contracting States shall use their best endeavours consistently with their laws and constitutions to secure the settlement of such refugees in the territories, other than the metropolitan territory, for whose international relations they are responsible.

CHAPTER IV WELFARE

Article 20 Rationing

Where a rationing system exists, which applies to the population at large and regulates the general distribution of products in short supply, refugees shall be accorded the same treatment as nationals.

Article 21 Housing

As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances.

Article 22 Public education

1. The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.
2. The Contracting States shall accord to refugees treatment as favourable as possible, and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, with respect to education other than elementary education and, in particular, as regards access to studies, the recognition of foreign school certificates, diplomas and degrees, the remission of fees and charges and the award of scholarships.

Article 23 Public relief

The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals.

Article 24 Labour legislation and social security

1. The Contracting States shall accord to refugees lawfully staying in their territory the same treatment as is accorded to nationals in respect of the following matters:
 - a. In so far as such matters are governed by laws or regulations or are subject to the control of administrative authorities: remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home work, minimum age of employment, apprenticeship and training, women's work and the work of young persons, and the enjoyment of the benefits of collective bargaining;
 - b. Social security (legal provisions in respect of employment injury, occupational diseases, maternity, sickness, disability, old age, death, unemployment, family responsibilities and any other contingency which, according to national laws or regulations, is covered by a social security scheme), subject to the following limitations:
 - i. There may be appropriate arrangements for the maintenance of acquired rights and rights in course of acquisition;
 - ii. National laws or regulations of the country of residence may prescribe special arrangements concerning

benefits or portions of benefits which are payable wholly out of public funds, and concerning allowances paid to persons who do not fulfil the contribution conditions prescribed for the award of a normal pension.

2. The right to compensation for the death of a refugee resulting from employment injury or from occupational disease shall not be affected by the fact that the residence of the beneficiary is outside the territory of the Contracting State.
3. The Contracting States shall extend to refugees the benefits of agreements concluded between them, or which may be concluded between them in the future, concerning the maintenance of acquired rights and rights in the process of acquisition in regard to social security, subject only to the conditions which apply to nationals of the States signatory to the agreements in question.
4. The Contracting States will give sympathetic consideration to extending to refugees so far as possible the benefits of similar agreements which may at any time be in force between such Contracting States and non-contracting States.

CHAPTER V ADMINISTRATIVE MEASURES

Article 25 Administrative assistance

1. When the exercise of a right by a refugee would normally require the assistance of authorities of a foreign country to whom he cannot have recourse, the Contracting States in whose territory he is residing shall arrange that such assistance be afforded to him by their own authorities or by an international authority.
2. The authority or authorities mentioned in paragraph 1 shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities.
3. Documents or certifications so delivered shall stand in the stead of the official instruments delivered to aliens by or through their national authorities, and shall be given credence in the absence of proof to the contrary.
4. Subject to such exceptional treatment as may be granted to indigent persons, fees may be charged for the services mentioned herein, but such fees shall be moderate and commensurate with those charged to nationals for similar services.
5. The provisions of this article shall be without prejudice to articles 27 and 28.

Article 26 Freedom of movement

Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence and to move freely within its territory subject to any regulations applicable to aliens generally in the same circumstances.

Article 27 Identity papers

The Contracting States shall issue identity papers to any refugee in their territory who does not possess a valid travel document.

Article 28 Travel documents

1. The Contracting States shall issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require, and the provisions of the Schedule to this Convention shall apply with respect to such documents. The Contracting States may issue such a travel document to any other refugee in their territory; they shall in particular give sympathetic consideration to the issue of such a travel document to refugees in their territory who are unable to obtain a travel document from the country of their lawful residence.
2. Travel documents issued to refugees under previous international agreements by Parties thereto shall be recognized and treated by the Contracting States in the same way as if they had been issued pursuant to this article.

Article 29 Fiscal charges

1. The Contracting States shall not impose upon refugees duties, charges or taxes, of any description whatsoever, other or higher than those which are or may be levied on their nationals in similar situations.
2. Nothing in the above paragraph shall prevent the application to refugees of the laws and regulations concerning charges in respect of the issue to aliens of administrative documents including identity papers.

Article 30 Transfer of assets

1. A Contracting State shall, in conformity with its laws and regulations, permit refugees to transfer assets which they have brought into its territory, to another country where they have been admitted for the purposes of resettlement.
2. A Contracting State shall give sympathetic consideration to the application of refugees for permission to transfer assets wherever they may be and which are necessary for their resettlement in another country to which they have been admitted.

Article 31 Refugees unlawfully in the country of refuge

1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the

authorities and show good cause for their illegal entry or presence.

2. The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country. The Contracting States shall allow such refugees a reasonable period and all the necessary facilities to obtain admission into another country.

Article 32 Expulsion

1. The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.

Article 33 Prohibition of expulsion or return ("refoulement")

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country.

Article 34 Naturalization

The Contracting States shall as far as possible facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.

CHAPTER VI EXECUTORY AND TRANSITORY PROVISIONS

Article 35 Co-operation of the national authorities with the United Nations

1. The Contracting States undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of this Convention.
2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the Contracting States undertake to provide them in the appropriate form with information and statistical data requested concerning:
 - a. The condition of refugees,
 - b. The implementation of this Convention, and
 - c. Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 36 Information on national legislation

The Contracting States shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of this Convention.

Article 37 Relation to previous conventions

Without prejudice to article 28, paragraph 2, of this Convention, this Convention replaces, as between Parties to it, the Arrangements of 5 July 1922, 31 May 1924, 12 May 1926, 30 June 1928 and 30 July 1935, the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 and the Agreement of 15 October 1946.

CHAPTER VII FINAL CLAUSES

Article 38 Settlement of disputes

Any dispute between Parties to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 39 Signature, ratification and accession

1. This Convention shall be opened for signature at Geneva on 28 July 1951 and shall thereafter be deposited with the Secretary-General of the United Nations. It shall be open for signature at the European Office of the United Nations from 28 July to 31 August 1951 and shall be re-opened for signature at the Headquarters of the United Nations from 17 September 1951 to 31 December 1952.
2. This Convention shall be open for signature on behalf of all States Members of the United Nations, and also on behalf of any other State invited to attend the Conference of Plenipotentiaries on the Status of Refugees and

Stateless Persons or to which an invitation to sign will have been addressed by the General Assembly. It shall be ratified and the instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open from 28 July 1951 for accession by the States referred to in paragraph 2 of this article. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 40 Territorial application clause

1. Any State may, at the time of signature, ratification or accession, declare that this Convention shall extend to all or any of the territories for the international relations of which it is responsible. Such a declaration shall take effect when the Convention enters into force for the State concerned.
2. At any time thereafter any such extension shall be made by notification addressed to the Secretary-General of the United Nations and shall take effect as from the ninetieth day after the day of receipt by the Secretary-General of the United Nations of this notification, or as from the date of entry into force of the Convention for the State concerned, whichever is the later.
3. With respect to those territories to which this Convention is not extended at the time of signature, ratification or accession, each State concerned shall consider the possibility of taking the necessary steps in order to extend the application of this Convention to such territories, subject, where necessary for constitutional reasons, to the consent of the Governments of such territories.

Article 41 Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

- a. With respect to those articles of this Convention that come within the legislative jurisdiction of the federal legislative authority, the obligations of the Federal Government shall to this extent be the same as those of parties which are not Federal States;
- b. With respect to those articles of this Convention that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;
- c. A Federal State Party to this Convention shall, at the request of any other Contracting State transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention showing the extent to which effect has been given to that provision by legislative or other action.

Article 42 Reservations

1. At the time of signature, ratification or accession, any State may make reservations to articles of the Convention other than to articles 1, 3, 4, 16 (1), 33, 36-46 inclusive.
2. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw the reservation by a communication to that effect addressed to the Secretary-General of the United Nations.

Article 43 Entry into force

1. This Convention shall come into force on the ninetieth day following the day of deposit of the sixth instrument of ratification or accession.
2. For each State ratifying or acceding to the Convention after the deposit of the sixth instrument of ratification or accession, the Convention shall enter into force on the ninetieth day following the date of deposit by such State of its instrument of ratification or accession.

Article 44 Denunciation

1. Any Contracting State may denounce this Convention at any time by a notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the Contracting State concerned one year from the date upon which it is received by the Secretary-General of the United Nations.
3. Any State which has made a declaration or notification under article 40 may, at any time thereafter, by a notification to the Secretary-General of the United Nations, declare that the Convention shall cease to extend to such territory one year after the date of receipt of the notification by the Secretary-General.

Article 45 Revision

1. Any Contracting State may request revision of this Convention at any time by a notification addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall recommend the steps, if any, to be taken in respect of such request.

Article 46 Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform all Members of the United Nations and non-member States referred to in article 39:

- a. Of declarations and notifications in accordance with section B of article 1;

- b. Of signatures, ratifications and accessions in accordance with article 39;
- c. Of declarations and notifications in accordance with article 40;
- d. Of reservations and withdrawals in accordance with article 42;
- e. Of the date on which this Convention will come into force in accordance with article 43;
- f. Of denunciations and notifications in accordance with article 44;
- g. Of requests for revision in accordance with article 45.

IN FAITH WHEREOF the undersigned, duly authorized, have signed this Convention on behalf of their respective Governments.

DONE at Geneva, this twenty-eighth day of July, one thousand nine hundred and fifty-one, in a single copy, of which the English and French texts are equally authentic and which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all Members of the United Nations and to the non-member States referred to in article 39.

United Nations (UN), Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985, New York, USA)

Adopted by General Assembly resolution 40/34 of 29 November 1985

A. Victims of Crime

1. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.
2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term "victim" also includes, where appropriate, the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.
3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.
5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.
6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:
 - a. Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;
 - b. Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;
 - c. Providing proper assistance to victims throughout the legal process;
 - d. Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
 - e. Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.
7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress for victims.

Restitution

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.
9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.
10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.
11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:
 - a. Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;
 - b. The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.
13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.
15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.
16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.
17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. Victims of Abuse of Power

18. "Victims" means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute violations of national criminal laws but of internationally recognized norms relating to human rights.
19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.
20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.
21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

United Nations (UN), Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief (1981, New York, USA)

Proclaimed by General Assembly resolution 36/55 of 25 November 1981

The General Assembly,

CONSIDERING that one of the basic principles of the Charter of the United Nations is that of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action in co-operation with the Organization to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

CONSIDERING that the Universal Declaration of Human Rights and the International Covenants on Human Rights proclaim the principles of nondiscrimination and equality before the law and the right to freedom of thought, conscience, religion and belief,

CONSIDERING that the disregard and infringement of human rights and fundamental freedoms, in particular of the right to freedom of thought, conscience, religion or whatever belief, have brought, directly or indirectly, wars and great suffering to mankind, especially where they serve as a means of foreign interference in the internal affairs of other States and amount to kindling hatred between peoples and nations,

CONSIDERING that religion or belief, for anyone who professes either, is one of the fundamental elements in his conception of life and that freedom of religion or belief should be fully respected and guaranteed,

CONSIDERING that it is essential to promote understanding, tolerance and respect in matters relating to freedom of religion and belief and to ensure that the use of religion or belief for ends inconsistent with the Charter of the United Nations, other relevant instruments of the United Nations and the purposes and principles of the present Declaration is inadmissible,

CONVINCED that freedom of religion and belief should also contribute to the attainment of the goals of world peace, social justice and friendship among peoples and to the elimination of ideologies or practices of colonialism and racial discrimination,

NOTING with satisfaction the adoption of several, and the coming into force of some, Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief conventions, under the aegis of the United Nations and of the specialized agencies, for the elimination of various forms of discrimination,

CONCERNED by manifestations of intolerance and by the existence of discrimination in matters of religion or belief still in evidence in some areas of the world,

RESOLVED to adopt all necessary measures for the speedy elimination of such intolerance in all its forms and manifestations and to prevent and combat discrimination on the ground of religion or belief,

PROCLAIMS this Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief:

Article 1

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have a religion or whatever belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.
3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

Article 2

1. No one shall be subject to discrimination by any State, institution, group of persons, or person on the grounds of religion or other belief.
2. For the purposes of the present Declaration, the expression "intolerance and discrimination based on religion or belief" means any distinction, exclusion, restriction or preference based on religion or belief and having as its purpose or as its effect nullification or impairment of the recognition, enjoyment or exercise of human rights and fundamental freedoms on an equal basis.

Article 3

Discrimination between human being on the grounds of religion or belief constitutes an affront to human dignity

and a disavowal of the principles of the Charter of the United Nations, and shall be condemned as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights and enunciated in detail in the International Covenants on Human Rights, and as an obstacle to friendly and peaceful relations between nations.

Article 4

1. All States shall take effective measures to prevent and eliminate discrimination on the grounds of religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life.
2. All States shall make all efforts to enact or rescind legislation where necessary to prohibit any such discrimination, and to take all appropriate measures to combat intolerance on the grounds of religion or other beliefs in this matter.

Article 5

1. The parents or, as the case may be, the legal guardians of the child have the right to organize the life within the family in accordance with their religion or belief and bearing in mind the moral education in which they believe the child should be brought up.
2. Every child shall enjoy the right to have access to education in the matter of religion or belief in accordance with the wishes of his parents or, as the case may be, legal guardians, and shall not be compelled to receive teaching on religion or belief against the wishes of his parents or legal guardians, the best interests of the child being the guiding principle.
3. The child shall be protected from any form of discrimination on the ground of religion or belief. He shall be brought up in a spirit of understanding, tolerance, friendship among peoples, peace and universal brotherhood, respect for freedom of religion or belief of others, and in full consciousness that his energy and talents should be devoted to the service of his fellow men.
4. In the case of a child who is not under the care either of his parents or of legal guardians, due account shall be taken of their expressed wishes or of any other proof of their wishes in the matter of religion or belief, the best interests of the child being the guiding principle.
5. Practices of a religion or belief in which a child is brought up must not be injurious to his physical or mental health or to his full development, taking into account article 1, paragraph 3, of the present Declaration.

Article 6

In accordance with article I of the present Declaration, and subject to the provisions of article 1, paragraph 3, the right to freedom of thought, conscience, religion or belief shall include, inter alia, the following freedoms:

- a. To worship or assemble in connection with a religion or belief, and to establish and maintain places for these purposes;
- b. To establish and maintain appropriate charitable or humanitarian institutions;
- c. To make, acquire and use to an adequate extent the necessary articles and materials related to the rites or customs of a religion or belief;
- d. To write, issue and disseminate relevant publications in these areas;
- e. To teach a religion or belief in places suitable for these purposes;
- f. To solicit and receive voluntary financial and other contributions from individuals and institutions;
- g. To train, appoint, elect or designate by succession appropriate leaders called for by the requirements and standards of any religion or belief;
- h. To observe days of rest and to celebrate holidays and ceremonies in accordance with the precepts of one's religion or belief;
- i. To establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels.

Article 7

The rights and freedoms set forth in the present Declaration shall be accorded in national legislation in such a manner that everyone shall be able to avail himself of such rights and freedoms in practice.

Article 8

Nothing in the present Declaration shall be construed as restricting or derogating from any right defined in the Universal Declaration of Human Rights and the International Covenants on Human Rights.

United Nations (UN), Declaration on the Elimination of Violence Against Women (1993, New York, USA)

RESOLUTION 48/104 OF 20 DECEMBER 1993

The General Assembly,

RECOGNIZING the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings,

NOTING that those rights and principles are enshrined in international instruments, including the Universal Declaration of Human Rights,¹ the International Covenant on Civil and Political Rights,² the International Covenant on Economic, Social and Cultural Rights,² the Convention on the Elimination of All Forms of Discrimination against Women³ and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,⁴ Recognizing that effective implementation of the Convention on the Elimination of All Forms of Discrimination against Women would contribute to the elimination of violence against women and that the Declaration on the Elimination of Violence against Women, set forth in the present resolution, will strengthen and complement that process,

CONCERNED that violence against women is an obstacle to the achievement of equality, development and peace, as recognized in the Nairobi Forward-looking Strategies for the Advancement of Women,⁵ in which a set of measures to combat violence against women was recommended, and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women,

AFFIRMING that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women,

RECOGNIZING that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men,

CONCERNED that some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict, are especially vulnerable to violence,

RECALLING the conclusion in paragraph 23 of the annex to Economic and Social Council resolution 1990/15 of 24 May 1990 that the recognition that violence against women in the family and society was pervasive and cut cross lines of income, class and culture had to be matched by urgent and effective steps to eliminate its incidence,

RECALLING also Economic and Social Council resolution 1991/18 of 30 May 1991, in which the Council recommended the development of a framework for an international instrument that would address explicitly the issue of violence against women,

WELCOMING the role that women's movements are playing in drawing increasing attention to the nature, severity and magnitude of the problem of violence against women,

ALARMED that opportunities for women to achieve legal, social, political and economic equality in society are limited, inter alia, by continuing and endemic violence,

CONVINCED that in the light of the above there is a need for a clear and comprehensive definition of violence against women, a clear statement of the rights to be applied to ensure the elimination of violence against women in all its forms, a commitment by States in respect of their responsibilities, and a commitment by the international community at large to the elimination of violence against women,

SOLEMNLY proclaims the following Declaration on the Elimination of Violence against Women and urges that every effort be made so that it becomes generally known and respected:

Article 1

For the purposes of this Declaration, the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

Article 2

Violence against women shall be understood to encompass, but not be limited to, the following:

- a. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of

female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;

- b. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
- c. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Article 3

Women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

These rights include, inter alia:

- a. The right to life;⁶
- b. The right to equality;⁷
- c. The right to liberty and security of person;⁸
- d. The right to equal protection under the law;⁷
- e. The right to be free from all forms of discrimination;⁷
- f. The right to the highest standard attainable of physical and mental health;⁹
- g. The right to just and favourable conditions of work;¹⁰
- h. The right not to be subjected to torture, or other cruel, inhuman or degrading treatment or punishment.¹¹

Article 4

States should condemn violence against women and should not invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

- a. Consider, where they have not yet done so, ratifying or acceding to the Convention on the Elimination of All Forms of Discrimination against Women or withdrawing reservations to that Convention;
- b. Refrain from engaging in violence against women;
- c. Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;
- d. Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence; women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered; States should also inform women of their rights in seeking redress through such mechanisms;
- e. Consider the possibility of developing national plans of action to promote the protection of women against any form of violence, or to include provisions for that purpose in plans already existing, taking into account, as appropriate, such co-operation as can be provided by non-governmental organizations, particularly those concerned with the issue of violence against women;
- f. Develop, in a comprehensive way, preventive approaches and all those measures of a legal, political, administrative and cultural nature that promote the protection of women against any form of violence, and ensure that the revictimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions;
- g. Work to ensure, to the maximum extent feasible in the light of their available resources and, where needed, within the framework of international co-operation, that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation;¹⁰
- h. Include in government budgets adequate resources for their activities related to the elimination of violence against women;¹¹
- i. Take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women;
- j. Adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women;
- k. Promote research, collect data and compile statistics, especially concerning domestic violence, relating to the prevalence of different forms of violence against women and encourage research on the causes, nature, seriousness and consequences of violence against women and on the effectiveness of measures implemented

- to prevent and redress violence against women; those statistics and findings of the research will be made public;
- l. Adopt measures directed towards the elimination of violence against women who are especially vulnerable to violence;
 - m. Include, in submitting reports as required under relevant human rights instruments of the United Nations, information pertaining to violence against women and measures taken to implement the present Declaration;
 - n. Encourage the development of appropriate guidelines to assist in the implementation of the principles set forth in the present Declaration;
 - o. Recognize the important role of the women's movement and nongovernmental organizations world wide in raising awareness and alleviating the problem of violence against women;
 - p. Facilitate and enhance the work of the women's movement and nongovernmental organizations and cooperate with them at local, national and regional levels;
 - q. Encourage intergovernmental regional organizations of which they are members to include the elimination of violence against women in their programmes, as appropriate.

Article 5

The organs and specialized agencies of the United Nations system should, within their respective fields of competence, contribute to the recognition and realization of the rights and the principles set forth in the present Declaration and, to this end, should, *inter alia*:

- a. Foster international and regional co-operation with a view to defining regional strategies for combating violence, exchanging experiences and financing programmes relating to the elimination of violence against women;
- b. Promote meetings and seminars with the aim of creating and raising awareness among all persons of the issue of the elimination of violence against women;
- c. Foster co-ordination and exchange within the United Nations system between human rights treaty bodies to address the issue of violence against women effectively;
- d. Include in analyses prepared by organizations and bodies of the United Nations system of social trends and problems, such as the periodic reports on the world social situation, examination of trends in violence against women;
- e. Encourage co-ordination between organizations and bodies of the United Nations system to incorporate the issue of violence against women into ongoing programmes, especially with reference to groups of women particularly vulnerable to violence;
- f. Promote the formulation of guidelines or manuals relating to violence against women, taking into account the measures referred to in the present Declaration;
- g. Consider the issue of the elimination of violence against women, as appropriate, in fulfilling their mandates with respect to the implementation of human rights instruments;
- h. Cooperate with non-governmental organizations in addressing the issue of violence against women.

Article 6

Nothing in the present Declaration shall affect any provision that is more conducive to the elimination of violence against women that may be contained in the legislation of a State or in any international convention, treaty or other instrument in force in a State.

ENDNOTES:

1. Resolution 217 A (III).
2. See resolution 2200 A (XXI), annex.
3. Resolution 34/180, annex.
4. Resolution 39/46, annex.
5. Report of the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, 15-26 July 1985 (United Nations publication, Sales No. E.85.IV.10), chap. I, sect. A.
6. Universal Declaration of Human Rights, article 3; and International Covenant on Civil and Political Rights, article 6.
7. International Covenant on Civil and Political Rights, article 26.
8. Universal Declaration of Human Rights, article 3; and International Covenant on Civil and Political Rights, article 9.
9. International Covenant on Economic, Social and Cultural Rights, article 12.
10. Universal Declaration of Human Rights, article 23; and International Covenant on Economic, Social and Cultural Rights, articles 6 and 7.

11. Universal Declaration of Human Rights, article 5; International Covenant on Civil and Political Rights, article 7; and Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

United Nations (UN), Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally (1986, New York, USA)

Adopted by General Assembly resolution 41/85 of 3 December 1986

The General Assembly,

RECALLING the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women, RECALLING also the Declaration of the Rights of the Child, which it proclaimed by its resolution 1386 (XIV) of 20 November 1959,

REAFFIRMING principle 6 of that Declaration, which states that the child shall, wherever possible, grow up in the care and under the responsibility of his parents and, in any case, in an atmosphere of affection and of moral and material security,

CONCERNED at the large number of children who are abandoned or become orphans owing to violence, internal disturbance, armed conflicts, natural disasters, economic crises or social problems,

BEARING IN MIND that in all foster placement and adoption procedures the best interests of the child should be the paramount consideration,

RECOGNIZING that under the principal legal systems of the world, various valuable alternative institutions exist, such as the kafalah of Islamic Law, which provide substitute care to children who cannot be cared for by their own parents,

RECOGNIZING further that only where a particular institution is recognized and regulated by the domestic law of a State would the provisions of this Declaration relating to that institution be relevant and that such provisions would in no way affect the existing alternative institutions in other legal systems,

CONSCIOUS of the need to proclaim universal principles to be taken into account in cases where procedures are instituted relating to foster placement or adoption of a child, either nationally or internationally,

BEARING IN MIND, however, that the principles set forth hereunder do not impose on States such legal institutions as foster placement or adoption,

Proclaims the following principles:

A. GENERAL FAMILY AND CHILD WELFARE

Article 1

Every State should give a high priority to family and child welfare.

Article 2

Child welfare depends upon good family welfare.

Article 3

The first priority for a child is to be cared for by his or her own parents.

Article 4

When care by the child's own parents is unavailable or inappropriate, care by relatives of the child's parents, by another substitute—foster or adoptive—family or, if necessary, by an appropriate institution should be considered.

Article 5

In all matters relating to the placement of a child outside the care of the child's own parents, the best interests of the child, particularly his or her need for affection and right to security and continuing care, should be the paramount consideration.

Article 6

Persons responsible for foster placement or adoption procedures should have professional or other appropriate training.

Article 7

Governments should determine the adequacy of their national child welfare services and consider appropriate actions.

Article 8

The child should at all times have a name, a nationality and a legal representative. The child should not, as a result of foster placement, adoption or any alternative regime, be deprived of his or her name, nationality or legal representative unless the child thereby acquires a new name, nationality or legal representative.

Article 9

The need of a foster or an adopted child to know about his or her background should be recognized by persons responsible for the child's care unless this is contrary to the child's best interests.

B. FOSTER PLACEMENT**Article 10**

Foster placement of children should be regulated by law.

Article 11

Foster family care, though temporary in nature, may continue, if necessary, until adulthood but should not preclude either prior return to the child's own parents or adoption.

Article 12

In all matters of foster family care, the prospective foster parents and, as appropriate, the child and his or her own parents should be properly involved. A competent authority or agency should be responsible for supervision to ensure the welfare of the child.

C. ADOPTION**Article 13**

The primary aim of adoption is to provide the child who cannot be cared for by his or her own parents with a permanent family.

Article 14

In considering possible adoption placements, persons responsible for them should select the most appropriate environment for the child.

Article 15

Sufficient time and adequate counselling should be given to the child's own parents, the prospective adoptive parents and, as appropriate, the child in order to reach a decision on the child's future as early as possible.

Article 16

The relationship between the child to be adopted and the prospective adoptive parents should be observed by child welfare agencies or services prior to the adoption. Legislation should ensure that the child is recognized in law as a member of the adoptive family and enjoys all the rights pertinent thereto.

Article 17

If a child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the country of origin, intercountry adoption may be considered as an alternative means of providing the child with a family.

Article 18

Governments should establish policy, legislation and effective supervision for the protection of children involved in intercountry adoption. Intercountry adoption should, wherever possible, only be undertaken when such measures have been established in the States concerned.

Article 19

Policies should be established and laws enacted, where necessary, for the prohibition of abduction and of any other act for illicit placement of children.

Article 20

In intercountry adoption, placements should, as a rule, be made through competent authorities or agencies with application of safeguards and standards equivalent to those existing in respect of national adoption. In no case should the placement result in improper financial gain for those involved in it.

Article 21

In intercountry adoption through persons acting as agents for prospective adoptive parents, special precautions should be taken in order to protect the child's legal and social interests.

Article 22

No intercountry adoption should be considered before it has been established that the child is legally free for adoption and that any pertinent documents necessary to complete the adoption, such as the consent of competent authorities, will become available. It must also be established that the child will be able to migrate and to join the prospective adoptive parents and may obtain their nationality.

Article 23

In intercountry adoption, as a rule, the legal validity of the adoption should be assured in each of the countries involved.

Article 24

Where the nationality of the child differs from that of the prospective adoptive parents, all due weight shall be given to both the law of the State of which the child is a national and the law of the State of which the prospective adoptive parents are nationals. In this connection due regard shall be given to the child's cultural and religious background and interests.

United Nations (UN), Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975, New York, USA)

Adopted by General Assembly resolution 3452 (XXX) of 9 December 1975

Article 1

1. For the purpose of this Declaration, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted by or at the instigation of a public official on a person for such purposes as obtaining from him or a third person information or confession, punishing him for an act he has committed or is suspected of having committed, or intimidating him or other persons. It does not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions to the extent consistent with the Standard Minimum Rules for the Treatment of Prisoners.
2. Torture constitutes an aggravated and deliberate form of cruel, inhuman or degrading treatment or punishment.

Article 2

Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.

Article 3

No State may permit or tolerate torture or other cruel, inhuman or degrading treatment or punishment. Exceptional circumstances such as a state of war or a threat of war, internal political instability or any other public emergency may not be invoked as a justification of torture or other cruel, inhuman or degrading treatment or punishment.

Article 4

Each State shall, in accordance with the provisions of this Declaration, take effective measures to prevent torture and other cruel, inhuman or degrading treatment or punishment from being practised within its jurisdiction.

Article 5

The training of law enforcement personnel and of other public officials who may be responsible for persons deprived of their liberty shall ensure that full account is taken of the prohibition against torture and other cruel, inhuman or degrading treatment or punishment. This prohibition shall also, where appropriate, be included in such general rules or instructions as are issued in regard to the duties and functions of anyone who may be involved in the custody or treatment of such persons.

Article 6

Each State shall keep under systematic review interrogation methods and practices as well as arrangements for the custody and treatment of persons deprived of their liberty in its territory, with a view to preventing any cases of torture or other cruel, inhuman or degrading treatment or punishment.

Article 7

Each State shall ensure that all acts of torture as defined in article 1 are offences under its criminal law. The same shall apply in regard to acts which constitute participation in, complicity in, incitement to or an attempt to commit torture.

Article 8

Any person who alleges that he has been subjected to torture or other cruel, inhuman or degrading treatment or punishment by or at the instigation of a public official shall have the right to complain to, and to have his case impartially examined by, the competent authorities of the State concerned.

Article 9

Wherever there is reasonable ground to believe that an act of torture as defined in article 1 has been committed, the competent authorities of the State concerned shall promptly proceed to an impartial investigation even if there has been no formal complaint.

Article 10

If an investigation under article 8 or article 9 establishes that an act of torture as defined in article 1 appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings.

Article 11

Where it is proved that an act of torture or other cruel, inhuman or degrading treatment or punishment has been committed by or at the instigation of a public official, the victim shall be afforded redress and compensation in accordance with national law.

Article 12

Any statement which is established to have been made as a result of torture or other cruel, inhuman or degrading treatment or punishment may not be invoked as evidence against the person concerned or against any other person in any proceedings.

United Nations (UN), Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms (1998, New York, USA)

General Assembly Resolution 53/144

THE GENERAL ASSEMBLY,

REAFFIRMING the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

TAKING NOTE of Commission on Human Rights resolution 1998/7 of 3 April 1998, See Official Records of the Economic and Social Council, 1998, Supplement No. 3 E/1998/23, chap. II, sect. A. in which the Commission approved the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

TAKING NOTE ALSO of Economic and Social Council resolution 1998/33 of 30 July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

CONSCIOUS of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. ADOPTS the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms, annexed to the present resolution;
2. INVITES Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of Human Rights: A Compilation of International Instruments.

85th plenary meeting 9 December 1998

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognised Human Rights and Fundamental Freedoms

THE GENERAL ASSEMBLY,

REAFFIRMING the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

REAFFIRMING also the importance of the Universal Declaration of Human Rights² and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

STRESSING that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

ACKNOWLEDGING the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to selfdetermination and the right of every people to exercise full sovereignty over its wealth and natural resources,

RECOGNIZING the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

REITERATING that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

STRESSING that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

RECOGNIZING the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

DECLARES:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.
2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights, the International Covenants on Human Rights and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- a. To meet or assemble peacefully;
- b. To form, join and participate in non-governmental organizations, associations or groups;
- c. To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

- a. To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;
- b. As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;
- c. To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.
2. This includes, inter alia, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.
2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through

legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:
 - a. To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
 - b. To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
 - c. To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.
4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.
2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.
3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.
2. Such measures shall include, *inter alia*:
 - a. The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;
 - b. Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.
3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.
2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.
3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or nongovernmental organizations contrary to the provisions of the Charter of the United Nations.

United Nations (UN), Declaration on the Rights of Disabled Persons (1975, New York, USA)

Proclaimed by General Assembly resolution 3447 (XXX) of 9 December 1975

The General Assembly,

MINDFUL of the pledge made by Member States, under the Charter of the United Nations to take joint and separate action in co-operation with the Organization to promote higher standards of living, full employment and conditions of economic and social progress and development,

REAFFIRMING its faith in human rights and fundamental freedoms and in the principles of peace, of the dignity and worth of the human person and of social justice proclaimed in the Charter,

RECALLING the principles of the Universal Declaration of Human Rights, the International Covenants on Human Rights, the Declaration of the Rights of the Child and the Declaration on the Rights of Mentally Retarded Persons, as well as the standards already set for social progress in the constitutions, conventions, recommendations and resolutions of the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, the World Health Organization, the United Nations Children's Fund and other organizations concerned, RECALLING also Economic and Social Council resolution 1921 (LVIII) of 6 May 1975 on the prevention of disability and the rehabilitation of disabled persons,

EMPHASIZING that the Declaration on Social Progress and Development has proclaimed the necessity of protecting the rights and assuring the welfare and rehabilitation of the physically and mentally disadvantaged,

BEARING IN MIND the necessity of preventing physical and mental disabilities and of assisting disabled persons to develop their abilities in the most varied fields of activities and of promoting their integration as far as possible in normal life,

AWARE that certain countries, at their present stage of development, can devote only limited efforts to this end,

Proclaims this Declaration on the Rights of Disabled Persons and calls for national and international action to ensure that it will be used as a common basis and frame of reference for the protection of these rights:

1. The term "disabled person" means any person unable to ensure by himself or herself, wholly or partly, the necessities of a normal individual and /or social life, as a result of deficiency, either congenital or not, in his or her physical or mental capabilities.
2. Disabled persons shall enjoy all the rights set forth in this Declaration. These rights shall be granted to all disabled persons without any exception whatsoever and without distinction or discrimination on the basis of race, colour, sex, language, religion, political or other opinions, national or social origin, state of wealth, birth or any other situation applying either to the disabled person himself or herself or to his or her family.
3. Disabled persons have the inherent right to respect for their human dignity. Disabled persons, whatever the origin, nature and seriousness of their handicaps and disabilities, have the same fundamental rights as their fellow-citizens of the same age, which implies first and foremost the right to enjoy a decent life, as normal and full as possible.
4. Disabled persons have the same civil and political rights as other human beings; paragraph 7 of the Declaration on the Rights of Mentally Retarded Persons applies to any possible limitation or suppression of those rights for mentally disabled persons.
5. Disabled persons are entitled to the measures designed to enable them to become as self-reliant as possible.
6. Disabled persons have the right to medical, psychological and functional treatment, including prosthetic and orthotic appliances, to medical and social rehabilitation, education, vocational training and rehabilitation, aid, counselling, placement services and other services which will enable them to develop their capabilities and skills to the maximum and will hasten the processes of their social integration or reintegration.
7. Disabled persons have the right to economic and social security and to a decent level of living. They have the right, according to their capabilities, to secure and retain employment or to engage in a useful, productive and remunerative occupation and to join trade unions.
8. Disabled persons are entitled to have their special needs taken into consideration at all stages of economic and social planning.
9. Disabled persons have the right to live with their families or with foster parents and to participate in all social, creative or recreational activities. No disabled person shall be subjected, as far as his or her residence is concerned, to differential treatment other than that required by his or her condition or by the improvement which he or she may derive therefrom. If the stay of a disabled person in a specialized establishment is indispensable, the environment and living conditions therein shall be as close as possible to those of the normal life of a person of his or her age.
10. Disabled persons shall be protected against all exploitation, all regulations and all treatment of a discriminatory, abusive or degrading nature.

11. Disabled persons shall be able to avail themselves of qualified legal aid when such aid proves indispensable for the protection of their persons and property. If judicial proceedings are instituted against them, the legal procedure applied shall take their physical and mental condition fully into account.
12. Organizations of disabled persons may be usefully consulted in all matters regarding the rights of disabled persons.
13. Disabled persons, their families and communities shall be fully informed, by all appropriate means, of the rights contained in this Declaration.

United Nations (UN), Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992, New York, USA)

Adopted by General Assembly resolution 47/135 of 18 December 1992

The General Assembly,

REAFFIRMING that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

REAFFIRMING faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

DESIRING to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,

INSPIRED by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious and linguistic minorities,

CONSIDERING that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,

EMPHASIZING that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,

CONSIDERING that the United Nations has an important role to play regarding the protection of minorities,

BEARING IN MIND the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Subcommission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

TAKING INTO ACCOUNT the important work which is done by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

RECOGNIZING the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Proclaims this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

Article 1

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

Article 2

1. Persons belonging to national or ethnic, religious and linguistic minorities hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

4. Persons belonging to minorities have the right to establish and maintain their own associations.
5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

Article 3

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.

Article 4

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

Article 5

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

Article 6

States should cooperate on questions relating to persons belonging to minorities, inter alia, exchanging information and experiences, in order to promote mutual understanding and confidence.

Article 7

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

Article 8

1. Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.
2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.
3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.
4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

Article 9

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.

United Nations (UN), Declaration on the Right to Development (1986, New York, USA)

Adopted by General Assembly resolution 41/128 of 4 December 1986

The General Assembly,

BEARING IN MIND the purposes and principles of the Charter of the United Nations relating to the achievement of international co-operation in solving international problems of an economic, social, cultural or humanitarian nature, and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

RECOGNIZING that development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom,

CONSIDERING that under the provisions of the Universal Declaration of Human Rights everyone is entitled to a social and international order in which the rights and freedoms set forth in that Declaration can be fully realized,

RECALLING the provisions of the International Covenant on Economic, Social and Cultural Rights and of the International Covenant on Civil and Political Rights,

RECALLING FURTHER the relevant agreements, conventions, resolutions, recommendations and other instruments of the United Nations and its specialized agencies concerning the integral development of the human being, economic and social progress and development of all peoples, including those instruments concerning decolonization, the prevention of discrimination, respect for and observance of, human rights and fundamental freedoms, the maintenance of international peace and security and the further promotion of friendly relations and co-operation among States in accordance with the Charter,

RECALLING the right of peoples to self-determination, by virtue of which they have the right freely to determine their political status and to pursue their economic, social and cultural development,

RECALLING ALSO the right of peoples to exercise, subject to the relevant provisions of both International Covenants on Human Rights, full and complete sovereignty over all their natural wealth and resources,

MINDFUL of the obligation of States under the Charter to promote universal respect for and observance of human rights and fundamental freedoms for all without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

CONSIDERING that the elimination of the massive and flagrant violations of the human rights of the peoples and individuals affected by situations such as those resulting from colonialism, neo-colonialism, apartheid, all forms of racism and racial discrimination, foreign domination and occupation, aggression and threats against national sovereignty, national unity and territorial integrity and threats of war would contribute to the establishment of circumstances propitious to the development of a great part of mankind,

CONCERNED at the existence of serious obstacles to development, as well as to the complete fulfilment of human beings and of peoples, constituted, inter alia, by the denial of civil, political, economic, social and cultural rights, and considering that all human rights and fundamental freedoms are indivisible and interdependent and that, in order to promote development, equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights and that, accordingly, the promotion of, respect for and enjoyment of certain human rights and fundamental freedoms cannot justify the denial of other human rights and fundamental freedoms,

CONSIDERING that international peace and security are essential elements for the realization of the right to development,

REAFFIRMING that there is a close relationship between disarmament and development and that progress in the field of disarmament would considerably promote progress in the field of development and that resources released through disarmament measures should be devoted to the economic and social development and well-being of all peoples and, in particular, those of the developing countries,

RECOGNIZING that the human person is the central subject of the development process and that development policy should therefore make the human being the main participant and beneficiary of development,

Recognizing that the creation of conditions favourable to the development of peoples and individuals is the primary responsibility of their States,

AWARE that efforts at the international level to promote and protect human rights should be accompanied by efforts to establish a new international economic order,

CONFIRMING that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations,

Proclaims the following Declaration on the Right to Development:

Article 1

1. The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.
2. The human right to development also implies the full realization of the right of peoples to self-determination, which includes, subject to the relevant provisions of both International Covenants on Human Rights, the exercise of their inalienable right to full sovereignty over all their natural wealth and resources.

Article 2

1. The human person is the central subject of development and should be the active participant and beneficiary of the right to development.
2. All human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community, which alone can ensure the free and complete fulfilment of the human being, and they should therefore promote and protect an appropriate political, social and economic order for development.
3. States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

Article 3

1. States have the primary responsibility for the creation of national and international conditions favourable to the realization of the right to development.
2. The realization of the right to development requires full respect for the principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations.
3. States have the duty to co-operate with each other in ensuring development and eliminating obstacles to development. States should realize their rights and fulfil their duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and co-operation among all States, as well as to encourage the observance and realization of human rights.

Article 4

1. States have the duty to take steps, individually and collectively, to formulate international development policies with a view to facilitating the full realization of the right to development.
2. Sustained action is required to promote more rapid development of developing countries. As a complement to the efforts of developing countries, effective international co-operation is essential in providing these countries with appropriate means and facilities to foster their comprehensive development.

Article 5

States shall take resolute steps to eliminate the massive and flagrant violations of the human rights of peoples and human beings affected by situations such as those resulting from apartheid, all forms of racism and racial discrimination, colonialism, foreign domination and occupation, aggression, foreign interference and threats against national sovereignty, national unity and territorial integrity, threats of war and refusal to recognize the fundamental right of peoples to self-determination.

Article 6

1. All States should co-operate with a view to promoting, encouraging and strengthening universal respect for and observance of all human rights and fundamental freedoms for all without any distinction as to race, sex, language or religion.
2. All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights.
3. States should take steps to eliminate obstacles to development resulting from failure to observe civil and political rights, as well as economic social and cultural rights.

Article 7

All States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries.

Article 8

1. States should undertake, at the national level, all necessary measures for the realization of the right to development and shall ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income. Effective measures should be undertaken to ensure that women have an active role in the development process. Appropriate

economic and social reforms should be carried out with a view to eradicating all social injustices.

2. States should encourage popular participation in all spheres as an important factor in development and in the full realization of all human rights.

Article 9

1. All the aspects of the right to development set forth in the present Declaration are indivisible and interdependent and each of them should be considered in the context of the whole.
2. Nothing in the present Declaration shall be construed as being contrary to the purposes and principles of the United Nations, or as implying that any State, group or person has a right to engage in any activity or to perform any act aimed at the violation of the rights set forth in the Universal Declaration of Human Rights and in the International Covenants on Human Rights.

Article 10

Steps should be taken to ensure the full exercise and progressive enhancement of the right to development, including the formulation, adoption and implementation of policy, legislative and other measures at the national and international levels.

United Nations (UN), Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1949, Geneva, Switzerland)

Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment of International Conventions for the Protection of Victims of War, held in Geneva from 21 April to 12 August, 1949 entry into force 21 October 1950

PART I GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them. The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance. Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- a. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - b. Taking of hostages;
 - c. Outrages upon personal dignity, in particular humiliating and degrading treatment;
 - d. The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.
2. The wounded and sick shall be collected and cared for. An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict. The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention. The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals. Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

The provisions of Part II are, however, wider in application, as defined in Article 13.

Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949, shall not be considered as protected persons within the meaning of the present Convention.

Article 5

Where, in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely

suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity, and in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

Article 6

The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: I to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, and 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

Article 7

In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, 108, 109, 132, 133 and 149, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, nor restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 8

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 9

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties. The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers. The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Article 10

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief.

Article 11

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the

present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State with which the State of which they are nationals has not normal diplomatic representation.

Article 12

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement. For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in particular of the authorities responsible for protected person, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict, a person belonging to a neutral Power or delegated by the International Committee of the Red Cross who shall be invited to take part in such a meeting.

PART II GENERAL PROTECTION OF POPULATIONS AGAINST CERTAIN CONSEQUENCES OF WAR

Article 13

The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war.

Article 14

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

Article 15

Any Party to the conflict may, either directly or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:

- a. Wounded and sick combatants or non-combatants;
- b. Civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character. When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

Article 16

The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect. As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

Article 17

The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

Article 18

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack, but shall at all times be respected and protected by the Parties to the conflict.

States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19.

Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949, but only if so authorized by the State.

The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

Article 19

The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy.

Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit, and after such warning has remained unheeded.

The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy.

Article 20

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases, shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armlet which they shall wear on the left arm while carrying out their duties. This armlet shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armlet, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

Article 21

Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the same manner as the hospitals provided for in Article 18, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949.

Article 22

Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases, or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned. They may be marked with the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of August 12, 1949. Unless agreed otherwise, flights over enemy or enemy-occupied territory are prohibited.

Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

Article 23

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- a. That the consignments may be diverted from their destination;
- b. That the control may not be effective; or

- c. That a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods. The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited there by being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

Article 24

The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

Article 25

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay. If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

Article 26

Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

PART III STATUS AND TREATMENT OF PROTECTED PERSONS

SECTION I PROVISIONS COMMON TO THE TERRITORIES OF THE PARTIES TO THE CONFLICT AND TO OCCUPIED TERRITORIES

Article 27

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Article 28

The presence of a protected person may not be used to render certain points or areas immune from military operations.

Article 29

The Party to the conflict in whose hands protected persons may be is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

Article 30

Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them. These several organizations shall be granted all

facilities for that purpose by the authorities, within the bounds set by military or security considerations.

Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate as much as possible visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons.

Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishment, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person but also to any other measures of brutality whether applied by civilian or military agents.

Article 33

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Article 34

The taking of hostages is prohibited.

SECTION II ALIENS IN THE TERRITORY OF A PARTY TO THE CONFLICT

Article 35

All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use. If any such person is refused permission to leave the territory, he shall be entitled to have such refusal reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

Article 36

Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned. The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

Article 37

Protected persons who are confined pending proceedings or serving a sentence involving loss of liberty shall during their confinement be humanely treated. As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

Article 38

With the exception of special measures authorized by the present Convention, in particular by Articles 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

1. They shall be enabled to receive the individual or collective relief that may be sent to them.
2. They shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
3. They shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.
4. If they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned.
5. Children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Article 39

Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are.

Where a Party to the conflict applies to a protected person methods of control which result in his being unable to support himself, and especially if such a person is prevented for reasons of security from finding paid employment on reasonable conditions, the said Party shall ensure his support and that of his dependents.

Protected persons may in any case receive allowances from their home country, the Protecting Power, or the relief societies referred to in Article 30.

Article 40

Protected persons may be compelled to work only to the same extent as nationals of the Party to the conflict in whose territory they are.

If protected persons are of enemy nationality, they may only be compelled to do work which is normally necessary to ensure the feeding, sheltering, clothing, transport and health of human beings and which is not directly related to the conduct of military operations.

In the cases mentioned in the two preceding paragraphs, protected persons compelled to work shall have the benefit of the same working conditions and of the same safeguards as national workers, in particular as regards wages, hours of labour, clothing and equipment, previous training and compensation for occupational accidents and diseases.

If the above provisions are infringed, protected persons shall be allowed to exercise their right of complaint in accordance with Article 30.

Article 41

Should the Power in whose hands protected persons may be consider the measures of control mentioned in the present Convention to be inadequate, it may not have recourse to any other measure of control more severe than that of assigned residence or internment, in accordance with the provisions of Articles 42 and 43.

In applying the provisions of Article 39, second paragraph, to the cases of persons required to leave their usual places of residences by virtue of a decision placing them in assigned residence elsewhere, the Detaining Power shall be guided as closely as possible by the standards of welfare set forth in Part III, Section IV of this Convention.

Article 42

The internment or placing in assigned residence of protected persons may be ordered only if the security of the Detaining Power makes it absolutely necessary.

If any person, acting through the representatives of the Protecting Power, voluntarily demands internment, and if his situation renders this step necessary, he shall be interned by the Power in whose hands he may be.

Article 43

Any protected person who has been interned or placed in assigned residence shall be entitled to have such action reconsidered as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose. If the internment or placing in assigned residence is maintained, the court or administrative board shall periodically, and at least twice yearly, give consideration to his or her case, with a view to the favourable amendment of the initial decision, if circumstances permit.

Unless the protected persons concerned object, the Detaining Power shall, as rapidly as possible, give the Protecting Power the names of any protected persons who have been interned or subjected to assigned residence, or who have been released from internment or assigned residence. The decisions of the courts or boards mentioned in the first paragraph of the present Article shall also, subject to the same conditions, be notified as rapidly as possible to the Protecting Power.

Article 44

In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality *de jure* of an enemy State, refugees who do not, in fact, enjoy the protection of any government.

Article 45

Protected persons shall not be transferred to a Power which is not a party to the Convention. This provision shall in no way constitute an obstacle to the repatriation of protected persons, or to their return to their country of residence after the cessation of hostilities.

Protected persons may be transferred by the Detaining Power only to a Power which is a party to the present Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the present Convention. If protected persons are transferred under such circumstances, responsibility for the application of the present Convention rests on the Power accepting them, while they are in its custody. Nevertheless, if that Power fails to carry out the provisions of the present Convention in any important respect, the Power by which the protected persons were transferred shall, upon being so notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the protected persons. Such request must

be complied with.

In no circumstances shall a protected person be transferred to a country where he or she may have reason to fear persecution for his or her political opinions or religious beliefs.

The provisions of this Article do not constitute an obstacle to the extradition, in pursuance of extradition treaties concluded before the outbreak of hostilities, of protected persons accused of offences against ordinary criminal law.

Article 46

In so far as they have not been previously withdrawn, restrictive measures taken regarding protected persons shall be cancelled as soon as possible after the close of hostilities. Restrictive measures affecting their property shall be cancelled, in accordance with the law of the Detaining Power, as soon as possible after the close of hostilities.

SECTION III OCCUPIED TERRITORIES

Article 47

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

Article 48

Protected persons who are not nationals of the Power whose territory is occupied may avail themselves of the right to leave the territory subject to the provisions of 89 Article 35, and decisions thereon shall be taken according to the procedure which the Occupying Power shall establish in accordance with the said Article.

Article 49

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. Nevertheless, the Occupying Power may undertake total or partial evacuation of a given area if the security of the population or imperative military reasons do demand. Such evacuations may not involve the displacement of protected persons outside the bounds of the occupied territory except when for material reasons it is impossible to avoid such displacement. Persons thus evacuated shall be transferred back to their homes as soon as hostilities in the area in question have ceased. The Occupying Power undertaking such transfers or evacuations shall ensure, to the greatest practicable extent, that proper accommodation is provided to receive the protected persons, that the removals are effected in satisfactory conditions of hygiene, health, safety and nutrition, and that members of the same family are not separated.

The Protecting Power shall be informed of any transfers and evacuations as soon as they have taken place. The Occupying Power shall not detain protected persons in an area particularly exposed to the dangers of war unless the security of the population or imperative military reasons so demand.

The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

Article 50

The Occupying Power shall, with the cooperation of the national and local authorities, facilitate the proper working of all institutions devoted to the care and education of children.

The Occupying Power shall take all necessary steps to facilitate the identification of children and the registration of their parentage. It may not, in any case, change their personal status, nor enlist them in formations or organizations subordinate to it.

Should the local institutions be inadequate for the purpose, the Occupying Power shall make arrangements for the maintenance and education, if possible by persons of their own nationality, language and religion, of children who are orphaned or separated from their parents as a result of the war and who cannot be adequately cared for by a near relative or friend.

A special section of the Bureau set up in accordance with Article 136 shall be responsible for taking all necessary steps to identify children whose identity is in doubt. Particulars of their parents or other near relatives should always be recorded if available.

The Occupying Power shall not hinder the application of any preferential measures in regard to food, medical care and protection against the effects of war, which may have been adopted prior to the occupation in favour of children under fifteen years, expectant mothers, and mothers of children under seven years.

Article 51

The Occupying Power may not compel protected persons to serve in its armed or auxiliary forces. No pressure or propaganda which aims at securing voluntary enlistment is permitted.

The Occupying Power may not compel protected persons to work unless they are over eighteen years of age, and then only on work which is necessary either for the needs of the army of occupation, or for the public utility services, or for the feeding, sheltering, clothing, transportation or health of the population of the occupied country. Protected persons may not be compelled to undertake any work which would involve them in the obligation of taking part in

military operations. The Occupying Power may not compel protected persons to employ forcible means to ensure the security of the installations where they are performing compulsory labour.

The work shall be carried out only in the occupied territory where the persons whose services have been requisitioned are. Every such person shall, so far as possible, be kept in his usual place of employment. Workers shall be paid a fair wage and the work shall be proportionate to their physical and intellectual capacities. The legislation in force in the occupied country concerning working conditions, and safeguards as regards, in particular, such matters as wages, hours of work, equipment, preliminary training and compensation for occupational accidents and diseases, shall be applicable to the protected persons assigned to the work referred to in this Article.

In no case shall requisition of labour lead to a mobilization of workers in an organization of a military or semi-military character.

Article 52

No contract, agreement or regulation shall impair the right of any worker, whether voluntary or not and wherever he may be, to apply to the representatives of the Protecting Power in order to request the said Power's intervention.

All measures aiming at creating unemployment or at restricting the opportunities offered to workers in an occupied territory, in order to induce them to work for the Occupying Power, are prohibited.

Article 53

Any destruction by the Occupying Power of real or personal property belonging individually or collectively to private persons, or to the State, or to other public authorities, or to social or cooperative organizations, is prohibited, except where such destruction is rendered absolutely necessary by military operations.

Article 54

The Occupying Power may not alter the status of public officials or judges in the occupied territories, or in any way apply sanctions to or take any measures of coercion or discrimination against them, should they abstain from fulfilling their functions for reasons of conscience.

This prohibition does not prejudice the application of the second paragraph of Article 51. It does not affect the right of the Occupying Power to remove public officials from their posts.

Article 55

To the fullest extent of the means available to it the Occupying Power has the duty of ensuring the food and medical supplies of the population; it should, in particular, bring in the necessary foodstuffs, medical stores and other articles if the resources of the occupied territory are inadequate.

The Occupying Power may not requisition foodstuffs, articles or medical supplies available in the occupied territory, except for use by the occupation forces and administration personnel, and then only if the requirements of the civilian population have been taken into account. Subject to the provisions of other international Conventions, the Occupying Power shall make arrangements to ensure that fair value is paid for any requisitioned goods.

The Protecting Power shall, at any time, be at liberty to verify the state of the food and medical supplies in occupied territories, except where temporary restrictions are made necessary by imperative military requirements.

Article 56

To the fullest extent of the means available to it, the Occupying Power has the duty of ensuring and maintaining, with the cooperation of national and local authorities, the medical and hospital establishments and services, public health and hygiene in the occupied territory, with particular reference to the adoption and application of the prophylactic and preventive measures necessary to combat the spread of contagious diseases and epidemics. Medical personnel of all categories shall be allowed to carry out their duties.

If new hospitals are set up in occupied territory and if the competent organs of the occupied State are not operating there, the occupying authorities shall, if necessary, grant them the recognition provided for in Article 18. In similar circumstances, the occupying authorities shall also grant recognition to hospital personnel and transport vehicles under the provisions of Articles 20 and 21.

In adopting measures of health and hygiene and in their implementation, the Occupying Power shall take into consideration the moral and ethical susceptibilities of the population of the occupied territory.

Article 57

The Occupying Power may requisition civilian hospitals only temporarily and only in cases of urgent necessity for the care of military wounded and sick, and then on condition that suitable arrangements are made in due time for the care and treatment of the patients and for the needs of the civilian population for hospital accommodation.

The material and stores of civilian hospitals cannot be requisitioned so long as they are necessary for the needs of the civilian population.

Article 58

The Occupying Power shall permit ministers of religion to give spiritual assistance to the members of their religious communities.

The Occupying Power shall also accept consignments of books and articles required for religious needs and shall facilitate their distribution in occupied territory.

Article 59

If the whole or part of the population of an occupied territory is inadequately supplied, the Occupying Power shall agree to relief schemes on behalf of the said population, and shall facilitate them by all the means at its disposal.

Such schemes, which may be undertaken either by States or by impartial humanitarian organizations such as the International Committee of the Red Cross, shall consist, in particular, of the provision of consignments of foodstuffs, medical supplies and clothing.

All Contracting Parties shall permit the free passage of these consignments and shall guarantee their protection. A Power granting free passage to consignments on their way to territory occupied by an adverse Party to the conflict shall, however, have the right to search the consignments, to regulate their passage according to prescribed times and routes, and to be reasonably satisfied through the Protecting Power that these consignments are to be used for the relief of the needy population and are not to be used for the benefit of the Occupying Power.

Article 60

Relief consignments shall in no way relieve the Occupying Power of any of its responsibilities under Articles 55, 56 and 59. The Occupying Power shall in no way whatsoever divert relief consignments from the purpose for which they are intended, except in cases of urgent necessity, in the interests of the population of the occupied territory and with the consent of the Protecting Power.

Article 61

The distribution of the relief consignments referred to in the foregoing Articles shall be carried out with the cooperation and under the supervision of the Protecting Power. This duty may also be delegated, by agreement between the Occupying Power and the Protecting Power, to a neutral Power, to the International Committee of the Red Cross or to any other impartial humanitarian body.

Such consignments shall be exempt in occupied territory from all charges, taxes or customs duties unless these are necessary in the interests of the economy of the territory. The Occupying Power shall facilitate the rapid distribution of these consignments.

All Contracting Parties shall endeavour to permit the transit and transport, free of charge, of such relief consignments on their way to occupied territories.

Article 62

Subject to imperative reasons of security, protected persons in occupied territories shall be permitted to receive the individual relief consignments sent to them.

Article 63

Subject to temporary and exceptional measures imposed for urgent reasons of security by the Occupying Power:

- a. Recognized National Red Cross (Red Crescent, Red Lion and Sun) Societies shall be able to pursue their activities in accordance with Red Cross principles, as defined by the International Red Cross Conferences. Other relief societies shall be permitted to continue their humanitarian activities under similar conditions;
- b. The Occupying Power may not require any changes in the personnel or structure of these societies, which would prejudice the aforesaid activities. The same principles shall apply to the activities and personnel of special organizations of a non-military character, which already exist or which may be established, for the purpose of ensuring the living conditions of the civilian population by the maintenance of the essential public utility services, by the distribution of relief and by the organization of rescues.

Article 64

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

Article 65

The penal provisions enacted by the Occupying Power shall not come into force before they have been published and brought to the knowledge of the inhabitants in their own language. The effect of these penal provisions shall not be retroactive.

Article 66

In case of a breach of the penal provisions promulgated by it by virtue of the second paragraph of Article 64, the Occupying Power may hand over the accused to its properly constituted, non-political military courts, on condition that the said courts sit in the occupied country. Courts of appeal shall preferably sit in the occupied country.

Article 67

The courts shall apply only those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportioned to the offence. They shall take into consideration the fact that the accused is not a national of the Occupying Power.

Article 68

Protected persons who commit an offence which is solely intended to harm the Occupying Power, but which does not constitute an attempt on the life or limb of members of the occupying forces or administration, nor a grave collective danger, nor seriously damage the property of the occupying forces or administration or the installations used by them, shall be liable to internment or simple imprisonment, provided the duration of such internment or imprisonment is proportionate to the offence committed. Furthermore, internment or imprisonment shall, for such offences, be the only measure adopted for depriving protected persons of liberty. The courts provided for under Article 66 of the present Convention may at their discretion convert a sentence of imprisonment to one of internment for the same period. The penal provisions promulgated by the Occupying Power in accordance with Articles 64 and 65 may impose the death penalty on a protected person only in cases where the person is guilty of espionage, of serious acts of sabotage against the military installations of the Occupying Power or of intentional offences which have caused the death of one or more persons, provided that such offences were punishable by death under the law of the occupied territory in force before the occupation began.

The death penalty may not be pronounced against a protected person unless the attention of the court has been particularly called to the fact that, since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.

In any case, the death penalty may not be pronounced against a protected person who was under eighteen years of age at the time of the offence.

Article 69

In all cases, the duration of the period during which a protected person accused of an offence is under arrest awaiting trial or punishment shall be deducted from any period of imprisonment awarded.

Article 70

Protected persons shall not be arrested, prosecuted or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, with the exception of breaches of the laws and customs of war.

Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, prosecuted, convicted or deported from the occupied territory, except for offences committed after the outbreak of hostilities, or for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace.

Article 71

No sentence shall be pronounced by the competent courts of the Occupying Power except after a regular trial.

Accused persons who are prosecuted by the Occupying Power shall be promptly informed, in writing, in a language which they understand, of the particulars of the charges preferred against them, and shall be brought to trial as rapidly as possible. The Protecting Power shall be informed of all proceedings instituted by the Occupying Power against protected persons in respect of charges involving the death penalty or imprisonment for two years or more; it shall be enabled, at any time, to obtain information regarding the state of such proceedings. Furthermore, the Protecting Power shall be entitled, on request, to be furnished with all particulars of these and of any other proceedings instituted by the Occupying Power against protected persons. The notification to the Protecting Power, as provided for in the second paragraph above, shall be sent immediately, and shall in any case reach the Protecting Power three weeks before the date of the first hearing. Unless, at the opening of the trial, evidence is submitted that the provisions of this Article are fully complied with, the trial shall not proceed. The notification shall include the following particulars:

- a. Description of the accused;
- b. Place of residence or detention;
- c. Specification of the charge or charges (with mention of the penal provisions under which it is brought);
- d. Designation of the court which will hear the case;
- e. Place and date of the first hearing.

Article 72

Accused persons shall have the right to present evidence necessary to their defence and may, in particular, call witnesses. They shall have the right to be assisted by a qualified advocate or counsel of their own choice, who shall be able to visit them freely and shall enjoy the necessary facilities for preparing the defence.

Failing a choice by the accused, the Protecting Power may provide him with an advocate or counsel. When an accused person has to meet a serious charge and the Protecting Power is not functioning, the Occupying Power, subject to the consent of the accused, shall provide an advocate or counsel.

Accused persons shall, unless they freely waive such assistance, be aided by an interpreter, both during preliminary investigation and during the hearing in court. They shall have the right at any time to object to the interpreter and to ask for his replacement.

Article 73

A convicted person shall have the right of appeal provided for by the laws applied by the court. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so. The penal procedure provided in the present Section shall apply, as far as it is applicable, to appeals. Where the laws applied by the Court make no provision for appeals, the convicted person shall have the right to petition against the finding and sentence to the competent authority of the Occupying Power.

Article 74

Representatives of the Protecting Power shall have the right to attend the trial of any protected person, unless the hearing has, as an exceptional measure, to be held in camera in the interests of the security of the Occupying Power, which shall then notify the Protecting Power. A notification in respect of the date and place of trial shall be sent to the Protecting Power.

Any judgment involving a sentence of death, or imprisonment for two years or more, shall be communicated, with the relevant grounds, as rapidly as possible to the Protecting Power. The notification shall contain a reference to the notification made under Article 71, and in the case of sentences of imprisonment, the name of the place where the sentence is to be served. A record of judgments other than those referred to above shall be kept by the court and shall be open to inspection by representatives of the Protecting Power. Any period allowed for appeal in the case of sentences involving the death penalty, or imprisonment for two years or more, shall not run until notification of judgment has been received by the Protecting Power.

Article 75

In no case shall persons condemned to death be deprived of the right of petition for pardon or reprieve.

No death sentence shall be carried out before the expiration of a period of at least six months from the date of receipt by the Protecting Power of the notification of the final judgment confirming such death sentence, or of an order denying pardon or reprieve.

The six months period of suspension of the death sentence herein prescribed may be reduced in individual cases in circumstances of grave emergency involving an organized threat to the security of the Occupying Power or its forces, provided always that the Protecting Power is notified of such reduction and is given reasonable time and opportunity to make representations to the competent occupying authorities in respect of such death sentences.

Article 76

Protected persons accused of offences shall be detained in the occupied country, and if convicted they shall serve their sentences therein. They shall, if possible, be separated from other detainees and shall enjoy conditions of food and hygiene which will be sufficient to keep them in good health, and which will be at least equal to those obtaining in prisons in the occupied country.

They shall receive the medical attention required by their state of health.

They shall also have the right to receive any spiritual assistance which they may require.

Women shall be confined in separate quarters and shall be under the direct supervision of women.

Proper regard shall be paid to the special treatment due to minors.

Protected persons who are detained shall have the right to be visited by delegates of the Protecting Power and of the International Committee of the Red Cross, in accordance with the provisions of Article 143.

Such persons shall have the right to receive at least one relief parcel monthly.

Article 77

Protected persons who have been accused of offences or convicted by the courts in occupied territory shall be handed over at the close of occupation, with the relevant records, to the authorities of the liberated territory.

Article 78

If the Occupying Power considers it necessary, for imperative reasons of security, to take safety measures concerning protected persons, it may, at the most, subject them to assigned residence or to internment.

Decisions regarding such assigned residence or internment shall be made according to a regular procedure to be prescribed by the Occupying Power in accordance with the provisions of the present Convention. This procedure shall include the right of appeal for the parties concerned. Appeals shall be decided with the least possible delay. In the event of the decision being upheld, it shall be subject to periodical review, if possible every six months, by a competent body set up by the said Power.

Protected persons made subject to assigned residence and thus required to leave their homes shall enjoy the full benefit of Article 39 of the present Convention.

SECTION IV REGULATIONS FOR THE TREATMENT OF INTERNEES

Chapter I GENERAL PROVISIONS

Article 79

The Parties to the conflict shall not intern protected persons, except in accordance with the provisions of Articles 41, 42, 43, 68 and 78.

Article 80

Internees shall retain their full civil capacity and shall exercise such attendant rights as may be compatible with their status.

Article 81

Parties to the conflict who intern protected persons shall be bound to provide free of charge for their maintenance, and to grant them also the medical attention required by their state of health.

No deduction from the allowances, salaries or credits due to the internees shall be made for the repayment of these costs.

The Detaining Power shall provide for the support of those dependent on the internees, if such dependants are without adequate means of support or are unable to earn a living.

Article 82

The Detaining Power shall, as far as possible, accommodate the internees according to their nationality, language and customs. Internees who are nationals of the same country shall not be separated merely because they have different languages.

Throughout the duration of their internment, members of the same family, and in particular parents and children, shall be lodged together in the same place of internment, except when separation of a temporary nature is necessitated for reasons of employment or health or for the purposes of enforcement of the provisions of Chapter IX of the present Section. Internees may request that their children who are left at liberty without parental care shall be interned with them.

Wherever possible, interned members of the same family shall be housed in the same premises and given separate accommodation from other internees, together with facilities for leading a proper family life.

Chapter II PLACES OF INTERNMENT

Article 83

The Detaining Power shall not set up places of internment in areas particularly exposed to the dangers of war.

The Detaining Power shall give the enemy Powers, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of places of internment.

Whenever military considerations permit, internment camps shall be indicated by the letters IC, placed so as to be clearly visible in the daytime from the air. The Powers concerned may, however, agree upon any other system of marking. No place other than an internment camp shall be marked as such.

Article 84

Internees shall be accommodated and administered separately from prisoners of war and from persons deprived of liberty for any other reason.

Article 85

The Detaining Power is bound to take all necessary and possible measures to ensure that protected persons shall, from the outset of their internment, be accommodated in buildings or quarters which afford every possible safeguard as regards hygiene and health, and provide efficient protection against the rigours of the climate and the effects of the war. In no case shall permanent places of internment be situated in unhealthy areas or in districts the climate of which is injurious to the internees. In all cases where the district, in which a protected person is temporarily interned, is in an unhealthy area or has a climate which is harmful to his health, he shall be removed to a more suitable place of internment as rapidly as circumstances permit.

The premises shall be fully protected from dampness, adequately heated and lighted, in particular between dusk and lights out. The sleeping quarters shall be sufficiently spacious and well ventilated, and the internees shall have suitable bedding and sufficient blankets, account being taken of the climate, and the age, sex, and state of health of the internees.

Internees shall have for their use, day and night, sanitary conveniences which conform to the rules of hygiene and are constantly maintained in a state of cleanliness. They shall be provided with sufficient water and soap for their daily personal toilet and for washing their personal laundry; installations and facilities necessary for this purpose shall be granted to them.

Showers or baths shall also be available. The necessary time shall be set aside for washing and for cleaning.

Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of separate sleeping quarters and sanitary conveniences for the use of such women internees shall be obligatory.

Article 86

The Detaining Power shall place at the disposal of interned persons, of whatever denomination, premises suitable for the holding of their religious services.

Article 87

Canteens shall be installed in every place of internment, except where other suitable facilities are available. Their purpose shall be to enable internees to make purchases, at prices not higher than local market prices, of foodstuffs and articles of everyday use, including soap and tobacco, such as would increase their personal well-being and comfort.

Profits made by canteens shall be credited to a welfare fund to be set up for each place of internment, and administered for the benefit of the internees attached to such place of internment. The Internee Committee provided for in Article 102 shall have the right to check the management of the canteen and of the said fund.

When a place of internment is closed down, the balance of the welfare fund shall be transferred to the welfare fund of a place of internment for internees of the same nationality, or, if such a place does not exist, to a central welfare fund which shall be administered for the benefit of all internees remaining in the custody of the Detaining Power. In case of a general release, the said profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

Article 88

In all places of internment exposed to air raids and other hazards of war, shelters adequate in number and structure to ensure the necessary protection shall be installed. In case of alarms, the internees shall be free to enter such shelters as quickly as possible, excepting those who remain for the protection of their quarters against the aforesaid hazards. Any protective measures taken in favour of the population shall also apply to them.

All due precautions must be taken in places of internment against the danger of fire.

Chapter III FOOD AND CLOTHING**Article 89**

Daily food rations for internees shall be sufficient in quantity, quality and variety to keep internees in a good state of health and prevent the development of nutritional deficiencies. Account shall also be taken of the customary diet of the internees.

Internees shall also be given the means by which they can prepare for themselves any additional food in their possession.

Sufficient drinking water shall be supplied to internees. The use of tobacco shall be permitted.

Internees who work shall receive additional rations in proportion to the kind of labour which they perform.

Expectant and nursing mothers and children under fifteen years of age shall be given additional food, in proportion to their physiological needs.

Article 90

When taken into custody, internees shall be given all facilities to provide themselves with the necessary clothing, footwear and change of underwear, and later on, to procure further supplies if required. Should any internees not have sufficient clothing, account being taken of the climate, and be unable to procure any, it shall be provided free of charge to them by the Detaining Power.

The clothing supplied by the Detaining Power to internees and the outward markings placed on their own clothes shall not be ignominious nor expose them to ridicule.

Workers shall receive suitable working outfits, including protective clothing, whenever the nature of their work so requires.

Chapter IV HYGIENE AND MEDICAL ATTENTION**Article 91**

Every place of internment shall have an adequate infirmary, under the direction of a qualified doctor, where internees may have the attention they require, as well as an appropriate diet. Isolation wards shall be set aside for cases of contagious or mental diseases.

Maternity cases and internees suffering from serious diseases, or whose condition requires special treatment, a surgical operation or hospital care, must be admitted to any institution where adequate treatment can be given and shall receive care not inferior to that provided for the general population.

Internees shall, for preference, have the attention of medical personnel of their own nationality.

Internees may not be prevented from presenting themselves to the medical authorities for examination. The medical authorities of the Detaining Power shall, upon request, issue to every internee who has undergone treatment an official certificate showing the nature of his illness or injury, and the duration and nature of the treatment given. A duplicate of this certificate shall be forwarded to the Central Agency provided for in Article 140.

Treatment, including the provision of any apparatus necessary for the maintenance of internees in good health, particularly dentures and other artificial appliances and spectacles, shall be free of charge to the internee.

Article 92

Medical inspections of internees shall be made at least once a month. Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of internees, and to detect contagious diseases, especially tuberculosis, malaria, and venereal diseases. Such inspections shall include, in particular, the checking of weight of each internee and, at least once a year, radioscopic examination.

Chapter V RELIGIOUS, INTELLECTUAL AND PHYSICAL ACTIVITIES**Article 93**

Internees shall enjoy complete latitude in the exercise of their religious duties, including attendance at the services of their faith, on condition that they comply with the disciplinary routine prescribed by the detaining authorities.

Ministers of religion who are interned shall be allowed to minister freely to the members of their community. For this purpose, the Detaining Power shall ensure their equitable allocation amongst the various places of internment in which there are internees speaking the same language and be longing to the same religion.

Should such ministers be too few in number, the Detaining Power shall provide them with the necessary facilities, including means of transport, for moving from one place to another, and they shall be authorized to visit any internees who are in hospital. Ministers of religion shall be at liberty to correspond on matters concerning their ministry with the religious authorities in the country of detention and, as far as possible, with the international religious organizations of their faith.

Such correspondence shall not be considered as forming a part of the quota mentioned in Article 107. It shall, however, be subject to the provisions of Article 112.

When internees do not have at their disposal the assistance of ministers of their faith, or should these latter be too few in number, the local religious authorities of the same faith may appoint, in agreement with the Detaining Power, a minister of the internees' faith or, if such a course is feasible from a denominational point of view, a minister of similar religion or a qualified layman. The latter shall enjoy the facilities granted to the ministry he has assumed. Persons so appointed shall comply with all regulations laid down by the Detaining Power in the interests of discipline and security.

Article 94

The Detaining Power shall encourage intellectual, educational and recreational pursuits, sports and games amongst internees, whilst leaving them free to take part in them or not. It shall take all practicable measures to ensure the exercise thereof, in particular by providing suitable premises.

All possible facilities shall be granted to internees to continue their studies or to take up new subjects. The education of children and young people shall be ensured; they shall be allowed to attend schools either within the place of internment or outside.

Internees shall be given opportunities for physical exercise, sports and outdoor games. For this purpose, sufficient open spaces shall be set aside in all places of internment. Special playgrounds shall be reserved for children and young people.

Article 95

The Detaining Power shall not employ internees as workers, unless they so desire. Employment which, if undertaken under compulsion by a protected person not in internment, would involve a breach of Articles 40 or 51 of the present Convention, and employment on work which is of a degrading or humiliating character are in any case prohibited.

After a working period of six weeks, internees shall be free to give up work at any moment, subject to eight days' notice.

These provisions constitute no obstacle to the right of the Detaining Power to employ interned doctors, dentists and other medical personnel in their professional capacity on behalf of their fellow internees, or to employ internees for administrative and maintenance work in places of internment and to detail

such persons for work in the kitchens or for other domestic tasks, or to require such persons to undertake duties connected with the protection of internees against aerial bombardment or other war risks. No internee may, however, be required to perform tasks for which he is, in the opinion of a medical officer, physically unsuited.

The Detaining Power shall take entire responsibility for all working conditions, for medical attention, for the payment of wages, and for ensuring that all employed internees receive compensation for occupational accidents and diseases. The standards prescribed for the said working conditions and for compensation shall be in accordance with the national laws and regulations, and with the existing practice; they shall in no case be inferior to those obtaining for work of the same nature in the same district. Wages for work done shall be determined on an equitable basis by special agreements between the internees, the Detaining Power, and, if the case arises, employers other than the Detaining Power, due

regard being paid to the obligation of the Detaining Power to provide for free maintenance of internees and for the medical attention which their state of health may require. Internees permanently detailed for categories of work mentioned in the third paragraph of this Article shall be paid fair wages by the Detaining Power. The working conditions and the scale of compensation for occupational accidents and diseases to internees thus detailed shall not be inferior to those applicable to work of the same nature in the same district.

Article 96

All labour detachments shall remain part of and dependent upon a place of internment. The competent authorities of the Detaining Power and the commandant of a place of internment shall be responsible for the observance in a labour detachment of the provisions of the present Convention. The commandant shall keep an up-to-date list of the labour detachments subordinate to him and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross and of other humanitarian organizations who may visit the places of internment.

Chapter VI PERSONAL PROPER AND FINANCIAL RESOURCES**Article 97**

Internees shall be permitted to retain articles of personal use. Monies, cheques, bonds, etc., and valuables in their possession may not be taken from them except in accordance with established procedure. Detailed receipts shall be given therefor.

The amounts shall be paid into the account of every internee as provided for in Article 98. Such amounts may not be converted into any other currency unless legislation in force in the territory in which the owner is interned so requires or the internee gives his consent.

Articles which have above all a personal or sentimental value may not be taken away.

A woman internee shall not be searched except by a woman.

On release or repatriation, internees shall be given all articles, monies or other valuables taken from them during internment and shall receive in currency the balance of any credit to their accounts kept in accordance with Article 98, with the exception of any articles or amounts withheld by the Detaining Power by virtue of its legislation in force. If the property of an internee is so withheld, the owner shall receive a detailed receipt.

Family or identity documents in the possession of internees may not be taken away without a receipt being given. At no time shall internees be left without identity documents. If they have none, they shall be issued with special documents drawn up by the detaining authorities, which will serve as their identity papers until the end of their internment.

Internees may keep on their persons a certain amount of money, in cash or in the shape of purchase coupons, to enable them to make purchases.

Article 98

All internees shall receive regular allowances, sufficient to enable them to purchase goods and articles, such as tobacco, toilet requisites, etc. Such allowances may take the form of credits or purchase coupons.

Furthermore, internees may receive allowances from the Power to which they owe allegiance, the Protecting Powers, the organizations which may assist them, or their families, as well as the income on their property in accordance with the law of the Detaining Power. The amount of allowances granted by the Power to which they owe allegiance shall be the same for each category of internees (infirm, sick, pregnant women, etc.), but may not be allocated by that Power or distributed by the Detaining Power on the basis of discrimination between internees which are prohibited by Article 27 of the present Convention.

The Detaining Power shall open a regular account for every internee, to which shall be credited the allowances named in the present Article, the wages earned and the remittances received, together with such sums taken from him as may be available under the legislation in force in the territory in which he is interned. Internees shall be granted all facilities consistent with the legislation in force in such territory to make remittances to their families and to other dependants. They may draw from their accounts the amounts necessary for their personal expenses, within the limits fixed by the Detaining Power. They shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts. A statement of accounts shall be furnished to the Protecting Power on request, and shall accompany the internee in case of transfer.

Chapter VII ADMINISTRATION AND DISCIPLINE**Article 99**

Every place of internment shall be put under the authority of a responsible officer, chosen from the regular military forces or the regular civil administration of the Detaining Power. The officer in charge of the place of internment must have in his possession a copy of the present Convention in the official language, or one of the official languages, of his country and shall be responsible for its application. The staff in control of internees shall be instructed in the provisions of the present Convention and of the administrative measures adopted to ensure its application.

The text of the present Convention and the texts of special agreements concluded under the said Convention shall be posted inside the place of internment, in a language which the internees understand, or shall be in the possession of the Internee Committee.

Regulations, orders, notices and publications of every kind shall be communicated to the internees and posted inside the places of internment, in a language which they understand.

Every order and command addressed to internees individually must likewise be given in a language which they understand.

Article 100

The disciplinary regime in places of internment shall be consistent with humanitarian principles, and shall in no circumstances include regulations imposing on internees any physical exertion dangerous to their health or involving physical or moral victimization. Identification by tattooing or imprinting signs or markings on the body is prohibited. In particular, prolonged standing and roll-calls, punishment drill, military drill and manoeuvres, or the reduction of food rations, are prohibited.

Article 101

Internees shall have the right to present to the authorities in whose power they are any petition with regard to the conditions of internment to which they are subjected.

They shall also have the right to apply without restriction through the Internee Committee or, if they consider it necessary, direct to the representatives of the Protecting Power, in order to indicate to them any points on which they may have complaints to make with regard to the conditions of internment.

Such petitions and complaints shall be transmitted forthwith and without alteration, and even if the latter are recognized to be unfounded, they may not occasion any punishment.

Periodic reports on the situation in places of internment and as to the needs of the internees may be sent by the Internee Committees to the representatives of the Protecting Powers.

Article 102

In every place of internment, the internees shall freely elect by secret ballot every six months, the members of a Committee empowered to represent them before the Detaining and the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. The members of the Committee shall be eligible for re-election.

Internees so elected shall enter upon their duties after their election has been approved by the detaining authorities. The reasons for any refusals or dismissals shall be communicated to the Protecting Powers concerned.

Article 103

The Internee Committees shall further the physical, spiritual and intellectual wellbeing of the internees.

In case the internees decide, in particular, to organize a system of mutual assistance amongst themselves, this organization would be within the competence of the Committees in addition to the special duties entrusted to them under other provisions of the present Convention.

Article 104

Members of Internee Committees shall not be required to perform any other work, if the accomplishment of their duties is rendered more difficult thereby. Members of Internee Committees may appoint from amongst the internees such assistants as they may require. All material facilities shall be granted to them, particularly a certain freedom of movement necessary for the accomplishment of their duties (visits to labour detachments, receipt of supplies, etc.).

All facilities shall likewise be accorded to members of Internee Committees for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, and with the organizations which give assistance to internees. Committee members in labour detachments shall enjoy similar facilities for communication with their Internee Committee in the principal place of internment. Such communications shall not be limited, nor considered as forming a part of the quota mentioned in Article 107.

Members of Internee Committees who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

Chapter VIII RELATIONS WITH THE EXTERIOR**Article 105**

Immediately upon interning protected persons, the Detaining Power shall inform them, the Power to which they owe allegiance and their Protecting Power of the measures taken for executing the provisions of the present Chapter. The Detaining Power shall likewise inform the Parties concerned of any subsequent modifications of such measures.

Article 106

As soon as he is interned, or at the latest not more than one week after his arrival in a place of internment, and likewise in cases of sickness or transfer to another place of internment or to a hospital, every internee shall be enabled to send direct to his family, on the one hand, and to the Central Agency provided for by Article 140, on the other, an internment card similar, if possible, to the model annexed to the present Convention, informing his relatives of his detention, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any way.

Article 107

Internees shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each internee, the said number shall not be less than two letters and four cards monthly; these shall be drawn up so as to conform as closely as possible to the models annexed to the present Convention. If limitations must be placed on the correspondence addressed to internees, they may be ordered only

by the Power to which such internees owe allegiance, possibly at the request of the Detaining Power. Such letters and cards must be conveyed with reasonable despatch; they may not be delayed or retained for disciplinary reasons. Internees who have been a long time without news, or who find it impossible to receive news from their relatives, or to give them news by the ordinary postal route, as well as those who are at a considerable distance from their homes, shall be allowed to send telegrams, the charges being paid by them in the currency at their disposal. They shall likewise benefit by this provision in cases which are recognized to be urgent.

As a rule, internees' mail shall be written in their own language. The Parties to the conflict may authorize correspondence in other languages.

Article 108

Internees shall be allowed to receive, by post or by any other means, individual parcels or collective shipments containing in particular foodstuffs, clothing, medical supplies, as well as books and objects of a devotional, educational or recreational character which may meet their needs. Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

Should military necessity require the quantity of such shipments to be limited, due notice thereof shall be given to the Protecting Power and to the International Committee of the Red Cross, or to any other organization giving assistance to the internees and responsible for the forwarding of such shipments.

The conditions for the sending of individual parcels and collective shipments shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the internees of relief supplies. Parcels of clothing and foodstuffs may not include books. Medical relief supplies shall, as a rule, be sent in collective parcels.

Article 109

In the absence of special agreements between Parties to the conflict regarding the conditions for the receipt and distribution of collective relief shipments, the regulations concerning collective relief which are annexed to the present Convention shall be applied.

The special agreements provided for above shall in no case restrict the right of Internee Committees to take possession of collective relief shipments intended for internees, to undertake their distribution and to dispose of them in the interests of the recipients.

Nor shall such agreements restrict the right of representatives of the Protecting Powers, the International Committee of the Red Cross, or any other organization giving assistance to internees and responsible for the forwarding of collective shipments, to supervise their distribution to the recipients.

Article 110

All relief shipments for internees shall be exempt from import, customs and other dues. All matter sent by mail, including relief parcels sent by parcel post and remittances of money, addressed from other countries to internees or despatched by them through the post office, either direct or through the Information Bureaux provided for in Article 136 and the Central Information Agency provided for in Article 140, shall be exempt from all postal dues both in the countries of origin and destination and in intermediate countries. To this end, in particular, the exemption provided by the Universal Postal Convention of 1947 and by the agreements of the Universal Postal Union in favour of civilians of enemy nationality detained in camps or civilian prisons, shall be extended to the other interned persons protected by the present Convention. The countries not signatory to the above-mentioned agreements shall be bound to grant freedom from charges in the same circumstances.

The cost of transporting relief shipments which are intended for internees and which, by reason of their weight or any other cause, cannot be sent through the post office, shall be borne by the Detaining Power in all the territories under its control. Other Powers which are Parties to the present Convention shall bear the cost of transport in their respective territories.

Costs connected with the transport of such shipments, which are not covered by the above paragraphs, shall be charged to the senders.

The High Contracting Parties shall endeavour to reduce, so far as possible, the charges for telegrams sent by internees, or addressed to them.

Article 111

Should military operations prevent the Powers concerned from fulfilling their obligation to ensure the conveyance of the mail and relief shipments provided for in Articles 106, 107, 108 and 113, the Protecting Powers concerned, the International Committee of the Red Cross or any other organization duly approved by the Parties to the conflict may undertake the conveyance of such

shipments by suitable means (rail, motor vehicles, vessels or air craft, etc.). For this purpose, the High Contracting Parties shall endeavour to supply them with such transport, and to allow its circulation, especially by granting the necessary safe-conducts.

Such transport may also be used to convey:

- a. Correspondence, lists and reports exchanged between the Central Information Agency referred to in Article 140 and the National Bureaux referred to in Article 136;

- b. Correspondence and reports relating to internees which the Protecting Powers, the International Committee of the Red Cross or any other organization assisting the internees exchange either with their own delegates or with the Parties to the conflict.

These provisions in no way detract from the right of any Party to the conflict to arrange other means of transport if it should so prefer, nor preclude the granting of safe-conducts, under mutually agreed conditions, to such means of transport.

The costs occasioned by the use of such means of transport shall be borne, in proportion to the importance of the shipments, by the Parties to the conflict whose nationals are benefited thereby.

Article 112

The censoring of correspondence addressed to internees or despatched by them shall be done as quickly as possible.

The examination of consignments intended for internees shall not be carried out under conditions that will expose the goods contained in them to deterioration. It shall be done in the presence of the addressee, or of a fellow-internee duly delegated by him. The delivery to internees of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by the Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

Article 113

The Detaining Powers shall provide all reasonable facilities for the transmission, through the Protecting Power or the Central Agency provided for in Article 140, or as otherwise required, of wills, powers of attorney letters of authority, or any other documents intended for internees or despatched by them.

In all cases the Detaining Power shall facilitate the execution and authentication in due legal form of such documents on behalf of internees, in particular by allowing them to consult a lawyer.

Article 114

The Detaining Power shall afford internees all facilities to enable them to manage their property, provided this is not incompatible with the conditions of internment and the law which is applicable. For this purpose, the said Power may give them permission to leave the place of internment in urgent cases and if circumstances allow.

Article 115

In all cases where an internee is a party to proceedings in any court, the Detaining Power shall, if he so requests, cause the court to be informed of his detention and shall, within legal limits, ensure that all necessary steps are taken to prevent him from being in any way prejudiced, by reason of his internment, as regards the preparation and conduct of his case or as regards the execution of any judgment of the court.

Article 116

Every internee shall be allowed to receive visitors, especially near relatives, at regular intervals and as frequently as possible.

As far as is possible, internees shall be permitted to visit their homes in urgent cases, particularly in cases of death or serious illness of relatives.

Chapter IX PENAL AND DISCIPLINARY SANCTIONS

Article 117

Subject to the provisions of the present Chapter, the laws in force in the territory in which they are detained will continue to apply to internees who commit offences during internment.

If general laws, regulations or orders declare acts committed by internees to be punishable, whereas the same acts are not punishable when committed by persons who are not internees, such acts shall entail disciplinary punishments only.

No internee may be punished more than once for the same act, or on the same count.

Article 118

The courts or authorities shall in passing sentence take as far as possible into account the fact that the defendant is not a national of the Detaining Power. They shall be free to reduce the penalty prescribed for the offence with which the internee is charged and shall not be obliged, to this end, to apply the minimum sentence prescribed.

Imprisonment in premises without daylight, and, in general, all forms of cruelty without exception are forbidden.

Internees who have served disciplinary or judicial sentences shall not be treated differently from other internees.

The duration of preventive detention undergone by an internee shall be deducted from any disciplinary or judicial penalty involving confinement to which he may be sentenced.

Internee Committees shall be informed of all judicial proceedings instituted against internees whom they represent, and of their result.

Article 119

The disciplinary punishments applicable to internees shall be the following:

1. A fine which shall not exceed 50 per cent of the wages which the internee would otherwise receive under the provisions of Article 95 during a period of not more than thirty days.
2. Discontinuance of privileges granted over and above the treatment provided for by the present Convention.
3. Fatigue duties, not exceeding two hours daily, in connection with the maintenance of the place of internment.
4. Confinement.

In no case shall disciplinary penalties be inhuman, brutal or dangerous for the health of internees. Account shall be taken of the internee's age, sex and state of health. The duration of any single punishment shall in no case exceed a maximum of thirty consecutive days, even if the internee is answerable for several breaches of discipline when his case is dealt with, whether such breaches are connected or not.

Article 120

Internees who are recaptured after having escaped or when attempting to escape shall be liable only to disciplinary punishment in respect of this act, even if it is a repeated offence.

Article 118, paragraph 3, notwithstanding, internees punished as a result of escape or attempt to escape, may be subjected to special surveillance, on condition that such surveillance does not affect the state of their health, that it is exercised in a place of internment and that it does not entail the abolition of any of the safeguards granted by the present Convention.

Internees who aid and abet an escape, or attempt to escape, shall be liable on this count to disciplinary punishment only.

Article 121

Escape, or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance in cases where an internee is prosecuted for offences committed during his escape.

The Parties to the conflict shall ensure that the competent authorities exercise leniency in deciding whether punishment inflicted for an offence shall be of a disciplinary or judicial nature, especially in respect of acts committed in connection with an escape, whether successful or not.

Article 122

Acts which constitute offences against discipline shall be investigated immediately. This rule shall be applied, in particular, in cases of escape or attempt to escape. Recaptured internees shall be handed over to the competent authorities as soon as possible.

In case of offences against discipline, confinement awaiting trial shall be reduced to an absolute minimum for all internees, and shall not exceed fourteen days. Its duration shall in any case be deducted from any sentence of confinement.

The provisions of Articles 124 and 125 shall apply to internees who are in confinement awaiting trial for offences against discipline.

Article 123

Without prejudice to the competence of courts and higher authorities, disciplinary punishment may be ordered only by the commandant of the place of internment, or by a responsible officer or official who replaces him, or to whom he has delegated his disciplinary powers.

Before any disciplinary punishment is awarded, the accused internee shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced in the presence of the accused and of a member of the Internee Committee.

The period elapsing between the time of award of a disciplinary punishment and its execution shall not exceed one month.

When an internee is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

A record of disciplinary punishments shall be maintained by the commandant of the place of internment and shall be open to inspection by representatives of the Protecting Power.

Article 124

Internees shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

The premises in which disciplinary punishments are undergone shall conform to sanitary requirements; they shall in particular be provided with adequate bedding. Internees undergoing punishment shall be enabled to keep themselves in a state of cleanliness.

Women internees undergoing disciplinary punishment shall be confined in separate quarters from male internees and shall be under the immediate supervision of women.

Article 125

Internees awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily. They shall be allowed, if they so request, to be present at the daily medical

inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the infirmary of the place of internment or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money, however, may be withheld from them until the completion of their punishment; such consignments shall meanwhile be entrusted to the Internee Committee, who will hand over to the infirmary the perishable goods contained in the parcels.

No internee given a disciplinary punishment may be deprived of the benefit of the provisions of Articles 107 and 143 of the present Convention.

Article 126

The provisions of Articles 71 to 76 inclusive shall apply, by analogy, to proceedings against internees who are in the national territory of the Detaining Power.

Chapter X TRANSFERS OF INTERNEES**Article 127**

The transfer of internees shall always be effected humanely. As a general rule, it shall be carried out by rail or other means of transport, and under conditions at least equal to those obtaining for the forces of the Detaining Power in their changes of station. If, as an exceptional measure, such removals have to be effected on foot, they may not take place unless the internees are in a fit state of health, and may not in any case expose them to excessive fatigue.

The Detaining Power shall supply internees during transfer with drinking water and food sufficient in quantity, quality and variety to maintain them in good health, and also with the necessary clothing, adequate shelter and the necessary medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during transfer, and shall establish before their departure a complete list of all internees transferred.

Sick, wounded or infirm internees and maternity cases shall not be transferred if the journey would be seriously detrimental to them, unless their safety imperatively so demands.

If the combat zone draws close to a place of internment, the internees in the said place shall not be transferred unless their removal can be carried out in adequate conditions of safety, or unless they are exposed to greater risks by remaining on the spot than by being transferred.

When making decisions regarding the transfer of internees, the Detaining Power shall take their interests into account and, in particular, shall not do anything to increase the difficulties of repatriating them or returning them to their own homes.

Article 128

In the event of transfer, internees shall be officially advised of their departure and of their new postal address. Such notification shall be given in time for them to pack their luggage and inform their next of kin.

They shall be allowed to take with them their personal effects, and the correspondence and parcels which have arrived for them. The weight of such baggage may be limited if the conditions of transfer so require, but in no case to less than twenty-five kilograms per internee.

Mail and parcels addressed to their former place of internment shall be forwarded to them without delay.

The commandant of the place of internment shall take, in agreement with the Internee Committee, any measures needed to ensure the transport of the internees' community property and of the luggage the internees are unable to take with them in consequence of restrictions imposed by virtue of the second paragraph.

Chapter XI DEATHS**Article 129**

The wills of internees shall be received for safe-keeping by the responsible authorities; and in the event of the death of an internee his will shall be transmitted without delay to a person whom he has previously designated.

Deaths of internees shall be certified in every case by a doctor, and a death certificate shall be made out, showing the causes of death and the conditions under which it occurred.

An official record of the death, duly registered, shall be drawn up in accordance with the procedure relating thereto in force in the territory where the place of internment is situated, and a duly certified copy of such record shall be transmitted without delay to the Protecting Power as well as to the Central Agency referred to in Article 140.

Article 130

The detaining authorities shall ensure that internees who die while interned are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, properly maintained, and marked in such a way that they can always be recognized.

Deceased internees shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased

or in accordance with his expressed wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased. The ashes shall be retained for safe-keeping by the detaining authorities and shall be transferred as soon as possible to the next of kin on their request.

As soon as circumstances permit, and not later than the close of hostilities, the Detaining Power shall forward lists of graves of deceased internees to the Powers on whom the deceased internees depended, through the Information Bureaux provided for in Article 136. Such lists shall include all particulars necessary for the identification of the deceased internees, as well as the exact location of their graves.

Article 131

Every death or serious injury of an internee, caused or suspected to have been caused by a sentry, another internee or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. The evidence of any witnesses shall be taken, and a report including such evidence shall be prepared and forwarded to the said Protecting power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all necessary steps to ensure the prosecution of the person or persons responsible.

Chapter XII RELEASE, REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES

Article 132

Each interned person shall be released by the Detaining Power as soon as the reasons which necessitated his internment no longer exist. The Parties to the conflict shall, moreover, endeavour during the course of hostilities, to conclude agreements for the release, the repatriation, the return to places of residence or the accommodation in a neutral country of certain classes of internees, in particular children, pregnant women and mothers with infants and young children, wounded and sick, and internees who have been detained for a long time.

Article 133

Internment shall cease as soon as possible after the close of hostilities. Internees, in the territory of a Party to the conflict, against whom penal proceedings are pending for offences not exclusively subject to disciplinary penalties, may be detained until the close of such proceedings and, if circumstances require, until the completion of the penalty. The same shall apply to internees who have been previously sentenced to a punishment depriving them of liberty.

By agreement between the Detaining Power and the Powers concerned, committees may be set up after the close of hostilities, or of the occupation of territories, to search for dispersed internees.

Article 134

The High Contracting Parties shall endeavour, upon the close of hostilities or occupation, to ensure the return of all internees to their last place of residence, or to facilitate their repatriation.

Article 135

The Detaining Power shall bear the expense of returning released internees to the places where they were residing when interned, or, if it took them into custody while they were in transit or on the high seas, the cost of completing their journey or of their return to their point of departure.

Where a Detaining Power refuses permission to reside in its territory to a released internee who previously had his permanent domicile therein, such Detaining Power shall pay the cost of the said internee's repatriation. If, however, the internee elects to return to his country on his own responsibility or in obedience to the Government of the Power to which he owes allegiance, the Detaining Power need not pay the expenses of his journey beyond the point of his departure from its territory. The Detaining Power need not pay the costs of repatriation of an internee who was interned at his own request.

If internees are transferred in accordance with Article 45, the transferring and receiving Powers shall agree on the portion of the above costs to be borne by each.

The foregoing shall not prejudice such special agreements as may be concluded between Parties to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

SECTION V INFORMATION BUREAUX AND CENTRAL AGENCY

Article 136

Upon the outbreak of a conflict and in all cases of occupation, each of the Parties to the conflict shall establish an official Information Bureau responsible for receiving and transmitting information in respect of the protected persons who are in its power.

Each of the Parties to the conflict shall, within the shortest possible period, give its Bureau information of any measure taken by it concerning any protected persons who are kept in custody for more than two weeks, who are subjected to assigned residence or who are interned. It shall, furthermore, require its various departments concerned with such matters to provide the aforesaid Bureau promptly with information concerning all changes pertaining to these protected persons, as, for example, transfers, release, repatriations, escapes, admittances to hospitals, births and deaths.

Article 137

Each national Bureau shall immediately forward information concerning protected persons by the most rapid means

to the Powers of whom the aforesaid persons are nationals, or to Powers in whose territory they resided, through the intermediary of the Protecting Powers and likewise through the Central Agency provided for in Article 140. The Bureaux shall also reply to all enquiries which may be received regarding protected persons.

Information Bureaux shall transmit information concerning a protected person unless its transmission might be detrimental to the person concerned or to his or her relatives. Even in such a case, the information may not be withheld from the Central Agency which, upon being notified of the circumstances, will take the necessary precautions indicated in Article 140.

All communications in writing made by any Bureau shall be authenticated by a signature or a seal.

Article 138

The information received by the national Bureau and transmitted by it shall be of such a character as to make it possible to identify the protected person exactly and to advise his next of kin quickly. The information in respect of each person shall include at least his surname, first names, place and date of birth, nationality, last residence and distinguishing characteristics, the first name of the father and the maiden name of the mother, the date, place and nature of the action taken with regard to the individual, the address at which correspondence may be sent to him and the name and address of the person to be informed. Likewise, information regarding the state of health of internees who are seriously ill or seriously wounded shall be supplied regularly and if possible every week.

Article 139

Each national Information Bureau shall, furthermore, be responsible for collecting all personal valuables left by protected persons mentioned in Article 136, in particular those who have been repatriated or released, or who have escaped or died; it shall forward the said valuables to those concerned, either direct, or, if necessary, through the Central Agency. Such articles shall be sent by the Bureau

in sealed packets which shall be accompanied by statements giving clear and full identity particulars of the person to whom the articles belonged, and by a complete list of the contents of the parcel. Detailed records shall be maintained of the receipt and despatch of all such valuables.

Article 140

A Central Information Agency for protected persons, in particular for internees, shall be created in a neutral country. The International Committee of the Red Cross shall, if it deems necessary, propose to the Powers concerned the organization of such an Agency, which may be the same as that provided for in Article 123 of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

The function of the Agency shall be to collect all information of the type set forth in Article 136 which it may obtain through official or private channels and to transmit it as rapidly as possible to the countries of origin or of residence of the persons concerned, except in cases where such transmissions might be detrimental to the persons whom the said information concerns, or to their relatives. It shall receive from the Parties to the conflict all reasonable facilities for effecting such transmissions.

The High Contracting Parties, and in particular those whose nationals benefit by the services of the Central Agency, are requested to give the said Agency the financial aid it may require.

The foregoing provisions shall in no way be interpreted as restricting the humanitarian activities of the International Committee of the Red Cross and of the relief Societies described in Article 142.

Article 141

The national Information Bureaux and the Central Information Agency shall enjoy free postage for all mail, likewise the exemptions provided for in Article 110, and further, so far as possible, exemption from telegraphic charges or, at least, greatly reduced rates.

PART IV EXECUTION OF THE CONVENTION

SECTION I GENERAL PROVISIONS

Article 142

Subject to the measures which the Detaining Powers may consider essential to ensure their security or to meet any other reasonable need, the representatives of religious organizations, relief societies, or any other organizations assisting the protected persons, shall receive from these Powers, for themselves or their duly accredited agents, all facilities for visiting the protected persons, for distributing relief supplies and material from any source, intended for educational, recreational or religious purposes, or for assisting them in organizing their leisure time within the places of internment. Such societies or organizations may be constituted in the territory of the Detaining Power, or in any other country, or they may have an international character.

The Detaining Power may limit the number of societies and organizations whose delegates are allowed to carry out their activities in its territory and under its supervision, on condition, however, that such limitation shall not hinder the supply of effective and adequate relief to all protected persons.

The special position of the International Committee of the Red Cross in this field shall be recognized and respected at all times.

Article 143

Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work.

They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

Such visits may not be prohibited except for reasons of imperative military necessity, and then only as an exceptional and temporary measure. Their duration and frequency shall not be restricted.

Such representatives and delegates shall have full liberty to select the places they wish to visit. The Detaining or Occupying Power, the Protecting Power and when occasion arises the Power of origin of the persons to be visited, may agree that compatriots of the internees shall be permitted to participate in the visits. The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives. The appointment of such delegates shall be submitted to the approval of the Power governing the territories where they will carry out their duties.

Article 144

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population.

Any civilian, military, police or other authorities, who in time of war assume responsibilities in respect of protected persons, must possess the text of the Convention and be specially instructed as to its provisions.

Article 145

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

Article 146

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a *prima facie* case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Article 147

Grave breaches to which the preceding Article relates shall be those involving any of the following acts, if committed against persons or property protected by the present Convention: wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health, unlawful deportation or transfer or unlawful confinement of a protected person, compelling a protected person to serve in the forces of a hostile Power, or wilfully depriving a protected person of the rights of fair and regular trial prescribed in the present Convention, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly.

Article 148

No High Contracting Party shall be allowed to absolve itself or any other High Contracting Party of any liability incurred by itself or by another High Contracting Party in respect of breaches referred to in the preceding Article.

Article 149

At the request of a Party to the conflict, an enquiry shall be instituted, in a manner to be decided between the interested Parties, concerning any alleged violation of the Convention.

If agreement has not been reached concerning the procedure for the enquiry, the Parties should agree on the choice of an umpire who will decide upon the procedure to be followed.

Once the violation has been established, the Parties to the conflict shall put an end to it and shall repress it with the least possible delay.

SECTION II FINAL PROVISIONS**Article 150**

The present Convention is established in English and in French. Both texts are equally authentic. The Swiss Federal

Council shall arrange for official translations of the Convention to be made in the Russian and Spanish languages.

Article 151

The present Convention, which bears the date of this day, is open to signature until February 12, 1950, in the name of the Powers represented at the Conference which opened at Geneva on April 21, 1949.

Article 152

The present Convention shall be ratified as soon as possible and the ratifications shall be deposited at Berne.

A record shall be drawn up of the deposit of each instrument of ratification and certified copies of this record shall be transmitted by the Swiss Federal Council to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 153

The present Convention shall come into force six months after not less than two instruments of ratification have been deposited. Thereafter, it shall come into force for each High Contracting Party six months after the deposit of the instrument of ratification.

Article 154

In the relations between the Powers who are bound by The Hague Conventions respecting the Laws and Customs of War on Land, whether that of 29 July, 1899, or that of 18 October, 1907, and who are parties to the present Convention, this last Convention shall be supplementary to Sections II and III of the Regulations annexed to the above-mentioned Conventions of The Hague.

Article 155

From the date of its coming into force, it shall be open to any Power in whose name the present Convention has not been signed, to accede to this Convention.

Article 156

Accessions shall be notified in writing to the Swiss Federal Council, and shall take effect six months after the date on which they are received. The Swiss Federal Council shall communicate the accessions to all the Powers in whose name the Convention has been signed, or whose accession has been notified.

Article 157

The situations provided for in Articles 2 and 3 shall give immediate effect to ratifications deposited and accessions notified by the Parties to the conflict before or after the beginning of hostilities or occupation. The Swiss Federal Council shall communicate by the quickest method any ratifications or accessions received from Parties to the conflict.

Article 158

Each of the High Contracting Parties shall be at liberty to denounce the present Convention.

The denunciation shall be notified in writing to the Swiss Federal Council, which shall transmit it to the Governments of all the High Contracting Parties.

The denunciation shall take effect one year after the notification thereof has been made to the Swiss Federal Council. However, a denunciation of which notification has been made at a time when the denouncing Power is involved in a conflict shall not take effect until peace has been concluded, and until after operations connected with the release, repatriation and re-establishment of the persons protected by the present Convention have been terminated.

The denunciation shall have effect only in respect of the denouncing Power. It shall in no way impair the obligations which the Parties to the conflict shall remain bound to fulfil by virtue of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity and the dictates of the public conscience.

Article 159

The Swiss Federal Council shall register the present Convention with the Secretariat of the United Nations. The Swiss Federal Council shall also inform the Secretariat of the United Nations of all ratifications, accessions and denunciations received by it with respect to the present Convention.

IN WITNESS WHEREOF the undersigned, having deposited their respective full powers, have signed the present Convention.

DONE at Geneva this twelfth day of August 1949, in the English and French languages. The original shall be deposited in the Archives of the Swiss Confederation. The Swiss Federal Council shall transmit certified copies thereof to each of the signatory and acceding States.

ANNEX I

Draft agreement relating to hospital and safety zones and localities

Article I

Hospital and safety zones shall be strictly reserved for the persons mentioned in Article 23 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August, 1949, and in Article 14 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War of 12 August,

1949, and for the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Nevertheless, persons whose permanent residence is within such zones shall have the right to stay there.

Article 2

No persons residing, in whatever capacity, in a hospital and safety zone shall perform any work, either within or without the zone, directly connected with military operations or the production of war material.

Article 3

The Power establishing a hospital and safety zone shall take all necessary measures to prohibit access to all persons who have no right of residence or entry therein.

Article 4

Hospital and safety zones shall fulfil the following conditions:

- a. They shall comprise only a small part of the territory governed by the Power which has established them.
- b. They shall be thinly populated in relation to the possibilities of accommodation.
- c. They shall be far removed and free from all military objectives, or large industrial or administrative establishments.
- d. They shall not be situated in areas which, according to every probability, may become important for the conduct of the war.

Article 5

Hospital and safety zones shall be subject to the following obligations:

- a. The lines of communication and means of transport which they possess shall not be used for the transport of military personnel or material, even in transit.
- b. They shall in no case be defended by military means.

Article 6

Hospital and safety zones shall be marked by means of oblique red bands on a white ground, placed on the buildings and outer precincts.

Zones reserved exclusively for the wounded and sick may be marked by means of the Red Cross (Red Crescent, Red Lion and Sun) emblem on a white ground. They may be similarly marked at night by means of appropriate illumination.

Article 7

The Powers shall communicate to all the High Contracting Parties in peacetime or on the outbreak of hostilities, a list of the hospital and safety zones in the territories governed by them. They shall also give notice of any new zones set up during hostilities.

As soon as the adverse Party has received the above-mentioned notification, the zone shall be regularly established.

If, however, the adverse Party considers that the conditions of the present agreement have not been fulfilled, it may refuse to recognize the zone by giving immediate notice thereof to the Party responsible for the said zone, or may make its recognition of such zone dependent upon the institution of the control provided for in Article 8.

Article 8

Any Power having recognized one or several hospital and safety zones instituted by the adverse Party shall be entitled to demand control by one or more Special Commissions. for the purpose of ascertaining if the zones fulfil the conditions and obligations stipulated in the present agreement.

For this purpose, members of the Special Commissions shall at all times have free access to the various zones and may even reside there permanently. They shall be given all facilities for their duties of inspection.

Article 9

Should the Special Commissions note any facts which they consider contrary to the stipulations of the present agreement, they shall at once draw the attention of the Power governing the said zone to these facts, and shall fix a time limit of five days within which the matter should be rectified. They shall duly notify the Power who has recognized the zone.

If, when the time limit has expired, the Power governing the zone has not complied with the warning, the adverse Party may declare that it is no longer bound by the present agreement in respect of the said zone.

Article 10

Any Power setting up one or more hospital and safety zones, and the adverse Parties to whom their existence has been notified, shall nominate or have nominated by the Protecting Powers or by other neutral Powers, persons eligible to be members of the Special Commissions mentioned in Articles 8 and 9.

Article 11

In no circumstances may hospital and safety zones be the object of attack. They shall be protected and respected at all times by the Parties to the conflict.

Article 12

In the case of occupation of a territory, the hospital and safety zones therein shall continue to be respected and utilized as such.

Their purpose may, however, be modified by the Occupying Power, on condition that all measures are taken to ensure the safety of the persons accommodated.

Article 13

The present agreement shall also apply to localities which the Powers may utilize for the same purposes as hospital and safety zones.

ANNEX II**Draft regulations concerning collective relief****Article 1**

The Internee Committees shall be allowed to distribute collective relief shipments for which they are responsible, to all internees who are dependent for administration on the said Committee's place of internment, including those internees who are in hospitals, or in prisons or other penitentiary establishments.

Article 2

The distribution of collective relief shipments shall be effected in accordance with the instructions of the donors and with a plan drawn up by the Internee Committees. The issue of medical stores shall, however, be made for preference in agreement with the senior medical officers, and the latter may, in hospitals and infirmaries, waive the said instructions, if the needs of their patients so demand. Within the limits thus defined, the distribution shall always be carried out equitably.

Article 3

Members of Internee Committees shall be allowed to go to the railway stations or other points of arrival of relief supplies near their places of internment so as to enable them to verify the quantity as well as the quality of the goods received and to make out detailed reports thereon for the donors.

Article 4

Internee Committees shall be given the facilities necessary for verifying whether the distribution of collective relief in all subdivisions and annexes of their places of internment has been carried out in accordance with their instructions.

Article 5

Internee Committees shall be allowed to complete, and to cause to be completed by members of the Internee Committees in labour detachments or by the senior medical officers of infirmaries and hospitals, forms or questionnaires intended for the donors, relating to collective relief supplies (distribution, requirements, quantities, etc.). Such forms and questionnaires, duly completed, shall be forwarded to the donors without delay.

Article 6

In order to secure the regular distribution of collective relief supplies to the internees in their place of internment, and to meet any needs that may arise through the arrival of fresh parties of internees, the Internee Committees shall be allowed to create and maintain sufficient reserve stocks of collective relief. For this purpose, they shall have suitable warehouses at their disposal; each warehouse shall be provided with two locks, the Internee Committee holding the keys of one lock, and the commandant of the place of internment the keys of the other.

Article 7

The High Contracting Parties, and the Detaining Powers in particular, shall, so far as is in any way possible and subject to the regulations governing the food supply of the population, authorize purchases of goods to be made in their territories for the distribution of collective relief to the internees. They shall likewise facilitate the transfer of funds and other financial measures of a technical or administrative nature taken for the purpose of making such purchases.

Article 8

The foregoing provisions shall not constitute an obstacle to the right of internees to receive collective relief before their arrival in a place of internment or in the course of their transfer, nor to the possibility of representatives of the Protecting Power, or of the International Committee of the Red Cross or any other humanitarian organization giving assistance to internees and responsible for forwarding such supplies, ensuring the distribution thereof to the recipients by any other means they may deem suitable.

United Nations (UN), International Covenant on Civil and Political Rights (1966, New York, USA)

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 49

Preamble

The States Parties to the present Covenant,

CONSIDERING that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Recognizing that these rights derive from the inherent dignity of the human person,

RECOGNIZING that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

CONSIDERING the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

REALIZING that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant, Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
 - a. To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
 - b. To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
 - c. To ensure that the competent authorities shall enforce such remedies when granted.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.

Article 4

1. In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve

discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.
3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such derogation.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.
6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
3.
 - a. No one shall be required to perform forced or compulsory labour;
 - b. Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;
 - c. For the purpose of this paragraph the term “forced or compulsory labour” shall not include:
 - i. Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;
 - ii. Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;
 - iii. Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - iv. Any work or service which forms part of normal civil obligations.

Article 9

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer

authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

Article 10

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.
2.
 - a. Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons;
 - b. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

Article 11

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

Article 12

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

Article 13

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

Article 14

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.
2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.
3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:
 - a. To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
 - b. To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
 - c. To be tried without undue delay;
 - d. To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
 - e. To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - f. To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

- g. Not to be compelled to testify against himself or to confess guilt.
- 4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
- 5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.
- 6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.
- 7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

Article 15

- 1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.
- 2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

Article 16

Everyone shall have the right to recognition everywhere as a person before the law.

Article 17

- 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
- 2. Everyone has the right to the protection of the law against such interference or attacks.

Article 18

- 1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
- 2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
- 3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.
- 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 19

- 1. Everyone shall have the right to hold opinions without interference.
- 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
- 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. For respect of the rights or reputations of others;
 - b. For the protection of national security or of public order (ordre public), or of public health or morals.

Article 20

- 1. Any propaganda for war shall be prohibited by law.
- 2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 21

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 22

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as to prejudice, the guarantees provided for in that Convention.

Article 23

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

Article 24

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

Article 25

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- a. To take part in the conduct of public affairs, directly or through freely chosen representatives;
- b. To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- c. To have access, on general terms of equality, to public service in his country.

Article 26

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 27

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

PART IV**Article 28**

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.
2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.
3. The members of the Committee shall be elected and shall serve in their personal capacity.

Article 29

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and nominated for the purpose by the States Parties to the present Covenant.
2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.

3. A person shall be eligible for renomination.

Article 30

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.
2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.
3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.
4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

Article 31

1. The Committee may not include more than one national of the same State.
2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

Article 32

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.
2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

Article 33

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.
2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

Article 34

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.
2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.
3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

Article 35

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

Article 36

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

Article 37

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.
2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

Article 38

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

Article 39

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, *inter alia*, that:
 - a. Twelve members shall constitute a quorum;
 - b. Decisions of the Committee shall be made by a majority vote of the members present.

Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:
 - (a) Within one year of the entry into force of the present Covenant for the States Parties concerned;
 - (b) Thereafter whenever the Committee so requests.
2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.
3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.
4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.
5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

Article 41

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
 - a. If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;
 - b. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
 - c. The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;
 - d. The Committee shall hold closed meetings when examining communications under this article;
 - e. Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;
 - f. In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
 - g. The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;
 - h. The Committee shall, within twelve months after the date of receipt of notice under subparagraph b), submit a report:
 - i. If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
 - ii. If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report

to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 42

1. a. If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;
- b. The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.
5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.
6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information.
7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:
 - a. If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;
 - b. If an amicable solution to the matter on the basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;
 - c. If a solution within the terms of subparagraph (b) is not reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;
 - d. If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.
8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.
9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

Article 43

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 44

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures

prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

Article 45

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

PART V

Article 46

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 47

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART VI

Article 48

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 49

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 50

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 51

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 52

1. Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:
 - a. Signatures, ratifications and accessions under article 48;
 - b. The date of the entry into force of the present Covenant under article 49 and the date of the entry into force

of any amendments under article 51.

Article 53

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

United Nations (UN), International Covenant on Economic, Social and Cultural Rights (1966, New York, USA)

*G.A. res. 2200A (XXI), 21 U.N.GAOR Supp (No. 16) at 49,
U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force Jan. 3, 1976)*

PREAMBLE

The States Parties to the present Covenant,

CONSIDERING that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

RECOGNIZING that these rights derive from the inherent dignity of the human person,

RECOGNIZING that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

CONSIDERING the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

REALIZING that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,
Agree upon the following articles:

PART I

Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

PART II

Article 2

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

Article 3

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Article 4

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms

recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

PART III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.
2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

- a. Remuneration which provides all workers, as a minimum, with:
 - i. Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;
 - ii. A decent living for themselves and their families in accordance with the provisions of the present Covenant;
- b. Safe and healthy working conditions;
- c. Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;
- d. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

Article 8

1. The States Parties to the present Covenant undertake to ensure:
 - a. The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - b. The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;
 - c. The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
 - d. The right to strike, provided that it is exercised in conformity with the laws of the particular country.
1. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.
2. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.
2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.
3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or

dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
 - a. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
 - b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
 - a. The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
 - b. The improvement of all aspects of environmental and industrial hygiene;
 - c. The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
 - d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:
 - a. Primary education shall be compulsory and available free to all;
 - b. Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
 - c. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
 - d. Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;
 - e. The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.
3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.
4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation,

within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:
 - a. To take part in cultural life;
 - b. To enjoy the benefits of scientific progress and its applications;
 - c. To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.
4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

PART IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.
2.
 - a. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;
 - b. The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts thereof, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts thereof, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

Article 17

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.
2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.
3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

Article 18

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

Article 19

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

Article 20

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary

organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

PART V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.
2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.
3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

- a. Signatures, ratifications and accessions under article 26;
- b. The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

United Nations (UN), International Convention on the Elimination of All Forms of Racial Discrimination (1965, New York, USA)

*Adopted and opened for signature and ratification by General Assembly resolution 2106 XX) of 21 December 1965
entry into force 4 January 1969, in accordance with Article 19*

The States Parties to this Convention,

CONSIDERING that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

CONSIDERING that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, in particular as to race, colour or national origin,

CONSIDERING that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

CONSIDERING that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

CONSIDERING that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

CONVINCED that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

REAFFIRMING that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

CONVINCED that the existence of racial barriers is repugnant to the ideals of any human society,

ALARMED by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

RESOLVED to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

BEARING IN MIND the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations Educational, Scientific and Cultural Organization in 1960,

DESIRING to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.
2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.
3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against

any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:
 - a. Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;
 - b. Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
 - c. Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
 - d. Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;
 - e. Each State Party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.
2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- a. Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;
- b. Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- c. Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

- a. The right to equal treatment before the tribunals and all other organs administering justice;
- b. The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;
- c. Political rights, in particular the right to participate in elections – to vote and to stand for election – on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

- d. Other civil rights, in particular:
 - i. The right to freedom of movement and residence within the border of the State;
 - ii. The right to leave any country, including one's own, and to return to one's country;
 - iii. The right to nationality;
 - iv. The right to marriage and choice of spouse;
 - v. The right to own property alone as well as in association with others;
 - vi. The right to inherit;
 - vii. The right to freedom of thought, conscience and religion;
 - viii. The right to freedom of opinion and expression;
 - ix. The right to freedom of peaceful assembly and association;
- e. Economic, social and cultural rights, in particular:
 - i. The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
 - ii. The right to form and join trade unions;
 - iii. The right to housing;
 - iv. The right to public health, medical care, social security and social services;
 - v. The right to education and training;
 - vi. The right to equal participation in cultural activities;
- f. The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as of the principal legal systems.
2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by the States Parties. Each State Party may nominate one person from among its own nationals.
3. The initial election shall be held six months after the date of the entry into force of this Convention. At least three months before the date of each election the Secretary-General of the United Nations shall address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.
4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.
5.
 - a. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee;
 - b. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.
6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted and which give effect to the provisions of this Convention:
 - a. within one year after the entry into force of the Convention for the State concerned; and
 - b. thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States Parties.
2. The Committee shall report annually, through the Secretary General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The secretariat of the Committee shall be provided by the Secretary General of the United Nations.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.
3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.
4. In any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.
5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. a. After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention;
 - b. If the States parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States parties to the dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.
2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States parties to the dispute or of a State not Party to this Convention.
3. The Commission shall elect its own Chairman and adopt its own rules of procedure.
4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.
5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.
6. The States parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.
7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States parties to the dispute in accordance with paragraph 6 of this article.
8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying its findings on all questions of fact relevant to the issue between the parties and containing such recommendations as it may think proper for the amicable solution of the dispute.
2. The Chairman of the Committee shall communicate the report of the Commission to each of the States parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.
3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.
2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.
3. A declaration made in accordance with paragraph 1 of this article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.
4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.
5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.
6.
 - a. The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;
 - b. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
7.
 - a. The Committee shall consider communications in the light of all information made available to it by the State Party concerned and by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged;
 - b. The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.
8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.
9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.
2.
 - a. The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies;
 - b. The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and

objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.
4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.
2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.
2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.
2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument of accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.
2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

Article 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- a. Signatures, ratifications and accessions under articles 17 and 18;
- b. The date of entry into force of this Convention under article 19;
- c. Communications and declarations received under articles 14, 20 and 23;
- d. Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

United Nations (UN), International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990, New York, USA)

Adopted by General Assembly resolution 45/158 of 18 December 1990

Preamble

The States Parties to the present Convention,

TAKING INTO ACCOUNT the principles embodied in the basic instruments of the United Nations concerning human rights, in particular the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child,

TAKING INTO ACCOUNT also the principles and standards set forth in the relevant instruments elaborated within the framework of the International Labour Organisation, especially the Convention concerning Migration for Employment (No. 97), the Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (No.143), the Recommendation concerning Migration for Employment (No. 86), the Recommendation concerning Migrant Workers (No.151), the Convention concerning Forced or Compulsory Labour (No. 29) and the Convention concerning Abolition of Forced Labour (No. 105), Reaffirming the importance of the principles contained in the Convention against Discrimination in Education of the United Nations Educational, Scientific and Cultural Organization,

RECALLING the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Declaration of the Fourth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Code of Conduct for Law Enforcement Officials, and the Slavery Conventions,

RECALLING that one of the objectives of the International Labour Organisation, as stated in its Constitution, is the protection of the interests of workers when employed in countries other than their own, and bearing in mind the expertise and experience of that organization in matters related to migrant workers and members of their families,

RECOGNIZING the importance of the work done in connection with migrant workers and members of their families in various organs of the United Nations, in particular in the Commission on Human Rights and the Commission for Social Development, and in the Food and Agriculture Organization of the United Nations, the United Nations Educational, Scientific and Cultural Organization and the World Health Organization, as well as in other international organizations,

RECOGNIZING also the progress made by certain States on a regional or bilateral basis towards the protection of the rights of migrant workers and members of their families, as well as the importance and usefulness of bilateral and multilateral agreements in this field,

REALIZING the importance and extent of the migration phenomenon, which involves millions of people and affects a large number of States in the international community,

AWARE of the impact of the flows of migrant workers on States and people concerned, and desiring to establish norms which may contribute to the harmonization of the attitudes of States through the acceptance of basic principles concerning the treatment of migrant workers and members of their families,

CONSIDERING the situation of vulnerability in which migrant workers and members of their families frequently find themselves owing, among other things, to their absence from their State of origin and to the difficulties they may encounter arising from their presence in the State of employment,

CONVINCED that the rights of migrant workers and members of their families have not been sufficiently recognized everywhere and therefore require appropriate international protection,

TAKING INTO ACCOUNT the fact that migration is often the cause of serious problems for the members of the families of migrant workers as well as for the workers themselves, in particular because of the scattering of the family,

BEARING IN MIND that the human problems involved in migration are even more serious in the case of irregular migration and convinced therefore that appropriate action should be encouraged in order to prevent and eliminate clandestine movements and trafficking in migrant workers, while at the same time assuring the protection of their fundamental human rights,

CONSIDERING that workers who are non-documented or in an irregular situation are frequently employed under less favourable conditions of work than other workers and that certain employers find this an inducement to seek such labour in order to reap the benefits of unfair competition,

CONSIDERING also that recourse to the employment of migrant workers who are in an irregular situation will be discouraged if the fundamental human rights of all migrant workers are more widely recognized and, moreover, that

granting certain additional rights to migrant workers and members of their families in a regular situation will encourage all migrants and employers to respect and comply with the laws and procedures established by the States concerned, CONVINCED, therefore, of the need to bring about the international protection of the rights of all migrant workers and members of their families, reaffirming and establishing basic norms in a comprehensive convention which could be applied universally,

Have agreed as follows:

Part I: Scope and Definitions

Article 1

1. The present Convention is applicable, except as otherwise provided hereafter, to all migrant workers and members of their families without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.
2. The present Convention shall apply during the entire migration process of migrant workers and members of their families, which comprises preparation for migration, departure, transit and the entire period of stay and remunerated activity in the State of employment as well as return to the State of origin or the State of habitual residence.

Article 2

For the purposes of the present Convention:

1. The term “migrant worker” refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.
2.
 - a. The term “frontier worker” refers to a migrant worker who retains his or her habitual residence in a neighbouring State to which he or she normally returns every day or at least once a week;
 - b. The term “seasonal worker” refers to a migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year;
 - c. The term “seafarer”, which includes a fisherman, refers to a migrant worker employed on board a vessel registered in a State of which he or she is not a national;
 - d. The term “worker on an offshore installation” refers to a migrant worker employed on an offshore installation that is under the jurisdiction of a State of which he or she is not a national;
 - e. The term “itinerant worker” refers to a migrant worker who, having his or her habitual residence in one State, has to travel to another State or States for short periods, owing to the nature of his or her occupation;
 - f. The term “project-tied worker” refers to a migrant worker admitted to a State of employment for a defined period to work solely on a specific project being carried out in that State by his or her employer;
 - g. The term “specified-employment worker” refers to a migrant worker:
 - i. Who has been sent by his or her employer for a restricted and defined period of time to a State of employment to undertake a specific assignment or duty; or
 - ii. Who engages for a restricted and defined period of time in work that requires professional, commercial, technical or other highly specialized skill; or
 - iii. Who, upon the request of his or her employer in the State of employment, engages for a restricted and defined period of time in work whose nature is transitory or brief; and who is required to depart from the State of employment either at the expiration of his or her authorized period of stay, or earlier if he or she no longer undertakes that specific assignment or duty or engages in that work;
 - h. The term “self-employed worker” refers to a migrant worker who is engaged in a remunerated activity otherwise than under a contract of employment and who earns his or her living through this activity normally working alone or together with members of his or her family, and to any other migrant worker recognized as self-employed by applicable legislation of the State of employment or bilateral or multilateral agreements.

Article 3

The present Convention shall not apply to:

- a. Persons sent or employed by international organizations and agencies or persons sent or employed by a State outside its territory to perform official functions, whose admission and status are regulated by general international law or by specific international agreements or conventions;
- b. Persons sent or employed by a State or on its behalf outside its territory who participate in development programmes and other co-operation programmes, whose admission and status are regulated by agreement with the State of employment and who, in accordance with that agreement, are not considered migrant workers;
- c. Persons taking up residence in a State different from their State of origin as investors;
- d. Refugees and stateless persons, unless such application is provided for in the relevant national legislation of, or international instruments in force for, the State Party concerned;

- e. Students and trainees;
- f. Seafarers and workers on an offshore installation who have not been admitted to take up residence and engage in a remunerated activity in the State of employment.

Article 4

For the purposes of the present Convention the term “members of the family” refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

Article 5

For the purposes of the present Convention, migrant workers and members of their families:

- a. Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;
- b. Are considered as non-documented or in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.

Article 6

For the purposes of the present Convention:

- a. The term “State of origin” means the State of which the person concerned is a national;
- b. The term “State of employment” means a State where the migrant worker is to be engaged, is engaged or has been engaged in a remunerated activity, as the case may be;
- c. The term “State of transit,” means any State through which the person concerned passes on any journey to the State of employment or from the State of employment to the State of origin or the State of habitual residence.

Part II: Non-discrimination with Respect to Rights

Article 7

States Parties undertake, in accordance with the international instruments concerning human rights, to respect and to ensure to all migrant workers and members of their families within their territory or subject to their jurisdiction the rights provided for in the present Convention without distinction of any kind such as to sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.

Part III: Human Rights of All Migrant Workers and Members of their Families

Article 8

1. Migrant workers and members of their families shall be free to leave any State, including their State of origin. This right shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present part of the Convention.
2. Migrant workers and members of their families shall have the right at any time to enter and remain in their State of origin.

Article 9

The right to life of migrant workers and members of their families shall be protected by law.

Article 10

No migrant worker or member of his or her family shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 11

1. No migrant worker or member of his or her family shall be held in slavery or servitude.
2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.
3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.
4. For the purpose of the present article the term “forced or compulsory labour” shall not include:
 - a. Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;
 - b. Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
 - c. Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.

Article 12

1. Migrant workers and members of their families shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of their choice and freedom either individually or in community with others and in public or private to manifest their religion or belief in worship, observance, practice and teaching.
2. Migrant workers and members of their families shall not be subject to coercion that would impair their freedom to have or to adopt a religion or belief of their choice.
3. Freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.
4. States Parties to the present Convention undertake to have respect for the liberty of parents, at least one of whom is a migrant worker, and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

Article 13

1. Migrant workers and members of their families shall have the right to hold opinions without interference.
2. Migrant workers and members of their families shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice.
3. The exercise of the right provided for in paragraph 2 of the present article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - a. For respect of the rights or reputation of others;
 - b. For the protection of the national security of the States concerned or of public order (ordre public) or of public health or morals;
 - c. For the purpose of preventing any propaganda for war;
 - d. For the purpose of preventing any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.

Article 14

No migrant worker or member of his or her family shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or other communications, or to unlawful attacks on his or her honour and reputation. Each migrant worker and member of his or her family shall have the right to the protection of the law against such interference or attacks.

Article 15

No migrant worker or member of his or her family shall be arbitrarily deprived of property, whether owned individually or in association with others. Where, under the legislation in force in the State of employment, the assets of a migrant worker or a member of his or her family are expropriated in whole or in part, the person concerned shall have the right to fair and adequate compensation.

Article 16

1. Migrant workers and members of their families shall have the right to liberty and security of person.
2. Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.
3. Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedure established by law.
4. Migrant workers and members of their families shall not be subjected individually or collectively to arbitrary arrest or detention; they shall not be deprived of their liberty except on such grounds and in accordance with such procedures as are established by law.
5. Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.
6. Migrant workers and members of their families who are arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that while awaiting trial they shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings and, should the occasion arise, for the execution of the judgement.
7. When a migrant worker or a member of his or her family is arrested or committed to prison or custody pending trial or is detained in any other manner:
 - a. The consular or diplomatic authorities of his or her State of origin or of a State representing the interests of that State shall, if he or she so requests, be informed without delay of his or her arrest or detention and of the reasons therefor;

- b. The person concerned shall have the right to communicate with the said authorities. Any communication by the person concerned to the said authorities shall be forwarded without delay, and he or she shall also have the right to receive communications sent by the said authorities without delay;
- c. The person concerned shall be informed without delay of this right and of rights deriving from relevant treaties, if any, applicable between the States concerned, to correspond and to meet with representatives of the said authorities and to make arrangements with them for his or her legal representation.
- 8. Migrant workers and members of their families who are deprived of their liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of their detention and order their release if the detention is not lawful. When they attend such proceedings, they shall have the assistance, if necessary without cost to them, of an interpreter, if they cannot understand or speak the language used.
- 9. Migrant workers and members of their families who have been victims of unlawful arrest or detention shall have an enforceable right to compensation.

Article 17

- 1. Migrant workers and members of their families who are deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person and for their cultural identity.
- 2. Accused migrant workers and members of their families shall, save in exceptional circumstances, be separated from convicted persons and shall be subject to separate treatment appropriate to their status as unconvicted persons. Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication.
- 3. Any migrant worker or member of his or her family who is detained in a State of transit or in a State of employment for violation of provisions relating to migration shall be held, in so far as practicable, separately from convicted persons or persons detained pending trial.
- 4. During any period of imprisonment in pursuance of a sentence imposed by a court of law, the essential aim of the treatment of a migrant worker or a member of his or her family shall be his or her reformation and social rehabilitation. Juvenile offenders shall be separated from adults and be accorded treatment appropriate to their age and legal status.
- 5. During detention or imprisonment, migrant workers and members of their families shall enjoy the same rights as nationals to visits by members of their families.
- 6. Whenever a migrant worker is deprived of his or her liberty, the competent authorities of the State concerned shall pay attention to the problems that may be posed for members of his or her family, in particular for spouses and minor children.
- 7. Migrant workers and members of their families who are subjected to any form of detention or imprisonment in accordance with the law in force in the State of employment or in the State of transit shall enjoy the same rights as nationals of those States who are in the same situation.
- 8. If a migrant worker or a member of his or her family is detained for the purpose of verifying any infraction of provisions related to migration, he or she shall not bear any costs arising therefrom.

Article 18

- 1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.
- 2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.
- 3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:
 - a. To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;
 - b. To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;
 - c. To be tried without undue delay;
 - d. To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;
 - e. To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
 - f. To have the free assistance of an interpreter if they cannot understand or speak the language used in court;

- g. Not to be compelled to testify against themselves or to confess guilt.
- 4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
- 5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.
- 6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.
- 7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

Article 19

- 1. No migrant worker or member of his or her family shall be held guilty of any criminal offence on account of any act or omission that did not constitute a criminal offence under national or international law at the time when the criminal offence was committed, nor shall a heavier penalty be imposed than the one that was applicable at the time when it was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of a lighter penalty, he or she shall benefit thereby.
- 2. Humanitarian considerations related to the status of a migrant worker, in particular with respect to his or her right of residence or work, should be taken into account in imposing a sentence for a criminal offence committed by a migrant worker or a member of his or her family.

Article 20

- 1. No migrant worker or member of his or her family shall be imprisoned merely on the ground of failure to fulfil a contractual obligation.
- 2. No migrant worker or member of his or her family shall be deprived of his or her authorization of residence or work permit or expelled merely on the ground of failure to fulfil an obligation arising out of a work contract unless fulfilment of that obligation constitutes a condition for such authorization or permit.

Article 21

It shall be unlawful for anyone, other than a public official duly authorized by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorized confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family.

Article 22

- 1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.
- 2. Migrant workers and members of their families may be expelled from the territory of a State Party only in pursuance of a decision taken by the competent authority in accordance with law.
- 3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.
- 4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.
- 5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.
- 6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.
- 7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.
- 8. In case of expulsion of a migrant worker or a member of his or her family the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.
- 9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

Article 23

Migrant workers and members of their families shall have the right to have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin or of a State representing the interests of that State whenever the rights recognized in the present Convention are impaired. In particular, in case of expulsion, the person concerned shall be informed of this right without delay and the authorities of the expelling State shall facilitate the exercise of such right.

Article 24

Every migrant worker and every member of his or her family shall have the right to recognition everywhere as a person before the law.

Article 25

1. Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and:
 - a. Other conditions of work, that is to say, overtime, hours of work, weekly rest, holidays with pay, safety, health, termination of the employment relationship and any other conditions of work which, according to national law and practice, are covered by these terms;
 - b. Other terms of employment, that is to say, minimum age of employment, restriction on home work and any other matters which, according to national law and practice, are considered a term of employment.
2. It shall not be lawful to derogate in private contracts of employment from the principle of equality of treatment referred to in paragraph 1 of the present article.
3. States Parties shall take all appropriate measures to ensure that migrant workers are not deprived of any rights derived from this principle by reason of any irregularity in their stay or employment. In particular, employers shall not be relieved of any legal or contractual obligations, nor shall their obligations be limited in any manner by reason of such irregularity.

Article 26

1. States Parties recognize the right of migrant workers and members of their families:
 - a. To take part in meetings and activities of trade unions and of any other associations established in accordance with law, with a view to protecting their economic, social, cultural and other interests, subject only to the rules of the organization concerned;
 - b. To join freely any trade union and any such association as aforesaid, subject only to the rules of the organization concerned;
 - c. To seek the aid and assistance of any trade union and of any such association as aforesaid.
2. No restrictions may be placed on the exercise of these rights other than those that are prescribed by law and which are necessary in a democratic society in the interests of national security, public order (ordre public) or the protection of the rights and freedoms of others.

Article 27

1. With respect to social security, migrant workers and members of their families shall enjoy in the State of employment the same treatment granted to nationals in so far as they fulfil the requirements provided for by the applicable legislation of that State and the applicable bilateral and multilateral treaties. The competent authorities of the State of origin and the State of employment can at any time establish the necessary arrangements to determine the modalities of application of this norm.
2. Where the applicable legislation does not allow migrant workers and members of their families a benefit, the States concerned shall examine the possibility of reimbursing interested persons the amount of contributions made by them with respect to that benefit on the basis of the treatment granted to nationals who are in similar circumstances.

Article 28

Migrant workers and members of their families shall have the right to receive any medical care that is urgently required for the preservation of their life or the avoidance of irreparable harm to their health on the basis of equality of treatment with nationals of the State concerned. Such emergency medical care shall not be refused them by reason of any irregularity with regard to stay or employment.

Article 29

Each child of a migrant worker shall have the right to a name, to registration of birth and to a nationality.

Article 30

Each child of a migrant worker shall have the basic right of access to education on the basis of equality of treatment with nationals of the State concerned. Access to public pre-school educational institutions or schools shall not be refused or limited by reason of the irregular situation with respect to stay or employment of either parent or by reason of the irregularity of the child's stay in the State of employment.

Article 31

1. States Parties shall ensure respect for the cultural identity of migrant workers and members of their families and

shall not prevent them from maintaining their cultural links with their State of origin.

2. States Parties may take appropriate measures to assist and encourage efforts in this respect.

Article 32

Upon the termination of their stay in the State of employment, migrant workers and members of their families shall have the right to transfer their earnings and savings and, in accordance with the applicable legislation of the States concerned, their personal effects and belongings.

Article 33

1. Migrant workers and members of their families shall have the right to be informed by the State of origin, the State of employment or the State of transit as the case may be concerning:
 - a. Their rights arising out of the present Convention;
 - b. The conditions of their admission, their rights and obligations under the law and practice of the State concerned and such other matters as will enable them to comply with administrative or other formalities in that State.
2. States Parties shall take all measures they deem appropriate to disseminate the said information or to ensure that it is provided by employers, trade unions or other appropriate bodies or institutions. As appropriate, they shall co-operate with other States concerned.
3. Such adequate information shall be provided upon request to migrant workers and members of their families, free of charge, and, as far as possible, in a language they are able to understand.

Article 34

Nothing in the present part of the Convention shall have the effect of relieving migrant workers and the members of their families from either the obligation to comply with the laws and regulations of any State of transit and the State of employment or the obligation to respect the cultural identity of the inhabitants of such States.

Article 35

Nothing in the present part of the Convention shall be interpreted as implying the regularization of the situation of migrant workers or members of their families who are non-documented or in an irregular situation or any right to such regularization of their situation, nor shall it prejudice the measures intended to ensure sound and equitable-conditions for international migration as provided in part VI of the present Convention.

Part IV: Other Rights of Migrant Workers and Members of their Families who are Documented or in a Regular Situation

Article 36

Migrant workers and members of their families who are documented or in a regular situation in the State of employment shall enjoy the rights set forth in the present part of the Convention in addition to those set forth in part III.

Article 37

Before their departure, or at the latest at the time of their admission to the State of employment, migrant workers and members of their families shall have the right to be fully informed by the State of origin or the State of employment, as appropriate, of all conditions applicable to their admission and particularly those concerning their stay and the remunerated activities in which they may engage as well as of the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions.

Article 38

1. States of employment shall make every effort to authorize migrant workers and members of the families to be temporarily absent without effect upon their authorization to stay or to work, as the case may be. In doing so, States of employment shall take into account the special needs and obligations of migrant workers and members of their families, in particular in their States of origin.
2. Migrant workers and members of their families shall have the right to be fully informed of the terms on which such temporary absences are authorized.

Article 39

1. Migrant workers and members of their families shall have the right to liberty of movement in the territory of the State of employment and freedom to choose their residence there.
2. The rights mentioned in paragraph 1 of the present article shall not be subject to any restrictions except those that are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals, or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 40

1. Migrant workers and members of their families shall have the right to form associations and trade unions in the State of employment for the promotion and protection of their economic, social, cultural and other interests.
2. No restrictions may be placed on the exercise of this right other than those that are prescribed by law and are necessary in a democratic society in the interests of national security, public order (*ordre public*) or the protection of the rights and freedoms of others.

Article 41

1. Migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections of that State, in accordance with its legislation.
2. The States concerned shall, as appropriate and in accordance with their legislation, facilitate the exercise of these rights.

Article 42

1. States Parties shall consider the establishment of procedures or institutions through which account may be taken, both in States of origin and in States of employment, of special needs, aspirations and obligations of migrant workers and members of their families and shall envisage, as appropriate, the possibility for migrant workers and members of their families to have their freely chosen representatives in those institutions.
2. States of employment shall facilitate, in accordance with their national legislation, the consultation or participation of migrant workers and members of their families in decisions concerning the life and administration of local communities.
3. Migrant workers may enjoy political rights in the State of employment if that State, in the exercise of its sovereignty, grants them such rights.

Article 43

1. Migrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to:
 - a. Access to educational institutions and services subject to the admission requirements and other regulations of the institutions and services concerned;
 - b. Access to vocational guidance and placement services;
 - c. Access to vocational training and retraining facilities and institutions;
 - d. Access to housing, including social housing schemes, and protection against exploitation in respect of rents;
 - e. Access to social and health services, provided that the requirements for participation in the respective schemes are met;
 - f. Access to co-operatives and self-managed enterprises, which shall not imply a change of their migration status and shall be subject to the rules and regulations of the bodies concerned;
 - g. Access to and participation in cultural life.
2. States Parties shall promote conditions to ensure effective equality of treatment to enable migrant workers to enjoy the rights mentioned in paragraph 1 of the present article whenever the terms of their stay, as authorized by the State of employment, meet the appropriate requirements.
3. States of employment shall not prevent an employer of migrant workers from establishing housing or social or cultural facilities for them. Subject to article 70 of the present Convention, a State of employment may make the establishment of such facilities subject to the requirements generally applied in that State concerning their installation.

Article 44

1. States Parties, recognizing that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State, shall take appropriate measures to ensure the protection of the unity of the families of migrant workers.
2. States Parties shall take measures that they deem appropriate and that fall within their competence to facilitate the reunification of migrant workers with their spouses or persons who have with the migrant worker a relationship that, according to applicable law, produces effects equivalent to marriage, as well as with their minor dependent unmarried children.
3. States of employment, on humanitarian grounds, shall favourably consider granting equal treatment, as set forth in paragraph 2 of the present article, to other family members of migrant workers.

Article 45

1. Members of the families of migrant workers shall, in the State of employment, enjoy equality of treatment with nationals of that State in relation to:
 - a. Access to educational institutions and services, subject to the admission requirements and other regulations of the institutions and services concerned;
 - b. Access to vocational guidance and training institutions and services, provided that requirements for participation are met;
 - c. Access to social and health services, provided that requirements for participation in the respective schemes are met;
 - d. Access to and participation in cultural life.
2. States of employment shall pursue a policy, where appropriate in collaboration with the States of origin, aimed at facilitating the integration of children of migrant workers in the local school system, particularly in respect of teaching them the local language.

3. States of employment shall endeavour to facilitate for the children of migrant workers the teaching of their mother tongue and culture and, in this regard, States of origin shall collaborate whenever appropriate.
4. States of employment may provide special schemes of education in the mother tongue of children of migrant workers, if necessary in collaboration with the States of origin.

Article 46

Migrant workers and members of their families shall, subject to the applicable legislation of the States concerned, as well as relevant international agreements and the obligations of the States concerned arising out of their participation in customs unions, enjoy exemption from import and export duties and taxes in respect of their personal and household effects as well as the equipment necessary to engage in the remunerated activity for which they were admitted to the State of employment:

- a. Upon departure from the State of origin or State of habitual residence;
- b. Upon initial admission to the State of employment;
- c. Upon final departure from the State of employment;
- d. Upon final return to the State of origin or State of habitual residence.

Article 47

1. Migrant workers shall have the right to transfer their earnings and savings, in particular those funds necessary for the support of their families, from the State of employment to their State of origin or any other State. Such transfers shall be made in conformity with procedures established by applicable legislation of the State concerned and in conformity with applicable international agreements.
2. States concerned shall take appropriate measures to facilitate such transfers.

Article 48

1. Without prejudice to applicable double taxation agreements, migrant workers and members of their families shall, in the matter of earnings in the State of employment:
 - a. Not be liable to taxes, duties or charges of any description higher or more onerous than those imposed on nationals in similar circumstances;
 - b. Be entitled to deductions or exemptions from taxes of any description and to any tax allowances applicable to nationals in similar circumstances, including tax allowances for dependent members of their families.
2. States Parties shall endeavour to adopt appropriate measures to avoid double taxation of the earnings and savings of migrant workers and members of their families.

Article 49

1. Where separate authorizations to reside and to engage in employment are required by national legislation, the States of employment shall issue to migrant workers authorization of residence for at least the same period of time as their authorization to engage in remunerated activity.
2. Migrant workers who in the State of employment are allowed freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permits or similar authorizations.
3. In order to allow migrant workers referred to in paragraph 2 of the present article sufficient time to find alternative remunerated activities, the authorization of residence shall not be withdrawn at least for a period corresponding to that during which they may be entitled to unemployment benefits.

Article 50

1. In the case of death of a migrant worker or dissolution of marriage, the State of employment shall favourably consider granting family members of that migrant worker residing in that State on the basis of family reunion an authorization to stay; the State of employment shall take into account the length of time they have already resided in that State.
2. Members of the family to whom such authorization is not granted shall be allowed before departure a reasonable period of time in order to enable them to settle their affairs in the State of employment.
3. The provisions of paragraphs 1 and 2 of the present article may not be interpreted as adversely affecting any right to stay and work otherwise granted to such family members by the legislation of the State of employment or by bilateral and multilateral treaties applicable to that State.

Article 51

Migrant workers who in the State of employment are not permitted freely to choose their remunerated activity shall neither be regarded as in an irregular situation nor shall they lose their authorization of residence by the mere fact of the termination of their remunerated activity prior to the expiration of their work permit, except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted. Such migrant workers shall have the right to seek alternative employment, participation in public work schemes and retraining during the remaining period of their authorization to work, subject to such conditions and limitations as are specified in the authorization to work.

Article 52

1. Migrant workers in the State of employment shall have the right freely to choose their remunerated activity, subject to the following restrictions or conditions.
2. For any migrant worker a State of employment may:
 - a. Restrict access to limited categories of employment, functions, services or activities where this is necessary in the interests of this State and provided for by national legislation;
 - b. Restrict free choice of remunerated activity in accordance with its legislation concerning recognition of occupational qualifications acquired outside its territory. However, States Parties concerned shall endeavour to provide for recognition of such qualifications.
3. For migrant workers whose permission to work is limited in time, a State of employment may also:
 - a. Make the right freely to choose their remunerated activities subject to the condition that the migrant worker has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed two years;
 - b. Limit access by a migrant worker to remunerated activities in pursuance of a policy of granting priority to its nationals or to persons who are assimilated to them for these purposes by virtue of legislation or bilateral or multilateral agreements. Any such limitation shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation that should not exceed five years.
4. States of employment shall prescribe the conditions under which a migrant worker who has been admitted to take up employment may be authorized to engage in work on his or her own account. Account shall be taken of the period during which the worker has already been lawfully in the State of employment.

Article 53

1. Members of a migrant worker's family who have themselves an authorization of residence or admission that is without limit of time or is automatically renewable shall be permitted freely to choose their remunerated activity under the same conditions as are applicable to the said migrant worker in accordance with article 52 of the present Convention.
2. With respect to members of a migrant worker's family who are not permitted freely to choose their remunerated activity, States Parties shall consider favourably granting them priority in obtaining permission to engage in a remunerated activity over other workers who seek admission to the State of employment, subject to applicable bilateral and multilateral agreements.

Article 54

1. Without prejudice to the terms of their authorization of residence or their permission to work and the rights provided for in articles 25 and 27 of the present Convention, migrant workers shall enjoy equality of treatment with nationals of the State of employment in respect of:
 - a. Protection against dismissal;
 - b. Unemployment benefits;
 - c. Access to public work schemes intended to combat unemployment;
 - d. Access to alternative employment in the event of loss of work or termination of other remunerated activity, subject to article 52 of the present Convention.
2. If a migrant worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State of employment, on terms provided for in article 18, paragraph 1, of the present Convention.

Article 55

Migrant workers who have been granted permission to engage in a remunerated activity, subject to the conditions attached to such permission, shall be entitled to equality of treatment with nationals of the State of employment in the exercise of that remunerated activity.

Article 56

1. Migrant workers and members of their families referred to in the present part of the Convention may not be expelled from a State of employment, except for reasons defined in the national legislation of that State, and subject to the safeguards established in part III.
2. Expulsion shall not be resorted to for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorization of residence and the work permit.
3. In considering whether to expel a migrant worker or a member of his or her family, account should be taken of humanitarian considerations and of the length of time that the person concerned has already resided in the State of employment.

Part V: Provisions Applicable to Particular Categories of Migrant Workers and Members of their Families

Article 57

The particular categories of migrant workers and members of their families specified in the present part of the Convention who are documented or in a regular situation shall enjoy the rights set forth in part (m) and, except as modified below, the rights set forth in part IV.

Article 58

1. Frontier workers, as defined in article 2, paragraph 2 (a), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment, taking into account that they do not have their habitual residence in that State.
2. States of employment shall consider favourably granting frontier workers the right freely to choose their remunerated activity after a specified period of time. The granting of that right shall not affect their status as frontier workers.

Article 59

1. Seasonal workers, as defined in article 2, paragraph 2 (b), of the present Convention, shall be entitled to the rights provided for in part IV that can be applied to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status in that State as seasonal workers, taking into account the fact that they are present in that State for only part of the year.
2. The State of employment shall, subject to paragraph 1 of the present article, consider granting seasonal workers who have been employed in its territory for a significant period of time the possibility of taking up other remunerated activities and giving them priority over other workers who seek admission to that State, subject to applicable bilateral and multilateral agreements.

Article 60

Itinerant workers, as defined in article 2, paragraph 2 (A), of the present Convention, shall be entitled to the rights provided for in part IV that can be granted to them by reason of their presence and work in the territory of the State of employment and that are compatible with their status as itinerant workers in that State.

Article 61

1. Project-tied workers, as defined in article 2, paragraph 2 of the present Convention, and members of their families shall be entitled to the rights provided for in part IV except the provisions of article 43, paragraphs I (b) and (c), article 43, paragraph I (d), as it pertains to social housing schemes, article 45, paragraph I (b), and articles 52 to 55.
2. If a project-tied worker claims that the terms of his or her work contract have been violated by his or her employer, he or she shall have the right to address his or her case to the competent authorities of the State which has jurisdiction over that employer, on terms provided for in article 18, paragraph 1, of the present Convention.
3. Subject to bilateral or multilateral agreements in force for them, the States Parties concerned shall endeavour to enable project-tied workers to remain adequately protected by the social security systems of their States of origin or habitual residence during their engagement in the project. States Parties concerned shall take appropriate measures with the aim of avoiding any denial of rights or duplication of payments in this respect.
4. Without prejudice to the provisions of article 47 of the present Convention and to relevant bilateral or multilateral agreements, States Parties concerned shall permit payment of the earnings of project-tied workers in their State of origin or habitual residence.

Article 62

1. Specified-employment workers as defined in article 2, paragraph 2 (g), of the present Convention, shall be entitled to the rights provided for in part IV, except the provisions of article 43, paragraphs I (b) and (c), article 43, paragraph I (d), as it pertains to social housing schemes, article 52, and article 54, paragraph 1 (d).
2. Members of the families of specified-employment workers shall be entitled to the rights relating to family members of migrant workers provided for in part IV of the present Convention, except the provisions of article 53.

Article 63

1. Self-employed workers, as defined in article 2, paragraph 2 (h), of the present Convention, shall be entitled to the rights provided for in part IV with the exception of those rights which are exclusively applicable to workers having a contract of employment.
2. Without prejudice to articles 52 and 79 of the present Convention, the termination of the economic activity of the self-employed workers shall not in itself imply the withdrawal of the authorization for them or for the members of their families to stay or to engage in a remunerated activity in the State of employment except where the authorization of residence is expressly dependent upon the specific remunerated activity for which they were admitted.

Part VI: Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families

Article 64

1. Without prejudice to article 79 of the present Convention, the States Parties concerned shall as appropriate consult and co-operate with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families.
2. In this respect, due regard shall be paid not only to labour needs and resources, but also to the social, economic, cultural and other needs of migrant workers and members of their families involved, as well as to the consequences of such migration for the communities concerned.

Article 65

1. States Parties shall maintain appropriate services to deal with questions concerning international migration of workers and members of their families. Their functions shall include, inter alia:
 - a. The formulation and implementation of policies regarding such migration;
 - b. An exchange of information, consultation and co-operation with the competent authorities of other States Parties involved in such migration;
 - c. The provision of appropriate information, particularly to employers, workers and their organizations on policies, laws and regulations relating to migration and employment, on agreements concluded with other States concerning migration and on other relevant matters;
 - d. The provision of information and appropriate assistance to migrant workers and members of their families regarding requisite authorizations and formalities and arrangements for departure, travel, arrival, stay, remunerated activities, exit and return, as well as on conditions of work and life in the State of employment and on customs, currency, tax and other relevant laws and regulations.
2. States Parties shall facilitate as appropriate the provision of adequate consular and other services that are necessary to meet the social, cultural and other needs of migrant workers and members of their families.

Article 66

1. Subject to paragraph 2 of the present article, the right to undertake operations with a view to the recruitment of workers for employment in another State shall be restricted to:
 - a. Public services or bodies of the State in which such operations take place;
 - b. Public services or bodies of the State of employment on the basis of agreement between the States concerned;
 - c. A body established by virtue of a bilateral or multilateral agreement.
2. Subject to any authorization, approval and supervision by the public authorities of the States Parties concerned as may be established pursuant to the legislation and practice of those States, agencies, prospective employers or persons acting on their behalf may also be permitted to undertake the said operations.

Article 67

1. States Parties concerned shall co-operate as appropriate in the adoption of measures regarding the orderly return of migrant workers and members of their families to the State of origin when they decide to return or their authorization of residence or employment expires or when they are in the State of employment in an irregular situation.
2. Concerning migrant workers and members of their families in a regular situation, States Parties concerned shall co-operate as appropriate, on terms agreed upon by those States, with a view to promoting adequate economic conditions for their resettlement and to facilitating their durable social and cultural reintegration in the State of origin.

Article 68

1. States Parties, including States of transit, shall collaborate with a view to preventing and eliminating illegal or clandestine movements and employment of migrant workers in an irregular situation. The measures to be taken to this end within the jurisdiction of each State concerned shall include:
 - a. Appropriate measures against the dissemination of misleading information relating to emigration and immigration;
 - b. Measures to detect and eradicate illegal or clandestine movements of migrant workers and members of their families and to impose effective sanctions on persons, groups or entities which organize, operate or assist in organizing or operating such movements;
 - c. Measures to impose effective sanctions on persons, groups or entities which use violence, threats or intimidation against migrant workers or members of their families in an irregular situation.
2. States of employment shall take all adequate and effective measures to eliminate employment in their territory of migrant workers in an irregular situation, including, whenever appropriate, sanctions on employers of such workers. The rights of migrant workers vis-à-vis their employer arising from employment shall not be impaired by these measures.

Article 69

1. States Parties shall, when there are migrant workers and members of their families within their territory in an irregular situation, take appropriate measures to ensure that such a situation does not persist.
2. Whenever States Parties concerned consider the possibility of regularizing the situation of such persons in accordance with applicable national legislation and bilateral or multilateral agreements, appropriate account shall be taken of the circumstances of their entry, the duration of their stay in the States of employment and other relevant considerations, in particular those relating to their family situation.

Article 70

States Parties shall take measures not less favourable than those applied to nationals to ensure that working and living conditions of migrant workers and members of their families in a regular situation are in keeping with the standards of fitness, safety, health and principles of human dignity.

Article 71

1. States Parties shall facilitate, whenever necessary, the repatriation to the State of origin of the bodies of deceased migrant workers or members of their families.
2. As regards compensation matters relating to the death of a migrant worker or a member of his or her family, States Parties shall, as appropriate, provide assistance to the persons concerned with a view to the prompt settlement of such matters. Settlement of these matters shall be carried out on the basis of applicable national law in accordance with the provisions of the present Convention and any relevant bilateral or multilateral agreements.

Part VII: Application of the Convention**Article 72**

1. a. For the purpose of reviewing the application of the present Convention, there shall be established a Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families hereinafter referred to as "the Committee";
b. The Committee shall consist, at the time of entry into force of the present Convention, of ten and, after the entry into force of the Convention for the forty-first State Party, of fourteen experts of high moral standing, impartiality and recognized competence in the field covered by the Convention.
2. a. Members of the Committee shall be elected by secret ballot by the States Parties from a list of persons nominated by the States Parties, due consideration being given to equitable geographical distribution, including both States of origin and States of employment, and to the representation of the principal legal systems. Each State Party may nominate one person from among its own nationals;
b. Members shall be elected and shall serve in their personal capacity.
3. The initial election shall be held no later than six months after the date of the entry into force of the present Convention and subsequent elections every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to all States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties that have nominated them, and shall submit it to the States Parties not later than one month before the date of the corresponding election, together with the curricula vitae of the persons thus nominated.
4. Elections of members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the States Parties present and voting.
5. a. The members of the Committee shall serve for a term of four years. However, the terms of five of the members elected in the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting of States Parties;
b. The election of the four additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of the present article, following the entry into force of the Convention for the forty-first State Party. The term of two of the additional members elected on this occasion shall expire at the end of two years; the names of these members shall be chosen by lot by the Chairman of the meeting of States Parties;
c. The members of the Committee shall be eligible for re-election if renominated.
6. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party that nominated the expert shall appoint another expert from among its own nationals for the remaining part of the term. The new appointment is subject to the approval of the Committee.
7. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee.
8. The members of the Committee shall receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide.

9. The members of the Committee shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

Article 73

1. States Parties undertake to submit to the Secretary-General of the United Nations for consideration by the Committee a report on the legislative, judicial, administrative and other measures they have taken to give effect to the provisions of the present Convention:
 - a. Within one year after the entry into force of the Convention for the State Party concerned;
 - b. Thereafter every five years and whenever the Committee so requests.
2. Reports prepared under the present article shall also indicate factors and difficulties, if any, affecting the implementation of the Convention and shall include information on the characteristics of migration flows in which the State Party concerned is involved.
3. The Committee shall decide any further guidelines applicable to the content of the reports.
4. States Parties shall make their reports widely available to the public in their own countries.

Article 74

1. The Committee shall examine the reports submitted by each State Party and shall transmit such comments as it may consider appropriate to the State Party concerned. This State Party may submit to the Committee observations on any comment made by the Committee in accordance with the present article. The Committee may request supplementary information from States Parties when considering these reports.
2. The Secretary-General of the United Nations shall, in due time before the opening of each regular session of the Committee, transmit to the Director-General of the International Labour Office copies of the reports submitted by States Parties concerned and information relevant to the consideration of these reports, in order to enable the Office to assist the Committee with the expertise the Office may provide regarding those matters dealt with by the present Convention that fall within the sphere of competence of the International Labour Organisation. The Committee shall consider in its deliberations such comments and materials as the Office may provide.
3. The Secretary-General of the United Nations may also, after consultation with the Committee, transmit to other specialized agencies as well as to intergovernmental organizations, copies of such parts of these reports as may fall within their competence.
4. The Committee may invite the specialized agencies and organs of the United Nations, as well as intergovernmental organizations and other concerned bodies to submit, for consideration by the Committee, written information on such matters dealt with in the present Convention as fall within the scope of their activities.
5. The International Labour Office shall be invited by the Committee to appoint representatives to participate, in a consultative capacity, in the meetings of the Committee.
6. The Committee may invite representatives of other specialized agencies and organs of the United Nations, as well as of intergovernmental organizations, to be present and to be heard in its meetings whenever matters falling within their field of competence are considered.
7. The Committee shall present an annual report to the General Assembly of the United Nations on the implementation of the present Convention, containing its own considerations and recommendations, based, in particular, on the examination of the reports and any observations presented by States Parties.
8. The Secretary-General of the United Nations shall transmit the annual reports of the Committee to the States Parties to the present Convention, the Economic and Social Council, the Commission on Human Rights of the United Nations, the Director-General of the International Labour Office and other relevant organizations.

Article 75

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.
3. The Committee shall normally meet annually.
4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 76

1. A State Party to the present Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Convention. Communications under this article may be received and considered only if submitted by a State Party that has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure:
 - a. If a State Party to the present Convention considers that another State Party is not fulfilling its obligations under the present Convention, it may, by written communication, bring the matter to the attention of that State

Party. The State Party may also inform the Committee of the matter. Within three months after the receipt of the communication the receiving State shall afford the State that sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

- b. If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;
 - c. The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged;
 - d. Subject to the provisions of subparagraph (c) of the present paragraph, the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of the respect for the obligations set forth in the present Convention;
 - e. The Committee shall hold closed meetings when examining communications under the present article;
 - f. In any matter referred to it in accordance with subparagraph (b) of the present paragraph, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;
 - g. The States Parties concerned, referred to in subparagraph (b) of the present paragraph, shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;
 - h. The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b) of the present paragraph, submit a report, as follows:
 - i. If a solution within the terms of subparagraph (d) of the present paragraph is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;
 - ii. If a solution within the terms of subparagraph (d) is not reached, the Committee shall, in its report, set forth the relevant facts concerning the issue between the States Parties concerned. The written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. The Committee may also communicate only to the States Parties concerned any views that it may consider relevant to the issue between them. In every matter, the report shall be communicated to the States Parties concerned.
2. The provisions of the present article shall come into force when ten States Parties to the present Convention have made a declaration under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by any State Party shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 77

1. A State Party to the present Convention may at any time declare under the present article that it recognizes the competence of the Committee to receive and consider communications from or on behalf of individuals subject to its jurisdiction who claim that their individual rights as established by the present Convention have been violated by that State Party. No communication shall be received by the Committee if it concerns a State Party that has not made such a declaration.
2. The Committee shall consider inadmissible any communication under the present article which is anonymous or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the present Convention.
3. The Committee shall not consider any communication from an individual under the present article unless it has ascertained that:
 - a. The same matter has not been, and is not being, examined under another procedure of international investigation or settlement;
 - b. The individual has exhausted all available domestic remedies; this shall not be the rule where, in the view of the Committee, the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to that individual.
4. Subject to the provisions of paragraph 2 of the present article, the Committee shall bring any communications submitted to it under this article to the attention of the State Party to the present Convention that has made a declaration under paragraph 1 and is alleged to be violating any provisions of the Convention. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.
5. The Committee shall consider communications received under the present article in the light of all information

made available to it by or on behalf of the individual and by the State Party concerned.

6. The Committee shall hold closed meetings when examining communications under the present article.
7. The Committee shall forward its views to the State Party concerned and to the individual.
8. The provisions of the present article shall come into force when ten States Parties to the present Convention have made declarations under paragraph 1 of the present article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter that is the subject of a communication already transmitted under the present article; no further communication by or on behalf of an individual shall be received under the present article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party has made a new declaration.

Article 78

The provisions of article 76 of the present Convention shall be applied without prejudice to any procedures for settling disputes or complaints in the field covered by the present Convention laid down in the constituent instruments of, or in conventions adopted by, the United Nations and the specialized agencies and shall not prevent the States Parties from having recourse to any procedures for settling a dispute in accordance with international agreements in force between them.

Part VIII: General provisions

Article 79

Nothing in the present Convention shall affect the right of each State Party to establish the criteria governing admission of migrant workers and members of their families. Concerning other matters related to their legal situation and treatment as migrant workers and members of their families, States Parties shall be subject to the limitations set forth in the present Convention.

Article 80

Nothing in the present Convention shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Convention.

Article 81

1. Nothing in the present Convention shall affect more favourable rights or freedoms granted to migrant workers and members of their families by virtue of:
 - a. The law or practice of a State Party; or
 - b. Any bilateral or multilateral treaty in force for the State Party concerned.
2. Nothing in the present Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act that would impair any of the rights and freedoms as set forth in the present Convention.

Article 82

The rights of migrant workers and members of their families provided for in the present Convention may not be renounced. It shall not be permissible to exert any form of pressure upon migrant workers and members of their families with a view to their relinquishing or foregoing any of the said rights. It shall not be possible to derogate by contract from rights recognized in the present Convention. States Parties shall take appropriate measures to ensure that these principles are respected.

Article 83

Each State Party to the present Convention undertakes:

- a. To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- b. To ensure that any persons seeking such a remedy shall have his or her claim reviewed and decided by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- c. To ensure that the competent authorities shall enforce such remedies when granted.

Article 84

Each State Party undertakes to adopt the legislative and other measures that are necessary to implement the provisions of the present Convention.

Part IX: Final provisions

Article 85

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 86

1. The present Convention shall be open for signature by all States. It is subject to ratification.
2. The present Convention shall be open to accession by any State.
3. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 87

1. The present Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of the twentieth instrument of ratification or accession.
2. For each State ratifying or acceding to the present Convention after its entry into force, the Convention shall enter into force on the first day of the month following a period of three months after the date of the deposit of its own instrument of ratification or accession.

Article 88

A State ratifying or acceding to the present Convention may not exclude the application of any Part of it, or, without prejudice to article 3, exclude any particular category of migrant workers from its application.

Article 89

1. Any State Party may denounce the present Convention, not earlier than five years after the Convention has entered into force for the State concerned, by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of twelve months after the date of the receipt of the notification by the Secretary-General of the United Nations.
3. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Convention in regard to any act or omission which occurs prior to the date at which the denunciation becomes effective, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Committee prior to the date at which the denunciation becomes effective.
4. Following the date at which the denunciation of a State Party becomes effective, the Committee shall not commence consideration of any new matter regarding that State.

Article 90

1. After five years from the entry into force of the Convention a request for the revision of the Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that within four months from the date of such communication at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting shall be submitted to the General Assembly for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties that have accepted them, other States Parties still being bound by the provisions of the present Convention and any earlier amendment that they have accepted.

Article 91

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of signature, ratification or accession.
2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.
3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

Article 92

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.
3. Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

Article 93

1. The present Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
 2. The Secretary-General of the United Nations shall transmit certified copies of the present Convention to all States.
- In witness whereof the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed the present Convention.

United Nations (UN), Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (2002, New York, USA)

A/RES/57/199, adopted Dec. 18, 2002 [reprinted in 42 I.L.M. 26 (2003)].

PART I General principles

Article 1

The objective of this Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

Article 2

1. A Sub-Committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Sub-Committee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.
2. The Sub-Committee on Prevention shall carry out its work within the framework of the Charter of the United Nations and will be guided by the purposes and principles thereof as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.
3. Equally, the Sub-Committee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.
4. The Sub-Committee on Prevention and the State parties shall cooperate in the implementation of the present Protocol.

Article 3

Each State party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.
2. For the purposes of the present Protocol deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will by order of any judicial, administrative or other authority.

PART II The Sub-Committee on Prevention

Article 5

1. The Sub-Committee on Prevention shall consist of ten members. After the fiftieth ratification or accession to the present Protocol, the number of the members of the Sub-Committee on Prevention shall increase to 25.
2. The members of the Sub-Committee shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration or in the various fields relevant to the treatment of persons deprived of their liberty.
3. In the composition of the Sub-Committee due consideration shall be given to the equitable geographic distribution and to the representation of different forms of civilisation and legal systems of the States parties.
4. In this composition consideration shall also be given to the balanced gender representation on the basis of the principles of equality and non-discrimination.
5. No two members of the Sub-Committee on Prevention may be nationals of the same State.
6. The members of the Sub-Committee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Sub-Committee on Prevention efficiently.

Article 6

1. Each State party may nominate, in accordance with paragraph 2, up to two candidates possessing the qualifications and meeting the requirements set out in article 5, and in doing so shall provide detailed information on the qualifications of the nominees.
2. The nominees shall have the nationality of a State party to the present Protocol;
 - a. At least one of the two candidates shall have the nationality of the nominating State party;
 - b. No more than two nationals of a State party shall be nominated;
 - c. Before a State party nominates a national of another State party, it shall seek and obtain the consent of that State party.
3. At least five months before the date of the meeting of the State parties during which the elections will be held, the Secretary-General of the United Nations shall address a letter to the States parties inviting them to submit their nominations within three months. The Secretary-General shall submit a list in alphabetical order of all persons thus nominated, indicating the States parties which have nominated them.

Article 7

1. The members of the Sub-Committee on Prevention shall be elected in the following manner:
 - a. Primary consideration shall be given to the fulfilment of the requirements and criteria of article 5 of the present Protocol;
 - b. The initial election shall be held no later than six months after the entry into force of the present Protocol;
 - c. The State parties shall elect the members of the Sub-Committee by secret ballot;
 - d. Elections of the members of the Sub-Committee shall be held at biennial meetings of the States parties convened by the Secretary-General of the United Nations. At those meetings, for which two thirds of the States parties shall constitute a quorum, the persons elected to the Sub-Committee shall be those who obtain the largest number of votes and an absolute majority of the votes of the representatives of the States parties present and voting;
2. If, during the election process, two nationals of a State party have become eligible to serve as members of the Sub-Committee on Prevention, the candidate receiving the higher number of votes shall serve as the member of the Sub-Committee. Where nationals have received the same number of votes, the following procedure applies:
 - a. Where only one has been nominated by the State party of which he or she is a national, that national shall serve as the member of the Sub-Committee on Prevention;
 - b. Where both nationals have been nominated by the State party of which they are nationals, a separate vote by secret ballot shall be held to determine which national shall become member;
 - c. Where neither national has been nominated by the State party of which he or she is a national, a separate vote by secret ballot shall be held to determine which national shall be the member.

Article 8

If a member of the Sub-Committee on Prevention dies or resigns or for any cause can no longer perform his or her duties, the State party which nominated the member shall nominate another eligible person possessing the qualifications and meeting the requirements set out in article 5, taking into account the need for a proper balance among the various fields of competence, to serve until the next meeting of the States parties, subject to approval of the majority of the States parties. The approval shall be considered given unless half or more of the States parties respond negatively within six weeks after having been informed by the Secretary General of the United Nations of the proposed appointment.

Article 9

The members of the Sub-Committee on Prevention shall be elected for a term of four years. They shall be eligible for re-election once if renominated. The term of half the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these members shall be chosen by lot by the Chairman of the meeting referred to in article 7 paragraph 1 d.

Article 10

1. The Sub-Committee on Prevention shall elect its officers for a term of two years. They may be re-elected.
2. The Sub-Committee on Prevention shall establish its own rules of procedure. These rules shall provide inter alia that:
 - a. Half plus one members shall constitute a quorum;
 - b. Decisions of the Sub-Committee on Prevention shall be made by a majority vote of the members present;
 - c. The Sub-Committee on Prevention shall meet in camera.
3. The Secretary-General of the United Nations shall convene the initial meeting of the SubCommittee on Prevention. After its initial meeting, the Sub-Committee on Prevention shall meet at such times as shall be provided by its rules of procedure. The Sub-Committee on Prevention and the Committee against Torture shall hold their sessions simultaneously at least once a year.

PART III Mandate of the Sub-Committee on Prevention

Article 11

The Sub-Committee on Prevention shall:

1. Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;
2. In regard to the national preventive mechanisms:
 - a. Advise and assist States Parties, when necessary, in their establishment;
 - b. Maintain direct, if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;
 - c. Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;
 - d. Make recommendations and observations to the States parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;
3. Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organisations working toward the strengthening of the protection of persons from torture and other cruel, inhuman or degrading treatment or punishment.

Article 12

In order to enable the Sub-Committee on Prevention to comply with its mandate as laid out in article 11, the State parties undertake to:

1. Receive the Sub-Committee on Prevention in its territory and grant it access to the places of detention as defined in article 4 of the present Protocol;
2. Share all relevant information the Sub-Committee on Prevention may request to evaluate the needs and measures that should be adopted in order to strengthen the protection of persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment;
3. Encourage and facilitate contacts between the Sub-Committee on Prevention and the national preventive mechanisms;
4. Examine the recommendations of the Sub-Committee on Prevention and enter into dialogue with it on possible implementation measures.

Article 13

1. The Sub-Committee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfill its mandate as established in article 11.
2. After consultations, the Sub-Committee on Prevention shall notify its programme to the States Parties for them to, without delay, make the necessary practical arrangements for the visits to take place.
3. The visits shall be conducted by at least two members of the Sub-Committee on Prevention. These members can be accompanied if needed by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol and shall be selected from a roster of experts prepared on the basis of proposals made by the States parties, the Office of the High Commissioner for Human Rights and the United Nations Centre for Crime Prevention. In preparing the roster, the States parties concerned shall propose no more than five national experts. The State party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Sub-Committee on Prevention shall propose another expert.
4. If the Sub-Committee on Prevention considers it appropriate, it can propose a short follow-up visit to a regular visit.

Article 14

1. In order to enable the Sub-Committee on Prevention to fulfill its mandate the States Parties to the present Protocol undertake to grant it:
 - a. Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
 - b. Unrestricted access to all information referring to the treatment of these persons as well as their conditions of detention;
 - c. Subject to paragraph 2, unrestricted access to all places of detention and their installations and facilities;
 - d. The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person whom the Sub-Committee on Prevention believes may supply relevant information;
 - e. The liberty to choose the places it wants to visit and the persons it wants to interview.
2. Objection to a visit to a particular place of detention can only be made on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited, which temporarily

prevent the carrying out of such a visit. The existence of a declaration of a State of Emergency as such shall not be invoked by a State Party as a reason to object a visit.

Article 15

No authority or official shall order, apply, permit or tolerate any sanction against any person or organisation for having communicated to the Sub-Committee on Prevention or to its delegates any information, whether true or false, and no such person or organisation shall be otherwise prejudiced in any way.

Article 16

1. The Sub-Committee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national mechanism.
2. The Sub-Committee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State Party makes part of the report public, the Sub-Committee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.
3. The Sub-Committee on Prevention shall present a public annual report on its activities to the Committee against Torture.
4. If the State Party refuses to co-operate with the Sub-Committee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the Sub-Committee on Prevention's recommendations, the Committee against Torture may at the request of the Sub-Committee on Prevention decide by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the Sub-Committee on Prevention's report.

PART IV National Preventive Mechanisms

Article 17

Each State Party shall maintain, designate or establish at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralised units may be designated as national preventive mechanisms for the purposes of the present Protocol, if they are in conformity with its provisions.

Article 18

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.
2. The States Parties shall take the necessary measures in order for the experts of the national mechanism to have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.
3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.
4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the Status and Functioning of National Institutions for Protection and Promotion of Human Rights.

Article 19

The national preventive mechanisms shall be granted at least the powers to:

1. Regularly examine the treatment of the persons deprived of their liberty in places according to article 4, with a view to strengthening, if necessary, their protection from torture, cruel, inhuman or degrading treatment or punishment;
2. Make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture, cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
3. Submit proposals and observations concerning existing or draft legislation.

Article 20

In order to enable the national preventive mechanisms to fulfill their mandate, the States Parties to the present Protocol undertake to grant them:

1. Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
2. Access to all information referring to the treatment of these persons as well as their conditions of detention;
3. Access to all places of detention and their installations and facilities;
4. The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person whom the national preventive mechanism believes may supply relevant information;
5. The liberty to choose the places it wants to visit and the persons it wants to interview;
6. The right to have contacts with the Sub-Committee on Prevention, to send it information and to meet with it.

Article 21

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organisation for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organisation shall be otherwise prejudiced in any way.
2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

Article 22

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

Article 23

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

PART V Declaration**Article 24**

1. Upon ratification States Parties can make a declaration postponing the implementation of their obligations either under Part III or under Part IV of the present Protocol.
2. This postponement shall be valid for a maximum of three years. After due representations made by the State Party and after consultation with the Sub-Committee on Prevention, the Committee against Torture may extend this period for an additional two year period.

PART VI Financial provisions**Article 25**

1. The expenditure incurred by the Sub-Committee in the implementation of the present Protocol shall be borne by the United Nations.
2. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Sub-Committee under the present Protocol.

Article 26

1. A Special Fund shall be set up in accordance with General Assembly procedures, to be administered in accordance with the financial regulations and rules of the United Nations, to help finance the implementation of the recommendations made by the Sub-Committee on Prevention to a State party after a visit, as well as education programmes of the national preventive mechanisms.
2. This Fund may be financed through voluntary contributions made by Governments, intergovernmental and non-governmental organizations and other private or public entities.

PART VII Final provisions**Article 27**

1. The present Protocol is open for signature by any State which has signed the Convention.
2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Convention. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Convention.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 28

1. The present Protocol shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession, the present Protocol shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

Article 29

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 30

No reservations shall be made to the present Protocol.

Article 31

The provisions of the present Protocol shall not affect the obligations of States Parties under any regional convention

instituting a system of visits to places of detention. The Sub-Committee on Prevention and the bodies established under such regional conventions are encouraged to consult and cooperate with a view to avoiding duplication and promoting effectively the objectives of the present Protocol.

Article 32

The provisions of the present Protocol shall not affect the obligations of States parties to the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1997, or the opportunity available to any State party to authorize the International Committee of the Red Cross to visit places of detention in situations not covered by international humanitarian law.

Article 33

1. Any State party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the present Protocol and the Convention. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State party from its obligations under the present Protocol in regard to any act or situation which occurs prior to the date at which the denunciation becomes effective, or to the actions that the Sub-Committee on Prevention has decided or may decide to adopt with respect to the State Party concerned, nor shall denunciation prejudice in any way the continued consideration of any matter which is already under consideration by the Sub-Committee on Prevention prior to the date at which the denunciation becomes effective.
3. Following the date at which the denunciation of the State party becomes effective, the SubCommittee on Prevention shall not commence consideration of any new matter regarding that State.

Article 34

1. Any State party to the present Protocol may propose an amendment and file it with the Secretary General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to the States parties to the present Protocol with a request that they notify him whether they favour a conference of States parties for the purpose of considering and voting upon the proposal. In the event that within four months from the date of such communication at least one third of the States parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of two thirds of the States parties present and voting at the conference shall be submitted by the Secretary-General of the United Nations to all States parties for acceptance.
2. An amendment adopted in accordance with paragraph 1 of the present article shall come into force when it has been accepted by a two-thirds majority of the States parties to the present Protocol in accordance with their respective constitutional process.
3. When amendments come into force, they shall be binding on those States parties which have accepted them, other States parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 35

Members of the Sub-Committee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Sub-Committee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

Article 36

When visiting a State Party the members of the Sub-Committee on Prevention shall, without prejudice to the provisions and purposes of the present Protocol and such privileges and immunities as they may enjoy:

- a. Respect the laws and regulations of the visited State; and
- b. Refrain from any action or activity incompatible with the impartial and international nature of their duties.

Article 37

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States.

United Nations (UN), Optional Protocol to the International Covenant on Civil and Political Rights (1966, New York, USA)

Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966 entry into force 23 March 1976, in accordance with Article 9

The States Parties to the present Protocol,

CONSIDERING that in order further to achieve the purposes of the International Covenant on Civil and Political Rights (hereinafter referred to as the Covenant) and the implementation of its provisions it would be appropriate to enable the Human Rights Committee set up in part IV of the Covenant (hereinafter referred to as the Committee) to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant. Have agreed as follows:

Article 1

A State Party to the Covenant that becomes a Party to the present Protocol recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State Party of any of the rights set forth in the Covenant. No communication shall be received by the Committee if it concerns a State Party to the Covenant which is not a Party to the present Protocol.

Article 2

Subject to the provisions of article 1, individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration.

Article 3

The Committee shall consider inadmissible any communication under the present Protocol which is anonymous, or which it considers to be an abuse of the right of submission of such communications or to be incompatible with the provisions of the Covenant.

Article 4

1. Subject to the provisions of article 3, the Committee shall bring any communications submitted to it under the present Protocol to the attention of the State Party to the present Protocol alleged to be violating any provision of the Covenant.
2. Within six months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

Article 5

1. The Committee shall consider communications received under the present Protocol in the light of all written information made available to it by the individual and by the State Party concerned.
2. The Committee shall not consider any communication from an individual unless it has ascertained that:
 - a. The same matter is not being examined under another procedure of international investigation or settlement;
 - b. The individual has exhausted all available domestic remedies. This shall not be the rule where the application of the remedies is unreasonably prolonged.
3. The Committee shall hold closed meetings when examining communications under the present Protocol.
4. The Committee shall forward its views to the State Party concerned and to the individual.

Article 6

The Committee shall include in its annual report under article 45 of the Covenant a summary of its activities under the present Protocol.

Article 7

Pending the achievement of the objectives of resolution 1514(XV) adopted by the General Assembly of the United Nations on 14 December 1960 concerning the Declaration on the Granting of Independence to Colonial Countries and Peoples, the provisions of the present Protocol shall in no way limit the right of petition granted to these peoples by the Charter of the United Nations and other international conventions and instruments under the United Nations and its specialized agencies.

Article 8

1. The present Protocol is open for signature by any State which has signed the Covenant.
2. The present Protocol is subject to ratification by any State which has ratified or acceded to the Covenant. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Protocol shall be open to accession by any State which has ratified or acceded to the Covenant.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Protocol or acceded to it of the deposit of each instrument of ratification or accession.

Article 9

1. Subject to the entry into force of the Covenant, the present Protocol shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the tenth instrument of ratification or instrument of accession.
2. For each State ratifying the present Protocol or acceding to it after the deposit of the tenth instrument of ratification or instrument of accession, the present Protocol shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 10

The provisions of the present Protocol shall extend to all parts of federal States without any limitations or exceptions.

Article 11

1. Any State Party to the present Protocol may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Protocol in accordance with their respective constitutional processes.
3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Protocol and any earlier amendment which they have accepted.

Article 12

1. Any State Party may denounce the present Protocol at any time by written notification addressed to the Secretary-General of the United Nations. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.
2. Denunciation shall be without prejudice to the continued application of the provisions of the present Protocol to any communication submitted under article 2 before the effective date of denunciation.

Article 13

Irrespective of the notifications made under article 8, paragraph 5, of the present Protocol, the Secretary-General of the United Nations shall inform all States referred to in article 48, paragraph 1, of the Covenant of the following particulars:

- a. Signatures, ratifications and accessions under article 8;
- b. The date of the entry into force of the present Protocol under article 9 and the date of the entry into force of any amendments under article 11;
- c. Denunciations under article 12.

Article 14

1. The present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States referred to in article 48 of the Covenant.

United Nations (UN), Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts (2000, New York, USA)

Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263 of 25 May 2000 entry into force 12 February 2002

The States Parties to the present Protocol,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists to strive for the promotion and protection of the rights of the child,

Reaffirming that the rights of children require special protection, and calling for continuous improvement of the situation of children without distinction, as well as for their development and education in conditions of peace and security,

Disturbed by the harmful and widespread impact of armed conflict on children and the long-term consequences it has for durable peace, security and development,

Condemning the targeting of children in situations of armed conflict and direct attacks on objects protected under international law, including places that generally have a significant presence of children, such as schools and hospitals,

Noting the adoption of the Rome Statute of the International Criminal Court, in particular, the inclusion therein as a war crime, of conscripting or enlisting children under the age of 15 years or using them to participate actively in hostilities in both international and non-international armed conflicts,

Considering therefore that to strengthen further the implementation of rights recognized in the Convention on the Rights of the Child there is a need to increase the protection of children from involvement in armed conflict,

Noting that article 1 of the Convention on the Rights of the Child specifies that, for the purposes of that Convention, a child means every human being below the age of 18 years unless, under the law applicable to the child, majority is attained earlier,

Convinced that an optional protocol to the Convention that raises the age of possible recruitment of persons into armed forces and their participation in hostilities will contribute effectively to the implementation of the principle that the best interests of the child are to be a primary consideration in all actions concerning children,

Noting that the twenty-sixth International Conference of the Red Cross and Red Crescent in December 1995 recommended, inter alia, that parties to conflict take every feasible step to ensure that children below the age of 18 years do not take part in hostilities,

Welcoming the unanimous adoption, in June 1999, of International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, which prohibits, inter alia, forced or compulsory recruitment of children for use in armed conflict,

Condemning with the gravest concern the recruitment, training and use within and across national borders of children in hostilities by armed groups distinct from the armed forces of a State, and recognizing the responsibility of those who recruit, train and use children in this regard,

Recalling the obligation of each party to an armed conflict to abide by the provisions of international humanitarian law,

Stressing that the present Protocol is without prejudice to the purposes and principles contained in the Charter of the United Nations, including Article 51, and relevant norms of humanitarian law,

Bearing in mind that conditions of peace and security based on full respect of the purposes and principles contained in the Charter and observance of applicable human rights instruments are indispensable for the full protection of children, in particular during armed conflicts and foreign occupation,

Recognizing the special needs of those children who are particularly vulnerable to recruitment or use in hostilities contrary to the present Protocol owing to their economic or social status or gender,

Mindful of the necessity of taking into consideration the economic, social and political root causes of the involvement of children in armed conflicts,

Convinced of the need to strengthen international cooperation in the implementation of the present Protocol, as well as the physical and psychosocial rehabilitation and social reintegration of children who are victims of armed conflict,

Encouraging the participation of the community and, in particular, children and child victims in the dissemination of informational and educational programmes concerning the implementation of the Protocol,

Have agreed as follows:

Article 1

States Parties shall take all feasible measures to ensure that members of their armed forces who have not attained the age of 18 years do not take a direct part in hostilities.

Article 2

States Parties shall ensure that persons who have not attained the age of 18 years are not compulsorily recruited into their armed forces.

Article 3

1. States Parties shall raise in years the minimum age for the voluntary recruitment of persons into their national armed forces from that set out in article 38, paragraph 3, of the Convention on the Rights of the Child, taking account of the principles contained in that article and recognizing that under the Convention persons under the age of 18 years are entitled to special protection.
2. Each State Party shall deposit a binding declaration upon ratification of or accession to the present Protocol that sets forth the minimum age at which it will permit voluntary recruitment into its national armed forces and a description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced.
3. States Parties that permit voluntary recruitment into their national armed forces under the age of 18 years shall maintain safeguards to ensure, as a minimum, that:
 - a. Such recruitment is genuinely voluntary;
 - b. Such recruitment is carried out with the informed consent of the person's parents or legal guardians;
 - c. Such persons are fully informed of the duties involved in such military service;
 - d. Such persons provide reliable proof of age prior to acceptance into national military service.
4. Each State Party may strengthen its declaration at any time by notification to that effect addressed to the Secretary-General of the United Nations, who shall inform all States Parties. Such notification shall take effect on the date on which it is received by the Secretary-General.
5. The requirement to raise the age in paragraph 1 of the present article does not apply to schools operated by or under the control of the armed forces of the States Parties, in keeping with articles 28 and 29 of the Convention on the Rights of the Child.

Article 4

1. Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years.
2. States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.
3. The application of the present article shall not affect the legal status of any party to an armed conflict.

Article 5

Nothing in the present Protocol shall be construed as precluding provisions in the law of a State Party or in international instruments and international humanitarian law that are more conducive to the realization of the rights of the child.

Article 6

1. Each State Party shall take all necessary legal, administrative and other measures to ensure the effective implementation and enforcement of the provisions of the present Protocol within its jurisdiction.
2. States Parties undertake to make the principles and provisions of the present Protocol widely known and promoted by appropriate means, to adults and children alike.
3. States Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.

Article 7

1. States Parties shall cooperate in the implementation of the present Protocol, including in the prevention of any activity contrary thereto and in the rehabilitation and social reintegration of persons who are victims of acts contrary thereto, including through technical cooperation and financial assistance. Such assistance and cooperation will be undertaken in consultation with the States Parties concerned and the relevant international organizations.
2. States Parties in a position to do so shall provide such assistance through existing multilateral, bilateral or other programmes or, inter alia, through a voluntary fund established in accordance with the rules of the General Assembly.

Article 8

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the

measures it has taken to implement the provisions of the Protocol, including the measures taken to implement the provisions on participation and recruitment.

2. Following the submission of the comprehensive report, each State Party shall include in the reports it submits to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the Protocol. Other States Parties to the Protocol shall submit a report every five years.
3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 9

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.
3. The Secretary-General, in his capacity as depositary of the Convention and the Protocol, shall inform all States Parties to the Convention and all States that have signed the Convention of each instrument of declaration pursuant to article 3.

Article 10

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 11

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General. If, however, on the expiry of that year the denouncing State Party is engaged in armed conflict, the denunciation shall not take effect before the end of the armed conflict.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any act that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 12

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 13

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

United Nations (UN), Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (2000, New York, USA)

*Adopted and opened for signature, ratification and accession by General Assembly resolution A/RES/54/263
of 25 May 2000*

entered into force on 18 January 2002

The States Parties to the present Protocol,

CONSIDERING that, in order further to achieve the purposes of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

CONSIDERING ALSO that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, GRAVELY CONCERNED at the significant and increasing international traffic in children for the purpose of the sale of children, child prostitution and child pornography,

DEEPLY CONCERNED at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

RECOGNIZING that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited,

CONCERNED about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

BELIEVING that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

BELIEVING also that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

NOTING the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

ENCOURAGED by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

RECOGNIZING the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child, Have agreed as follows:

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

- a. Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- b. Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
- c. Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:
 - a. In the context of sale of children as defined in article 2:
 - i. Offering, delivering or accepting, by whatever means, a child for the purpose of:
 - a. Sexual exploitation of the child;
 - b. Transfer of organs of the child for profit;
 - c. Engagement of the child in forced labour;
 - ii. Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
 - b. Offering, obtaining, procuring or providing a child for child prostitution, as defined in article 2;
 - c. Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.
2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.
3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.
4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.
5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.
2. Each State Party may take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:
 - a. When the alleged offender is a national of that State or a person who has his habitual residence in its territory;
 - b. When the victim is a national of that State.
3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.
4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.
2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.
3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.
4. Such offences shall be treated, for the purpose of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.
2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

- a. Take measures to provide for the seizure and confiscation, as appropriate, of:
 - i. Goods, such as materials, assets and other instrumentalities used to commit or facilitate offences under the present protocol;
 - ii. Proceeds derived from such offences;
- b. Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a);
- c. Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:
 - a. Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
 - b. Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
 - c. Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
 - d. Providing appropriate support services to child victims throughout the legal process;
 - e. Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;
 - f. Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;
 - g. Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.
2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.
3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.
4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.
5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.
6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular attention shall be given to protect children who are especially vulnerable to such practices.
2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.
4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.
5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.
2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.
3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.
4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- a. The law of a State Party;
- b. International law in force for that State.

Article 12

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive information on the measures it has taken to implement the provisions of the Protocol.
2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.
3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.
2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 14

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.
2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.
2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon

the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.
3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 17

1. The present Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.
2. The Secretary-General of the United Nations shall transmit certified copies of the present Protocol to all States Parties to the Convention and all States that have signed the Convention.

United Nations (UN), Protocol relating to the Status of Refugees (1967 entry into force)

The Protocol was taken note of with approval by the Economic and Social Council in resolution 1186 (XLI) of 18 November 1966 and was taken note of by the General Assembly in resolution 2198 (XXI) of 16 December 1966. In the same resolution the General Assembly requested the Secretary-General to transmit the text of the Protocol to the States mentioned in article V thereof, with a view to enabling them to accede to the Protocol entry into force 4 October 1967, in accordance with article VIII

The States Parties to the present Protocol,

CONSIDERING that the Convention relating to the Status of Refugees done at Geneva on 28 July 1951 (hereinafter referred to as the Convention) covers only those persons who have become refugees as a result of events occurring before 1 January 1951,

CONSIDERING that new refugee situations have arisen since the Convention was adopted and that the refugees concerned may therefore not fall within the scope of the Convention,

CONSIDERING that it is desirable that equal status should be enjoyed by all refugees covered by the definition in the Convention irrespective of the dateline 1 January 1951,

Have agreed as follows:

Article 1 General provision

1. The States Parties to the present Protocol undertake to apply articles 2 to 34 inclusive of the Convention to refugees as hereinafter defined.
2. For the purpose of the present Protocol, the term "refugee" shall, except as regards the application of paragraph 3 of this article, mean any person within the definition of article I of the Convention as if the words "As a result of events occurring before 1 January 1951 and..." and the words "...as a result of such events", in article 1 A (2) were omitted.
3. The present Protocol shall be applied by the States Parties hereto without any geographic limitation, save that existing declarations made by States already Parties to the Convention in accordance with article I B (I) (a) of the Convention, shall, unless extended under article I B (2) thereof, apply also under the present Protocol.

Article 2 Co-operation of the national authorities with the United Nations

1. The States Parties to the present Protocol undertake to co-operate with the Office of the United Nations High Commissioner for Refugees, or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall in particular facilitate its duty of supervising the application of the provisions of the present Protocol.
2. In order to enable the Office of the High Commissioner or any other agency of the United Nations which may succeed it, to make reports to the competent organs of the United Nations, the States Parties to the present Protocol undertake to provide them with the information and statistical data requested, in the appropriate form, concerning:
 - a. The condition of refugees;
 - b. The implementation of the present Protocol;
 - c. Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 3 Information on national legislation

The States Parties to the present Protocol shall communicate to the Secretary-General of the United Nations the laws and regulations which they may adopt to ensure the application of the present Protocol.

Article 4 Settlement of disputes

Any dispute between States Parties to the present Protocol which relates to its interpretation or application and which cannot be settled by other means shall be referred to the International Court of Justice at the request of any one of the parties to the dispute.

Article 5 Accession

The present Protocol shall be open for accession on behalf of all States Parties to the Convention and of any other State Member of the United Nations or member of any of the specialized agencies or to which an invitation to accede may have been addressed by the General Assembly of the United Nations. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 6 Federal clause

In the case of a Federal or non-unitary State, the following provisions shall apply:

- a. With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of the federal legislative authority, the

obligations of the Federal Government shall to this extent be the same as those of States Parties which are not Federal States;

- b. With respect to those articles of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol that come within the legislative jurisdiction of constituent States, provinces or cantons which are not, under the constitutional system of the Federation, bound to take legislative action, the Federal Government shall bring such articles with a favourable recommendation to the notice of the appropriate authorities of States, provinces or cantons at the earliest possible moment;
- c. A Federal State Party to the present Protocol shall, at the request of any other State Party hereto transmitted through the Secretary-General of the United Nations, supply a statement of the law and practice of the Federation and its constituent units in regard to any particular provision of the Convention to be applied in accordance with article I, paragraph 1, of the present Protocol, showing the extent to which effect has been given to that provision by legislative or other action.

Article 7 Reservations and declarations

1. At the time of accession, any State may make reservations in respect of article IV of the present Protocol and in respect of the application in accordance with article I of the present Protocol of any provisions of the Convention other than those contained in articles 1, 3, 4, 16(1) and 33 thereof, provided that in the case of a State Party to the Convention reservations made under this article shall not extend to refugees in respect of whom the Convention applies.
2. Reservations made by States Parties to the Convention in accordance with article 42 thereof shall, unless withdrawn, be applicable in relation to their obligations under the present Protocol.
3. Any State making a reservation in accordance with paragraph 1 of this article may at any time withdraw such reservation by a communication to that effect addressed to the Secretary-General of the United Nations.
4. Declarations made under article 40, paragraphs 1 and 2, of the Convention by a State Party thereto which accedes to the present Protocol shall be deemed to apply in respect of the present Protocol, unless upon accession a notification to the contrary is addressed by the State Party concerned to the Secretary-General of the United Nations. The provisions of article 40, paragraphs 2 and 3, and of article 44, paragraph 3, of the Convention shall be deemed to apply *mutatis mutandis* to the present Protocol.

Article 8 Entry into Protocol

1. The present Protocol shall come into force on the day of deposit of the sixth instrument of accession.
2. For each State acceding to the Protocol after the deposit of the sixth instrument of accession, the Protocol shall come into force on the date of deposit by such State of its instrument of accession.

Article 9 Denunciation

1. Any State Party hereto may denounce this Protocol at any time by a notification addressed to the Secretary-General of the United Nations.
2. Such denunciation shall take effect for the State Party concerned one year from the date on which it is received by the Secretary-General of the United Nations.

Article 10 Notifications by the Secretary-General of the United Nations

The Secretary-General of the United Nations shall inform the States referred to in article V above of the date of entry into force, accessions, reservations and withdrawals of reservations to and denunciations of the present Protocol, and of declarations and notifications relating hereto .

Article 11 Deposit in the archives of the Secretariat of the United Nations

A copy of the present Protocol, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, signed by the President of the General Assembly and by the Secretary-General of the United Nations, shall be deposited in the archives of the Secretariat of the United Nations. The Secretary-General will transmit certified copies thereof to all StatesMembers of the United Nations and to the other States referred to in article 5 above.

United Nations (UN), UN Charter

(1945, San Francisco, USA)

INTRODUCTORY NOTE

The Charter of the United Nations was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945. The Statute of the International Court of Justice is an integral part of the Charter.

Amendments to Articles 23, 27 and 61 of the Charter were adopted by the General Assembly on 17 December 1963 and came into force on 31 August 1965. A further amendment to Article 61 was adopted by the General Assembly on 20 December 1971, and came into force on 24 September 1973. An amendment to Article 109, adopted by the General Assembly on 20 December 1965, came into force on 12 June 1968.

The amendment to Article 23 enlarges the membership of the Security Council from eleven to fifteen. The amended Article 27 provides that decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members (formerly seven) and on all other matters by an affirmative vote of nine members (formerly seven), including the concurring votes of the five permanent members of the Security Council.

The amendment to Article 61, which entered into force on 31 August 1965, enlarged the membership of the Economic and Social Council from eighteen to twenty-seven. The subsequent amendment to that Article, which entered into force on 24 September 1973, further increased the membership of the Council from twenty-seven to fifty-four.

The amendment to Article 109, which relates to the first paragraph of that Article, provides that a General Conference of Member States for the purpose of reviewing the Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members (formerly seven) of the Security Council. Paragraph 3 of Article 109, which deals with the consideration of a possible review conference during the tenth regular session of the General Assembly, has been retained in its original form in its reference to a "vote, of any seven members of the Security Council", the paragraph having been acted upon in 1955 by the General Assembly, at its tenth regular session, and by the Security Council.

PREAMBLE

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

- to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and
- to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and
- to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and
- to promote social progress and better standards of life in larger freedom, AND FOR THESE ENDS
- to practice tolerance and live together in peace with one another as good neighbours, and
- to unite our strength to maintain international peace and security, and
- to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and
- to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and

selfdetermination of peoples, and to take other appropriate measures to strengthen universal peace;

3. To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
4. To be a centre for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II MEMBERSHIP

Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of 1 January 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.
2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III ORGANS

Article 7

1. There are established as the principal organs of the United Nations:
 - a General Assembly
 - a Security Council
 - an Economic and Social Council
 - a Trusteeship Council
 - an International Court of Justice
 - and a Secretariat.
2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV THE GENERAL ASSEMBLY**COMPOSITION****Article 9**

1. The General Assembly shall consist of all the Members of the United Nations.
2. Each Member shall have not more than five representatives in the General Assembly.

FUNCTIONS and POWERS**Article 10**

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of co-operation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.
2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a Member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.
3. The General Assembly may call the attention of the Security Council to situations which are likely to endanger international peace and security.
4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.
2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:
 - a. promoting international co-operation in the political field and encouraging the progressive development of international law and its codification;
 - b. promoting international co-operation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.
2. The further responsibilities, functions and powers of the General Assembly with respect to matters mentioned in paragraph 1 (b) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.
2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are

assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.
2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.
3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

VOTING

Article 18

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1 (c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

PROCEDURE

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V THE SECURITY COUNCIL

COMPOSITION

Article 23

1. The Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect ten other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.
2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members after the increase of the membership of the Security Council from eleven to fifteen, two of the four additional members shall be chosen for a term of one year. A retiring member shall not be eligible for immediate re-election.
3. Each member of the Security Council shall have one representative.

FUNCTIONS and POWERS

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and XII.
3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

VOTING

Article 27

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of nine members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

PROCEDURE

Article 28

1. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI PACIFIC SETTLEMENT OF DISPUTES

Article 33

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.
2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.
2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of

the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.
2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.
3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.
2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

CHAPTER VII ACTION WITH RESPECT TO THREATS TO THE PEACE, BREACHES OF THE PEACE, AND ACTS OF AGGRESSION

Article 39

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfilment of the obligations assumed under Article 43, invite that Member, if the Member

so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.
2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.
3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.
4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional sub-committees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.
2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.
2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council.
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.

4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.
2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX INTERNATIONAL ECONOMIC AND SOCIAL CO-OPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and
- c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.
2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the co-ordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X THE ECONOMIC AND SOCIAL COUNCIL

COMPOSITION

Article 61

1. The Economic and Social Council shall consist of fifty-four Members of the United Nations elected by the General Assembly.
2. Subject to the provisions of paragraph 3, eighteen members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate reelection.
3. At the first election after the increase in the membership of the Economic and Social Council from twenty-seven to fifty-four members, in addition to the members elected in place of the nine members whose term of office expires at the end of that year, twenty-seven additional members shall be elected. Of these twenty-seven additional members, the term of office of nine members so elected shall expire at the end of one year, and of nine other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

FUNCTIONS and POWERS

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly to the Members of the United Nations, and to the specialized agencies concerned.
2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.
3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.
4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.
2. It may co-ordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.
2. It may communicate its observations on these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connexion with the carrying out of the recommendations of the General Assembly.
2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.
3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

VOTING

Article 67

1. Each member of the Economic and Social Council shall have one vote.
2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialized agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member

of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

CHAPTER XI DECLARATION REGARDING NON-SELF-GOVERNING TERRITORIES

Article 73

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- c. to further international peace and security;
- d. to promote constructive measures of development, to encourage research, and to co-operate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
- e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of goodneighbourliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII INTERNATIONAL TRUSTEESHIP SYSTEM

Article 75

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed there under by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a. to further international peace and security;
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed there under by means of trusteeship agreements:
 - a. territories now held under mandate;
 - b. territories which may be detached from enemy states as a result of the Second World War; and
 - c. territories voluntarily placed under the system by states responsible for their administration.
2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought

under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.
2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment shall be exercised by the Security Council.
2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.
3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defence and the maintenance of law and order within the trust territory.

Article 85

4. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.
5. The Trusteeship Council, operating under the authority of the General Assembly shall assist the General Assembly in carrying out these functions.

CHAPTER XIII THE TRUSTEESHIP COUNCIL

COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:
 - a. those Members administering trust territories;
 - b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and
 - c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.
2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS and POWERS

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- a. consider reports submitted by the administering authority;
- b. accept petitions and examine them in consultation with the administering authority;
- c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
- d. take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

VOTING

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.
2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.
2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.
2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be

the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.
2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.
2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.
3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.
2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes.
2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connexion with the Organization.
3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII TRANSITIONAL SECURITY ARRANGEMENTS

Article 106

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, 30 October 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII AMENDMENTS**Article 108**

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any nine members of the Security Council. Each Member of the United Nations shall have one vote in the conference.
2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.
3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX RATIFICATION AND SIGNATURE**Article 110**

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.
2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.
3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.
4. The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

Article 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF the representatives of the Governments of the United Nations have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June, one thousand nine hundred and forty-five.

United Nations (UN), United Nations Millennium Declaration (2000, New York, USA)

[without reference to a Main Committee (A/55/L.2)]

55/2. United Nations Millennium Declaration

The General Assembly

Adopts the following Declaration:

United Nations Millennium Declaration

I. Values and principles

1. We, heads of State and Government, have gathered at United Nations Headquarters in New York from 6 to 8 September 2000, at the dawn of a new millennium, to reaffirm our faith in the Organization and its Charter as indispensable foundations of a more peaceful, prosperous and just world.
2. We recognize that, in addition to our separate responsibilities to our individual societies, we have a collective responsibility to uphold the principles of human dignity, equality and equity at the global level. As leaders we have a duty therefore to all the world's people, especially the most vulnerable and, in particular, the children of the world, to whom the future belongs.
3. We reaffirm our commitment to the purposes and principles of the Charter of the United Nations, which have proved timeless and universal. Indeed, their relevance and capacity to inspire have increased, as nations and peoples have become increasingly interconnected and interdependent.
4. We are determined to establish a just and lasting peace all over the world in accordance with the purposes and principles of the Charter. We rededicate ourselves to support all efforts to uphold the sovereign equality of all States, respect for their territorial integrity and political independence, resolution of disputes by peaceful means and in conformity with the principles of justice and international law, the right to self-determination of peoples which remain under colonial domination and foreign occupation, non-interference in the internal affairs of States, respect for human rights and fundamental freedoms, respect for the equal rights of all without distinction as to race, sex, language or religion and international cooperation in solving international problems of an economic, social, cultural or humanitarian character.
5. We believe that the central challenge we face today is to ensure that globalization becomes a positive force for all the world's people. For while globalization offers great opportunities, at present its benefits are very unevenly shared, while its costs are unevenly distributed. We recognize that developing countries and countries with economies in transition face special difficulties in responding to this central challenge. Thus, only through broad and sustained efforts to create a shared future, based upon our common humanity in all its diversity, can globalization be made fully inclusive and equitable. These efforts must include policies and measures, at the global level, which correspond to the needs of developing countries and economies in transition and are formulated and implemented with their effective participation.
6. We consider certain fundamental values to be essential to international relations in the twenty first century. These include:
 - **Freedom.** Men and women have the right to live their lives and raise their children in dignity, free from hunger and from the fear of violence, oppression or injustice. Democratic and participatory governance based on the will of the people best assures these rights.
 - **Equality.** No individual and no nation must be denied the opportunity to benefit from development. The equal rights and opportunities of women and men must be assured.
 - **Solidarity.** Global challenges must be managed in a way that distributes the costs and burdens fairly in accordance with basic principles of equity and social justice. Those who suffer or who benefit least deserve help from those who benefit most.
 - **Tolerance.** Human beings must respect one other, in all their diversity of belief, culture and language. Differences within and between societies should be neither feared nor repressed, but cherished as a precious asset of humanity. A culture of peace and dialogue among all civilizations should be actively promoted.
 - **Respect for nature.** Prudence must be shown in the management of all living species and natural resources, in accordance with the precepts of sustainable development. Only in this way can the immeasurable riches provided to us by nature be preserved and passed on to our descendants. The current unsustainable patterns of production and consumption must be changed in the interest of our future welfare and that of our descendants.
 - **Shared responsibility.** Responsibility for managing worldwide economic and social development, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally. As the most universal and most representative organization in the world, the United

Nations must play the central role.

7. In order to translate these shared values into actions, we have identified key objectives to which we assign special significance.

II. Peace, security and disarmament

8. We will spare no effort to free our peoples from the scourge of war, whether within or between States, which has claimed more than 5 million lives in the past decade. We will also seek to eliminate the dangers posed by weapons of mass destruction.
9. We resolve therefore:
 - To strengthen respect for the rule of law in international as in national affairs and, in particular, to ensure compliance by Member States with the decisions of the International Court of Justice, in compliance with the Charter of the United Nations, in cases to which they are parties.
 - To make the United Nations more effective in maintaining peace and security by giving it the resources and tools it needs for conflict prevention, peaceful resolution of disputes, peacekeeping, post-conflict peace-building and reconstruction. In this context, we take note of the report of the Panel on United Nations Peace Operations and request the General Assembly to consider its recommendations expeditiously.
 - To strengthen cooperation between the United Nations and regional organizations, in accordance with the provisions of Chapter VIII of the Charter.
 - To ensure the implementation, by States Parties, of treaties in areas such as arms control and disarmament and of international humanitarian law and human rights law, and call upon all States to consider signing and ratifying the Rome Statute of the International Criminal Court.
 - To take concerted action against international terrorism, and to accede as soon as possible to all the relevant international conventions.
 - To redouble our efforts to implement our commitment to counter the world drug problem.
 - To intensify our efforts to fight transnational crime in all its dimensions, including trafficking as well as smuggling in human beings and money laundering.
 - To minimize the adverse effects of United Nations economic sanctions on innocent populations, to subject such sanctions regimes to regular reviews and to eliminate the adverse effects of sanctions on third parties.
 - To strive for the elimination of weapons of mass destruction, particularly nuclear weapons, and to keep all options open for achieving this aim, including the possibility of convening an international conference to identify ways of eliminating nuclear dangers.
 - To take concerted action to end illicit traffic in small arms and light weapons, especially by making arms transfers more transparent and supporting regional disarmament measures, taking account of all the recommendations of the forthcoming United Nations Conference on Illicit Trade in Small Arms and Light Weapons.
 - To call on all States to consider acceding to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction, as well as the amended mines protocol to the Convention on conventional weapons.
10. We urge Member States to observe the Olympic Truce, individually and collectively, now and in the future, and to support the International Olympic Committee in its efforts to promote peace and human understanding through sport and the Olympic Ideal.

III. Development and poverty eradication

11. We will spare no effort to free our fellow men, women and children from the abject and dehumanizing conditions of extreme poverty, to which more than a billion of them are currently subjected. We are committed to making the right to development a reality for everyone and to freeing the entire human race from want.
12. We resolve therefore to create an environment – at the national and global levels alike – which is conducive to development and to the elimination of poverty.
13. Success in meeting these objectives depends, inter alia, on good governance within each country. It also depends on good governance at the international level and on transparency in the financial, monetary and trading systems. We are committed to an open, equitable, rule-based, predictable and non-discriminatory multilateral trading and financial system.
14. We are concerned about the obstacles developing countries face in mobilizing the resources needed to finance their sustained development. We will therefore make every effort to ensure the success of the High-level International and Intergovernmental Event on Financing for Development, to be held in 2001.
15. We also undertake to address the special needs of the least developed countries. In this context, we welcome the Third United Nations Conference on the Least Developed Countries to be held in May 2001 and will endeavour to ensure its success. We call on the industrialized countries:
 - To adopt, preferably by the time of that Conference, a policy of duty- and quota-free access for essentially all exports from the least developed countries;

- To implement the enhanced programme of debt relief for the heavily indebted poor countries without further delay and to agree to cancel all official bilateral debts of those countries in return for their making demonstrable commitments to poverty reduction; and
 - To grant more generous development assistance, especially to countries that are genuinely making an effort to apply their resources to poverty reduction.
16. We are also determined to deal comprehensively and effectively with the debt problems of low and middle-income developing countries, through various national and international measures designed to make their debt sustainable in the long term.
 17. We also resolve to address the special needs of small island developing States, by implementing the Barbados Programme of Action and the outcome of the twenty-second special session of the General Assembly rapidly and in full. We urge the international community to ensure that, in the development of a vulnerability index, the special needs of small island developing States are taken into account.
 18. We recognize the special needs and problems of the landlocked developing countries, and urge both bilateral and multilateral donors to increase financial and technical assistance to this group of countries to meet their special development needs and to help them overcome the impediments of geography by improving their transit transport systems.
 19. We resolve further:
 - To halve, by the year 2015, the proportion of the world's people whose income is less than one dollar a day and the proportion of people who suffer from hunger and, by the same date, to halve the proportion of people who are unable to reach or to afford safe drinking water.
 - To ensure that, by the same date, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education.
 - By the same date, to have reduced maternal mortality by three quarters, and under-five child mortality by two thirds, of their current rates.
 - To have, by then, halted, and begun to reverse, the spread of HIV/AIDS, the scourge of malaria and other major diseases that afflict humanity.
 - To provide special assistance to children orphaned by HIV/AIDS.
 - By 2020, to have achieved a significant improvement in the lives of at least 100 million slum dwellers as proposed in the "Cities Without Slums" initiative.
 20. We also resolve:
 - To promote gender equality and the empowerment of women as effective ways to combat poverty, hunger and disease and to stimulate development that is truly sustainable.
 - To develop and implement strategies that give young people everywhere a real chance to find decent and productive work.
 - To encourage the pharmaceutical industry to make essential drugs more widely available and affordable by all who need them in developing countries.
 - To develop strong partnerships with the private sector and with civil society organizations in pursuit of development and poverty eradication.
 - To ensure that the benefits of new technologies, especially information and communication technologies, in conformity with recommendations contained in the ECOSOC 2000 Ministerial Declaration, are available to all.

IV. Protecting our common environment

21. We must spare no effort to free all of humanity, and above all our children and grandchildren, from the threat of living on a planet irredeemably spoilt by human activities, and whose resources would no longer be sufficient for their needs.
22. We reaffirm our support for the principles of sustainable development, including those set out in Agenda 21, agreed upon at the United Nations Conference on Environment and Development.
23. We resolve therefore to adopt in all our environmental actions a new ethic of conservation and stewardship and, as first steps, we resolve:
 - To make every effort to ensure the entry into force of the Kyoto Protocol, preferably by the tenth anniversary of the United Nations Conference on Environment and Development in 2002, and to embark on the required reduction in emissions of greenhouse gases.
 - To intensify our collective efforts for the management, conservation and sustainable development of all types of forests.
 - To press for the full implementation of the Convention on Biological Diversity and the Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa.
 - To stop the unsustainable exploitation of water resources by developing water management strategies at the regional, national and local levels, which promote both equitable access and adequate supplies.

- To intensify cooperation to reduce the number and effects of natural and man-made disasters.
- To ensure free access to information on the human genome sequence.

V. Human rights, democracy and good governance

24. We will spare no effort to promote democracy and strengthen the rule of law, as well as respect for all internationally recognized human rights and fundamental freedoms, including the right to development.

25. We resolve therefore:

- To respect fully and uphold the Universal Declaration of Human Rights.
- To strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all.
- To strengthen the capacity of all our countries to implement the principles and practices of democracy and respect for human rights, including minority rights.
- To combat all forms of violence against women and to implement the Convention on the Elimination of All Forms of Discrimination against Women.
- To take measures to ensure respect for and protection of the human rights of migrants, migrant workers and their families, to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies.
- To work collectively for more inclusive political processes, allowing genuine participation by all citizens in all our countries.
- To ensure the freedom of the media to perform their essential role and the right of the public to have access to information.

VI. Protecting the vulnerable

26. We will spare no effort to ensure that children and all civilian populations that suffer disproportionately the consequences of natural disasters, genocide, armed conflicts and other humanitarian emergencies are given every assistance and protection so that they can resume normal life as soon as possible.

We resolve therefore:

- To expand and strengthen the protection of civilians in complex emergencies, in conformity with international humanitarian law.
- To strengthen international cooperation, including burden sharing in, and the coordination of humanitarian assistance to, countries hosting refugees and to help all refugees and displaced persons to return voluntarily to their homes, in safety and dignity and to be smoothly reintegrated into their societies.
- To encourage the ratification and full implementation of the Convention on the Rights of the Child and its optional protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

VII. Meeting the special needs of Africa

27. We will support the consolidation of democracy in Africa and assist Africans in their struggle for lasting peace, poverty eradication and sustainable development, thereby bringing Africa into the mainstream of the world economy.

28. We resolve therefore:

- To give full support to the political and institutional structures of emerging democracies in Africa.
- To encourage and sustain regional and subregional mechanisms for preventing conflict and promoting political stability, and to ensure a reliable flow of resources for peacekeeping operations on the continent.
- To take special measures to address the challenges of poverty eradication and sustainable development in Africa, including debt cancellation, improved market access, enhanced Official Development Assistance and increased flows of Foreign Direct Investment, as well as transfers of technology.
- To help Africa build up its capacity to tackle the spread of the HIV/AIDS pandemic and other infectious diseases.

VIII. Strengthening the United Nations

29. We will spare no effort to make the United Nations a more effective instrument for pursuing all of these priorities: the fight for development for all the peoples of the world, the fight against poverty, ignorance and disease; the fight against injustice; the fight against violence, terror and crime; and the fight against the degradation and destruction of our common home.

30. We resolve therefore:

- To reaffirm the central position of the General Assembly as the chief deliberative, policy-making and representative organ of the United Nations, and to enable it to play that role effectively.
- To intensify our efforts to achieve a comprehensive reform of the Security Council in all its aspects.

- To strengthen further the Economic and Social Council, building on its recent achievements, to help it fulfil the role ascribed to it in the Charter.
 - To strengthen the International Court of Justice, in order to ensure justice and the rule of law in international affairs.
 - To encourage regular consultations and coordination among the principal organs of the United Nations in pursuit of their functions.
 - To ensure that the Organization is provided on a timely and predictable basis with the resources it needs to carry out its mandates.
 - To urge the Secretariat to make the best use of those resources, in accordance with clear rules and procedures agreed by the General Assembly, in the interests of all Member States, by adopting the best management practices and technologies available and by concentrating on those tasks that reflect the agreed priorities of Member States.
 - To promote adherence to the Convention on the Safety of United Nations and Associated Personnel.
 - To ensure greater policy coherence and better cooperation between the United Nations, its agencies, the Bretton Woods Institutions and the World Trade Organization, as well as other multilateral bodies, with a view to achieving a fully coordinated approach to the problems of peace and development.
 - To strengthen further cooperation between the United Nations and national parliaments through their world organization, the Inter-Parliamentary Union, in various fields, including peace and security, economic and social development, international law and human rights and democracy and gender issues.
 - To give greater opportunities to the private sector, non-governmental organizations and civil society, in general, to contribute to the realization of the Organization's goals and programmes.
31. We request the General Assembly to review on a regular basis the progress made in implementing the provisions of this Declaration, and ask the Secretary-General to issue periodic reports for consideration by the General Assembly and as a basis for further action.
32. We solemnly reaffirm, on this historic occasion, that the United Nations is the indispensable common house of the entire human family, through which we will seek to realize our universal aspirations for peace, cooperation and development. We therefore pledge our unstinting support for these common objectives and our determination to achieve them.

8th plenary meeting

8 September 2000

United Nations (UN), United Nations' Millennium Development Goals (2000, New York, USA)

Eradicate extreme poverty and hunger

- Reduce by half the proportion of people living on less than a dollar a day
- Reduce by half the proportion of people who suffer from hunger Achieve universal primary education
- Ensure that all boys and girls complete a full course of primary schooling Promote gender equality and empower women
- Eliminate gender disparity in primary and secondary education preferably by 2005, and at all levels by 2015

Reduce child mortality

- Reduce by two thirds the mortality rate among children under five Improve maternal health
- Reduce by three quarters the maternal mortality ratio Combat HIV/AIDS, malaria and other diseases
- Halt and begin to reverse the spread of HIV/AIDS
- Halt and begin to reverse the incidence of malaria and other major diseases

Ensure environmental sustainability

- Integrate the principles of sustainable development into country policies and programmes; reverse loss of environmental resources
- Reduce by half the proportion of people without sustainable access to safe drinking water
- Achieve significant improvement in lives of at least 100 million slum dwellers, by 2020

Develop a global partnership for development

- Develop further an open trading and financial system that is rule-based, predictable and non-discriminatory. Includes a commitment to good governance, development and poverty reduction—nationally and internationally
- Address the least developed countries' special needs. This includes tariff- and quota-free access for their exports; enhanced debt relief for heavily indebted poor countries; cancellation of official bilateral debt; and more generous official development assistance for countries committed to poverty reduction
- Address the special needs of landlocked and small island developing States
- Deal comprehensively with developing countries' debt problems through national and international measures to make debt sustainable in the long term
- In cooperation with the developing countries, develop decent and productive work for youth
- In cooperation with pharmaceutical companies, provide access to affordable essential drugs in developing countries
- In cooperation with the private sector, make available the benefits of new technologies—especially information and communications technologies

United Nations (UN), Universal Declaration of Human Rights (1948, New York, USA)

PREAMBLE

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3

Everyone has the right to life, liberty and security of person.

Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6

Everyone has the right to recognition everywhere as a person before the law.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to

protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25

1. Everyone has the right to a standard of living adequate for the health and wellbeing of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

United Nations, Fourth World Conference on Women, Beijing Declaration and Platform for Action (1995, Beijing, China)

The full text of the Beijing Declaration and Platform for Action is available on SAIIA's website, <http://saiia.org.za/>. Click on the 'APRM Resource and Training Centre' at the bottom of the home page, on 'Governance Standards' on the subsequent page and on 'Section 4: Socio-economic Development' thereafter.

BEIJING DECLARATION

1. We, the Governments, participating in the Fourth World Conference on Women,
2. Gathered here in Beijing, in September 1995, the year of the fiftieth anniversary of the founding of the United Nations,
3. Determined to advance the goals of equality, development and peace for all women everywhere in the interest of all humanity,
4. Acknowledging the voices of all women everywhere and taking note of the diversity of women and their roles and circumstances, honouring the women who paved the way and inspired by the hope present in the world's youth,
5. Recognize that the status of women has advanced in some important respects in the past decade but that progress has been uneven, inequalities between women and men have persisted and major obstacles remain, with serious consequences for the well-being of all people, 2.
6. Also recognize that this situation is exacerbated by the increasing poverty that is affecting the lives of the majority of the world's people, in particular women and children, with origins in both the national and international domains,
7. Dedicate ourselves unreservedly to addressing these constraints and obstacles and thus enhancing further the advancement and empowerment of women all over the world, and agree that this requires urgent action in the spirit of determination, hope, cooperation and solidarity, now and to carry us forward into the next century. reaffirm our commitment to:
8. The equal rights and inherent human dignity of women and men and other purposes and principles enshrined in the Charter of the United Nations, to the Universal Declaration of Human Rights and other international human rights instruments, in particular the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, as well as the Declaration on the Elimination of Violence against Women and the Declaration on the Right to Development;
9. Ensure the full implementation of the human rights of women and of the girl child as an inalienable, integral and indivisible part of all human rights and fundamental freedoms;
10. Build on consensus and progress made at previous United Nations conferences and summits - on women in Nairobi in 1985, on children in New York in 1990, on environment and development in Rio de Janeiro in 1992, on human rights in Vienna in 1993, on population and development in Cairo in 1994 and on social development in Copenhagen in 1995 with the objectives of achieving equality, development and peace;
11. Achieve the full and effective implementation of the Nairobi Forward-looking Strategies for the Advancement of Women;
12. The empowerment and advancement of women, including the right to freedom of thought, conscience, religion and belief, thus contributing to the moral, ethical, spiritual and intellectual needs of women and men, individually or in community with others and thereby guaranteeing them the possibility of realising their full potential in society and shaping their lives in accordance with their own aspirations. are convinced that:
13. Women's empowerment and their full participation on the basis of equality in all spheres of society, including participation in the decision-making process and access to power, are fundamental for the achievement of equality, development and peace;
14. Women's rights are human rights;
15. Equal rights, opportunities and access to resources, equal sharing of responsibilities for the family by men and women, and a harmonious partnership between them are critical to their wellbeing and that of their families as well as to the consolidation of democracy;
16. Eradication of poverty based on sustained economic growth, social development, environmental protection and social justice requires the involvement of women in economic and social development and equal opportunities and the full and equal participation of women and men as agents and beneficiaries of people-centred sustainable development;

17. The explicit recognition and reaffirmation of the right of all women to control all aspects of their health, in particular their own fertility, is basic to their empowerment;
18. Local, national, regional and global peace is attainable and is inextricably linked with the advancement of women, who are a fundamental force for leadership, conflict resolution and the promotion of lasting peace at all levels;
19. It is essential to design, implement and monitor, with the full participation of women, effective, efficient and mutually reinforcing gender-sensitive policies and programmes, including development policies and programmes, at all levels that will foster the empowerment and advancement of women;
20. The participation and contribution of all actors of civil society, particularly women's groups and networks and other non- governmental organisations and community-based organisations, with full respect for their autonomy, in cooperation with Governments, are important to the effective implementation and follow-up of the Platform for Action;
21. The implementation of the Platform for Action requires commitment from Governments and the international community. By making national and international commitments for action, including those made at the Conference, Governments and the international community recognize the need to take priority action for the empowerment and advancement of women. We are determined to:
22. Intensify efforts and actions to achieve the goals of the Nairobi Forward-looking Strategies for the Advancement of Women by the end of this century;
23. Ensure the full enjoyment by women and the girl child of all human rights and fundamental freedoms, and take effective action against violations of these rights and freedoms;
24. Take all necessary measures to eliminate all forms of discrimination against women and the girl child and remove all obstacles to gender equality and the advancement and empowerment of women;
25. Encourage men to participate fully in all actions towards equality;
26. Promote women's economic independence, including employment, and eradicate the persistent and increasing burden of poverty on women by addressing the structural causes of poverty through changes in economic structures, ensuring equal access for all women, including those in rural areas, as vital development agents, to productive resources, opportunities and public services;
27. Promote people-centred sustainable development, including sustained economic growth through the provision of basic education, life-long education, literacy and training, and primary health care for girls and women;
28. Take positive steps to ensure peace for the advancement of women and, recognizing the leading role that women have played in the peace movement, work actively towards general and complete disarmament under strict and effective international control, and support negotiations on the conclusion, without delay, of a universal and multilaterally and effectively verifiable comprehensive nuclear-test-ban treaty which contributes to nuclear disarmament and the prevention of the proliferation of nuclear weapons in all its aspects;
29. Prevent and eliminate all forms of violence against women and girls;
30. Ensure equal access to and equal treatment of women and men in education and health care and enhance women's sexual and reproductive health as well as education;
31. Promote and protect all human rights of women and girls;
32. Intensify efforts to ensure equal enjoyment of all human rights and fundamental freedoms for all women and girls who face multiple barriers to their empowerment and advancement because of such factors as their race, age, language, ethnicity, culture, religion, or disability, or because they are indigenous people;
33. Ensure respect for international law, including humanitarian law, in order to protect women and girls in particular;
34. Develop the fullest potential of girls and women of all ages, ensure their full and equal participation in building a better world for all and enhance their role in the development process.

We are determined to:

35. Ensure women's equal access to economic resources including land, credit, science and technology, vocational training, information, communication and markets, as a means to further the advancement and empowerment of women and girls, including through the enhancement of their capacities to enjoy the benefits of equal access to these resources, inter alia, by means of international cooperation;
36. Ensure the success of the Platform for Action which will require a strong commitment on the part of Governments, international organizations and institutions at all levels. We are deeply convinced that economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development, which is the framework for our efforts to achieve a higher quality of life for all people. Equitable social development that recognizes empowering the poor, particularly women living in poverty, to utilize environmental resources sustainably is a necessary foundation for sustainable development. We also recognize that broad-based and sustained economic growth in the context of sustainable development is necessary to sustain social development and social justice. The success of the Platform for Action will also require adequate mobilization of resources at the national and international levels as well as new and additional resources to the developing countries from all available funding mechanisms, including multilateral, bilateral

and private sources for the advancement of women; financial resources to strengthen the capacity of national, subregional, regional and international institutions; a commitment to equal rights, equal responsibilities and equal opportunities and to the equal participation of women and men in all national, regional and international bodies and policy-making processes; the establishment or strengthening of mechanisms at all levels for accountability to the world's women;

37. Ensure also the success of the Platform for Action in countries with economies in transition, which will require continued international cooperation and assistance;
38. We hereby adopt and commit ourselves as Governments to implement the following Platform for Action, ensuring that a gender perspective is reflected in all our policies and programmes. We urge the United Nations system, regional and international financial institutions, other relevant regional and international institutions and all women and men, as well as non-governmental organizations, with full respect for their autonomy, and all sectors of civil society, in cooperation with Governments, to fully commit themselves and contribute to the implementation of this Platform for Action.

Areas of Critical Concern

44. To this end, Governments, the international community and civil society, including nongovernmental organizations and the private sector, are called upon to take strategic action in the following critical areas of concern:
 - The persistent and increasing burden of poverty on women
 - Inequalities and inadequacies in and unequal access to education and training
 - Inequalities and inadequacies in and unequal access to health care and related services
 - Violence against women
 - The effects of armed or other kinds of conflict on women, including those living under foreign occupation
 - Inequality in economic structures and policies, in all forms of productive activities and in access to resources
 - Inequality between men and women in the sharing of power and decision-making at all levels
 - Insufficient mechanisms at all levels to promote the advancement of women
 - Lack of respect for and inadequate promotion and protection of the human rights of women
 - Stereotyping of women and inequality in women's access to and participation in all communication systems, especially in the media
 - Gender inequalities in the management of natural resources and in the safeguarding of the environment
 - Persistent discrimination against and violation of the rights of the girl child

Actions to be taken By Governments:

- a. Review and modify, with the full and equal participation of women, macroeconomic and social policies with a view to achieving the objectives of the Platform for Action;
- b. Analyse, from a gender perspective, policies and programmes - including those related to macroeconomic stability, structural adjustment, external debt problems, taxation, investments, employment, markets and all relevant sectors of the economy - with respect to their impact on poverty, on inequality and particularly on women; assess their impact on family well-being and conditions, and adjust them, as appropriate, to promote more equitable distribution of productive assets, wealth, opportunities, income and services;
- c. Pursue and implement sound and stable macroeconomic and sectoral policies that are designed and monitored with the full and equal participation of women, encourage broad-based sustained economic growth, address the structural causes of poverty and are geared towards eradicating poverty and reducing gender-based inequality within the overall framework of achieving people-centred sustainable development;
- d. Restructure and target the allocation of public expenditures to promote women's economic opportunities and equal access to productive resources and to address the basic social, educational and health needs of women, particularly those living in poverty;
- e. Develop agricultural and fishing sectors, where and as necessary, in order to ensure, as appropriate, household and national food security and food self-sufficiency, by allocating the necessary financial, technical and human resources;
- f. Develop policies and programmes to promote equitable distribution of food within the household;
- g. Provide adequate safety nets and strengthen State-based and community-based support systems, as an integral part of social policy, in order to enable women living in poverty to withstand adverse economic environments and preserve their livelihood, assets and revenues in times of crisis;
- h. Generate economic policies that have a positive impact on the employment and income of women workers in both the formal and informal sectors and adopt specific measures to address women's unemployment, in particular their long-term unemployment;
- i. Formulate and implement, when necessary, specific economic, social, agricultural and related policies in support of female-headed households;

- j. Develop and implement anti-poverty programmes, including employment schemes, that improve access to food for women living in poverty, including through the use of appropriate pricing and distribution mechanisms;
- k. Ensure the full realization of the human rights of all women migrants, including women migrant workers, and their protection against violence and exploitation; introduce measures for the empowerment of documented women migrants, including women migrant workers, and facilitate the productive employment of documented migrant women through greater recognition of their skills, foreign education and credentials, and facilitate their full integration into the labour force;
- l. Introduce measures to integrate or reintegrate women living in poverty and socially marginalized women into productive employment and the economic mainstream, ensure that internally displaced women have full access to economic opportunities, and that the qualifications and skills of immigrant and refugee women are recognized;
- m. Enable women to obtain affordable housing and access to land by, among other things, removing all obstacles to access, with special emphasis on meeting the needs of women, especially those living in poverty and female heads of household;
- n. Formulate and implement policies and programmes that enhance the access of women agricultural and fisheries producers (including subsistence farmers and producers, especially in rural areas) to financial, technical, extension and marketing services; provide access to and control of land, appropriate infrastructure and technology in order to increase women's incomes and promote household food security, especially in rural areas and, where appropriate, encourage the development of producer-owned, marketbased cooperatives;
- o. Create social security systems wherever they do not exist, or review them with a view to placing individual women and men on an equal footing, at every stage of their lives;
- p. Ensure access to free or low-cost legal services, including legal literacy, especially designed to reach women living in poverty;
- q. Take particular measures to promote and strengthen policies and programmes for indigenous women with their full participation and respect for their cultural diversity, so that they have opportunities and the possibility of choice in the development process in order to eradicate the poverty that affects them.

United Nations Educational, Scientific and Cultural Organisation (Unesco), Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, Apartheid and Incitement to War (1978, Paris, France)

United Nations Educational, Scientific and Cultural Organisation (Unesco)

Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racism, apartheid and incitement to war, (1978)

Proclaimed by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (Unesco) at its twentieth session in Paris, on 28 November 1978

Preamble

The General Conference,

RECALLING that by virtue of its Constitution the purpose of Unesco is to 'contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for the human rights and fundamental freedoms' (Art. I, I), and that to realize this purpose the Organization will strive 'to promote the free flow of ideas by word and image' (Art. I, 2),

FURTHER RECALLING that under the Constitution the Member States of Unesco, 'believing in full and equal opportunities for education for all, in the unrestricted pursuit of objective truth, and in the free exchange of ideas and knowledge, are agreed and determined to develop and to increase the means of communication between their peoples and to employ these means for the purposes of mutual understanding and a truer and more perfect knowledge of each other's lives' (sixth preambular paragraph),

RECALLING the purposes and principles of the United Nations, as specified in its Charter,

RECALLING the Universal Declaration of Human Rights, adopted by the General Assembly of the United Nations in 1948 and particularly Article 19 thereof, which provides that 'everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers'; and the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations in 1966, Article 19 of which proclaims the same principles and Article 20 of which condemns incitement to war, the advocacy of national, racial or religious hatred and any form of discrimination, hostility or violence,

RECALLING Article 4 of the International Convention on the Elimination of all Forms of Racial Discrimination, adopted by the General Assembly of the United Nations in 1965, and the International Convention on the Suppression and Punishment of the Crime of Apartheid, adopted by the General Assembly of the United Nations in 1973, whereby the States acceding to these Conventions undertook to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, racial discrimination, and agreed to prevent any encouragement of the crime of apartheid and similar segregationist policies or their manifestations,

RECALLING the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples, adopted by the General Assembly of the United Nations in 1965,

RECALLING the declarations and resolutions adopted by the various organs of the United Nations concerning the establishment of a new international economic order and the role Unesco is called upon to play in this respect,

RECALLING the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference of Unesco in 1966,

RECALLING Resolution 59(I) of the General Assembly of the United Nations, adopted in 1946 and declaring: 'Freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated; Freedom of information requires as an indispensable element the willingness and capacity to employ its privileges without abuse. It requires as a basic discipline the moral obligation to seek the facts without

prejudice and to spread knowledge without malicious intent;

RECALLING Resolution ILO(11) of the General Assembly of the United Nations, adopted in 1947, condemning all forms of propaganda which are designed or likely to provoke or encourage any threat to the peace, breach of the peace, or act of aggression,

RECALLING resolution 127(11), also adopted by the General Assembly in 1947, which invites Member States to take measures, within the limits of constitutional procedures, to combat the diffusion of false or distorted reports likely to injure friendly relations between States, as well as the other resolutions of the General Assembly concerning the mass media and their contribution to strengthening peace, trust and friendly relations among States,

RECALLING resolution 9.12 adopted by the General Conference of Unesco in 1968, reiterating Unesco's objective to help to eradicate colonialism and racialism, and resolution 12.1 adopted by the General Conference in 1976, which proclaims that colonialism, neocolonialism and racialism in all its forms and manifestations are incompatible with the fundamental aims of Unesco,

RECALLING resolution 4.301 adopted in 1970 by the General Conference of Unesco on the contribution of the information media to furthering international understanding and cooperation in the interests of peace and human welfare, and to countering propaganda on behalf of war, racialism, apartheid and hatred among nations, and aware of the fundamental contribution that mass media can make to the realization of these objectives,

RECALLING the Declaration on Race and Racial Prejudice adopted by the General Conference of Unesco at its twentieth session,

CONSCIOUS of the complexity of the problems of information in modern society, of the diversity of solutions which have been offered to them, as evidenced in particular by the consideration given to them within Unesco, and of the legitimate desire of all parties concerned that their aspirations, points of view and cultural identity be taken into due consideration,

CONSCIOUS of the aspirations of the developing countries for the establishment of a new, more just and more effective world information and communication order,

Proclaims on this twenty-eighth day of November 1978 this Declaration on Fundamental Principles concerning the Contribution of the Mass Media to Strengthening Peace and International Understanding, to the Promotion of Human Rights and to Countering Racialism, Apartheid and Incitement to War.

Article I

The strengthening of peace and international understanding, the promotion of human rights and the countering of racialism, apartheid and incitement to war demand a free flow and a wider and better balanced dissemination of information. To this end, the mass media have a leading contribution to make. This contribution will be the more effective to the extent that the information reflects the different aspects of the subject dealt with.

Article II

1. The exercise of freedom of opinion, expression and information, recognized as an integral part of human rights and fundamental freedoms, is a vital factor in the strengthening of peace and international understanding.
2. Access by the public to information should be guaranteed by the diversity of the sources and means of information available to it, thus enabling each individual to check the accuracy of facts and to appraise events objectively. To this end, journalists must have freedom to report and the fullest possible facilities of access to information. Similarly, it is important that the mass media be responsive to concerns of peoples and individuals, thus promoting the participation of the public in the elaboration of information.
3. With a view to the strengthening of peace and international understanding, to promoting human rights and to countering racialism, apartheid and incitement to war, the mass media throughout the world, by reason of their role, contribute to promoting human rights, in particular by giving expression to oppressed peoples who struggle against colonialism, neocolonialism, foreign occupation and all forms of racial discrimination and oppression and who are unable to make their voices heard within their own territories.
4. If the mass media are to be in a position to promote the principles of this Declaration in their activities, it is essential that journalists and other agents of the mass media, in their own country or abroad, be assured of protection guaranteeing them the best conditions for the exercise of their profession.

Article III

1. The mass media have an important contribution to make to the strengthening of peace and international understanding and in countering racialism, apartheid and incitement to war.
2. In countering aggressive war, racialism, apartheid and other violations of human rights which are inter alia spawned by prejudice and ignorance, the mass media, by disseminating information on the aims, aspirations, cultures and needs of all peoples, contribute to eliminate ignorance and misunderstanding between peoples, to make nationals of a country sensitive to the needs and desires of others, to ensure the respect of the rights and dignity of all nations, all peoples and all individuals without distinction of race, sex, language, religion or nationality and to draw attention to the great evils which afflict humanity, such as poverty, malnutrition and diseases, thereby promoting the formulation by States of the policies best able to promote the reduction of international tension and the peaceful and equitable settlement of international disputes.

Article IV

The mass media have an essential part to play in the education of young people in a spirit of peace, justice, freedom, mutual respect and understanding, in order to promote human rights, equality of rights as between all human beings and all nations, and economic and social progress. Equally, they have an important role to play in making known the views and aspirations of the younger generation.

Article V

In order to respect freedom of opinion, expression and information and in order that information may reflect all points of view, it is important that the points of view presented by those who consider that the information published or disseminated about them has seriously prejudiced their effort to strengthen peace and international understanding, to promote human rights or to counter racialism, apartheid and incitement to war be disseminated.

Article VI

For the establishment of a new equilibrium and greater reciprocity in the flow of information, which will be conducive to the institution of a just and lasting peace and to the economic and political independence of the developing countries, it is necessary to correct the inequalities in the flow of information to and from developing countries, and between those countries. To this end, it is essential that their mass media should have conditions and resources enabling them to gain strength and expand, and to co-operate both among themselves and with the mass media in developed countries.

Article VII

By disseminating more widely all of the information concerning the universally accepted objectives and principles which are the bases of the resolutions adopted by the different organs of the United Nations, the mass media contribute effectively to the strengthening of peace and international understanding, to the promotion of human rights, and to the establishment of a more just and equitable international economic order.

Article VIII

Professional organizations, and people who participate in the professional training of journalists and other agents of the mass media and who assist them in performing their functions in a responsible manner should attach special importance to the principles of this Declaration when drawing up and ensuring application of their codes of ethics.

Article IX

In the spirit of this Declaration, it is for the international community to contribute to the creation of the conditions for a free flow and wider and more balanced dissemination of information, and of the conditions for the protection, in the exercise of their functions, of journalists and other agents of the mass media. Unesco is well placed to make a valuable contribution in this respect.

Article X

1. With due respect for constitutional provisions designed to guarantee freedom of information and for the applicable international instruments and agreements, it is indispensable to create and maintain throughout the world the conditions which make it possible for the organizations and persons professionally involved in the dissemination of information to achieve the objectives of this Declaration.
2. It is important that a free flow and wider and better balanced dissemination of information be encouraged.
3. To this end, it is necessary that States facilitate the procurement by the mass media in the developing countries of adequate conditions and resources enabling them to gain strength and expand, and that they support co-operation by the latter both among themselves and with the mass media in developed countries.
4. Similarly, on a basis of equality of rights, mutual advantage and respect for the diversity of the cultures which go to make up the common heritage of mankind, it is essential that bilateral and multilateral exchanges of information among all States, and in particular between those which have different economic and social systems, be encouraged and developed.

Article XI

For this Declaration to be fully effective it is necessary, with due respect for the legislative and administrative provisions and the other obligations of Member States, to guarantee the existence of favourable conditions for the operation of the mass media, in conformity with the provisions of the Universal Declaration of Human Rights and with the corresponding principles proclaimed in the International Covenant on Civil and Political Rights adopted by the General Assembly of the United Nations in 1966.

United Nations (UN), Security Council, Resolution on Women in Conflict (2000, New York, USA)

United Nations S/RES/1325 (2000)

Security Council Distr.: General

31 October 2000

00-72018 (E)

Resolution 1325 (2000)

Adopted by the Security Council at its 4213th meeting, on 31 October 2000

THE SECURITY COUNCIL,

RECALLING its resolutions 1261 (1999) of 25 August 1999, 1265 (1999) of 17 September 1999, 1296 (2000) of 19 April 2000 and 1314 (2000) of 11 August 2000, as well as relevant statements of its President, and recalling also the statement of its President to the press on the occasion of the United Nations Day for Women's Rights and International Peace (International Women's Day) of 8 March 2000 (SC/6816),

RECALLING also the commitments of the Beijing Declaration and Platform for Action (A/52/231) as well as those contained in the outcome document of the twenty-third Special Session of the United Nations General Assembly entitled "Women 2000: Gender Equality, Development and Peace for the Twenty-First Century" (A/S-23/10/Rev.1), in particular those concerning women and armed conflict,

BEARING IN MIND the purposes and principles of the Charter of the United Nations and the primary responsibility of the Security Council under the Charter for the maintenance of international peace and security,

EXPRESSING concern that civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and *recognizing* the consequent impact this has on durable peace and reconciliation,

REAFFIRMING the important role of women in the prevention and resolution of conflicts and in peace-building, and *stressing* the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and the need to increase their role in decision-making with regard to conflict prevention and resolution,

REAFFIRMING also the need to implement fully international humanitarian and human rights law that protects the rights of women and girls during and after conflicts, S/RES/1325 (2000)

EMPHASIZING the need for all parties to ensure that mine clearance and mine awareness programmes take into account the special needs of women and girls,

RECOGNIZING the urgent need to mainstream a gender perspective into peacekeeping operations, and in this regard *noting* the Windhoek Declaration and the Namibia Plan of Action on Mainstreaming a Gender Perspective in Multidimensional Peace Support Operations (S/2000/693),

RECOGNIZING also the importance of the recommendation contained in the statement of its President to the press of 8 March 2000 for specialized training for all peacekeeping personnel on the protection, special needs and human rights of women and children in conflict situations,

RECOGNIZING that an understanding of the impact of armed conflict on women and girls, effective institutional arrangements to guarantee their protection and full participation in the peace process can significantly contribute to the maintenance and promotion of international peace and security,

NOTING the need to consolidate data on the impact of armed conflict on women and girls,

1. *Urges* Member States to ensure increased representation of women at all decision-making levels in national, regional and international institutions and mechanisms for the prevention, management, and resolution of conflict;
2. *Encourages* the Secretary-General to implement his strategic plan of action (A/49/587) calling for an increase in the participation of women at decisionmaking levels in conflict resolution and peace processes;
3. *Urges* the Secretary-General to appoint more women as special representatives and envoys to pursue good offices on his behalf, and in this regard *calls on* Member States to provide candidates to the Secretary-General, for inclusion in a regularly updated centralized roster;
4. FURTHER URGES the Secretary-General to seek to expand the role and contribution of women in United Nations field-based operations, and especially among military observers, civilian police, human rights and humanitarian personnel;
5. EXPRESSES its willingness to incorporate a gender perspective into peacekeeping operations, and urges the Secretary-General to ensure that, where appropriate, field operations include a gender component;
6. REQUESTS the Secretary-General to provide to Member States training guidelines and materials on the

protection, rights and the particular needs of women, as well as on the importance of involving women in all peacekeeping and peacebuilding measures, *invites* Member States to incorporate these elements as well as HIV/AIDS awareness training into their national training programmes for military and civilian police personnel in preparation for deployment, and *further requests* the Secretary-General to ensure that civilian personnel of peacekeeping operations receive similar training;

7. URGES Member States to increase their voluntary financial, technical and logistical support for gender-sensitive training efforts, including those undertaken by relevant funds and programmes, inter alia, the United Nations Fund for Women and United Nations Children's Fund, and by the Office of the United Nations High Commissioner for Refugees and other relevant bodies; S/RES/1325 (2000)
8. CALLS ON all actors involved, when negotiating and implementing peace agreements, to adopt a gender perspective, including, inter alia:
 - a. The special needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration and post-conflict reconstruction;
 - b. Measures that support local women's peace initiatives and indigenous processes for conflict resolution, and that involve women in all of the implementation mechanisms of the peace agreements;
 - c. Measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary;
9. CALLS UPON all parties to armed conflict to respect fully international law applicable to the rights and protection of women and girls, especially as civilians, in particular the obligations applicable to them under the Geneva Conventions of 1949 and the Additional Protocols thereto of 1977, the Refugee Convention of 1951 and the Protocol thereto of 1967, the Convention on the Elimination of All Forms of Discrimination against Women of 1979 and the Optional Protocol thereto of 1999 and the United Nations Convention on the Rights of the Child of 1989 and the two Optional Protocols thereto of 25 May 2000, and to bear in mind the relevant provisions of the Rome Statute of the International Criminal Court;
10. CALLS ON all parties to armed conflict to take special measures to protect women and girls from gender-based violence, particularly rape and other forms of sexual abuse, and all other forms of violence in situations of armed conflict;
11. EMPHASIZES the responsibility of all States to put an end to impunity and to prosecute those responsible for genocide, crimes against humanity, and war crimes including those relating to sexual and other violence against women and girls, and in this regard *stresses* the need to exclude these crimes, where feasible from amnesty provisions;
12. CALLS UPON all parties to armed conflict to respect the civilian and humanitarian character of refugee camps and settlements, and to take into account the particular needs of women and girls, including in their design, and recalls its resolutions 1208 (1998) of 19 November 1998 and 1296 (2000) of 19 April 2000;
13. ENCOURAGES all those involved in the planning for disarmament, demobilization and reintegration to consider the different needs of female and male ex-combatants and to take into account the needs of their dependants;
14. REAFFIRMS its readiness, whenever measures are adopted under Article 41 of the Charter of the United Nations, to give consideration to their potential impact on the civilian population, bearing in mind the special needs of women and girls, in order to consider appropriate humanitarian exemptions;
15. EXPRESSES its willingness to ensure that Security Council missions take into account gender considerations and the rights of women, including through consultation with local and international women's groups;
16. INVITES the Secretary-General to carry out a study on the impact of armed conflict on women and girls, the role of women in peace-building and the gender dimensions of peace processes and conflict resolution, and *further invites* him to S/RES/1325 (2000) submit a report to the Security Council on the results of this study and to make this available to all Member States of the United Nations;
17. REQUESTS the Secretary-General, where appropriate, to include in his reporting to the Security Council progress on gender mainstreaming throughout peacekeeping missions and all other aspects relating to women and girls;
18. DECIDES to remain actively seized of the matter.

United Nations (UN), Report of the World Summit for Social Development

The Report of the World Summit for Social Development is too long to be included in this volume. However, it can be found on SAIIA's website, <http://saiia.org.za/>. Click on the 'APRM Resource and Training Centre' at the bottom of the home page, on 'Governance Standards' on the subsequent page and on 'Section 4: Socio-economic Development' thereafter.

United Nations (UN), World Summit on Sustainable Development, Johannesburg Declaration on Sustainable Development (2002, Johannesburg, South Africa)

A/CONF.199/20

Chapter I Resolutions adopted by the Summit

Resolution 1* Political Declaration

The World Summit on Sustainable Development,

Having met in Johannesburg, South Africa, from 26 August to 4 September 2002,

1. ADOPTS the Johannesburg Declaration on Sustainable Development, which is annexed to the present resolution;
2. RECOMMENDS to the General Assembly that it endorse the Johannesburg Declaration on Sustainable Development as adopted by the Summit.

Annex

Johannesburg Declaration on Sustainable Development

From our origins to the future

1. We, the representatives of the peoples of the world, assembled at the World Summit on Sustainable Development in Johannesburg, South Africa, from 2 to 4 September 2002, reaffirm our commitment to sustainable development.
2. We commit ourselves to building a humane, equitable and caring global society, cognizant of the need for human dignity for all.
3. At the beginning of this Summit, the children of the world spoke to us in a simple yet clear voice that the future belongs to them, and accordingly challenged all of us to ensure that through our actions they will inherit a world free of the indignity and indecency occasioned by poverty, environmental degradation and patterns of unsustainable development.
4. As part of our response to these children, who represent our collective future, all of us, coming from every corner of the world, informed by different life experiences, are united and moved by a deeply felt sense that we urgently need to create a new and brighter world of hope.
5. Accordingly, we assume a collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development — economic development, social development and environmental protection — at the local, national, regional and global levels.
6. From this continent, the cradle of humanity, we declare, through the Plan of Implementation of the World Summit on Sustainable Development and the present Declaration, our responsibility to one another, to the greater community of life and to our children.
7. Recognizing that humankind is at a crossroads, we have united in a common resolve to make a determined effort to respond positively to the need to produce a practical and visible plan to bring about poverty eradication and human development.

From Stockholm to Rio de Janeiro to Johannesburg

8. Thirty years ago, in Stockholm, we agreed on the urgent need to respond to the problem of environmental deterioration.¹ Ten years ago, at the United Nations Conference on Environment and Development, held in Rio de Janeiro,² we agreed that the protection of the environment and social and economic development are fundamental to sustainable development, based on the Rio Principles. To achieve such development, we adopted the global programme entitled Agenda 21³ and the Rio Declaration on Environment and Development,⁴ to which we reaffirm our commitment. The Rio Conference was a significant milestone that set a new agenda for sustainable development.
9. Between Rio and Johannesburg, the world's nations have met in several major conferences under the auspices of the United Nations, including the International Conference on Financing for Development,⁴ as well as the

* Adopted at the 17th plenary meeting, on 4 September 2002; for the discussion, see chap. VIII

1 Report of the United Nations Conference on the Human Environment, Stockholm, 5-16 June 1972 (United Nations publication, Sales No. E.73.II.A.14 and corrigendum), chap. I.

2 Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93.I.8 and corrigenda), vols. I-III.

3 Ibid., vol. I: Resolutions adopted by the Conference, resolution 1, annexes I and II.

4 Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002 (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

Doha Ministerial Conference.⁵ These conferences defined for the world a comprehensive vision for the future of humanity.

10. At the Johannesburg Summit, we have achieved much in bringing together a rich tapestry of peoples and views in a constructive search for a common path towards a world that respects and implements the vision of sustainable development. The Johannesburg Summit has also confirmed that significant progress has been made towards achieving a global consensus and partnership among all the people of our planet.

The challenges we face

11. We recognize that poverty eradication, changing consumption and production patterns and protecting and managing the natural resource base for economic and social development are overarching objectives of and essential requirements for sustainable development.
12. The deep fault line that divides human society between the rich and the poor and the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability.
13. The global environment continues to suffer. Loss of biodiversity continues, fish stocks continue to be depleted, desertification claims more and more fertile land, the adverse effects of climate change are already evident, natural disasters are more frequent and more devastating, and developing countries more vulnerable, and air, water and marine pollution continue to rob millions of a decent life.
14. Globalization has added a new dimension to these challenges. The rapid integration of markets, mobility of capital and significant increases in investment flows around the world have opened new challenges and opportunities for the pursuit of sustainable development. But the benefits and costs of globalization are unevenly distributed, with developing countries facing special difficulties in meeting this challenge.
15. We risk the entrenchment of these global disparities and unless we act in a manner that fundamentally changes their lives the poor of the world may lose confidence in their representatives and the democratic systems to which we remain committed, seeing their representatives as nothing more than sounding brass or tinkling cymbals.

Our commitment to sustainable development

16. We are determined to ensure that our rich diversity, which is our collective strength, will be used for constructive partnership for change and for the achievement of the common goal of sustainable development.
17. Recognizing the importance of building human solidarity, we urge the promotion of dialogue and cooperation among the world's civilizations and peoples, irrespective of race, disabilities, religion, language, culture or tradition.
18. We welcome the focus of the Johannesburg Summit on the indivisibility of human dignity and are resolved, through decisions on targets, timetables and partnerships, to speedily increase access to such basic requirements as clean water, sanitation, adequate shelter, energy, health care, food security and the protection of biodiversity. At the same time, we will work together to help one another gain access to financial resources, benefit from the opening of markets, ensure capacity building, use modern technology to bring about development and make sure that there is technology transfer, human resource development, education and training to banish underdevelopment forever.
19. We reaffirm our pledge to place particular focus on, and give priority attention to, the fight against the worldwide conditions that pose severe threats to the sustainable development of our people, which include: chronic hunger; malnutrition; foreign occupation; armed conflict; illicit drug problems; organized crime; corruption; natural disasters; illicit arms trafficking; trafficking in persons; terrorism; intolerance and incitement to racial, ethnic, religious and other hatreds; xenophobia; and endemic, communicable and chronic diseases, in particular HIV/AIDS, malaria and tuberculosis.
20. We are committed to ensuring that women's empowerment, emancipation and gender equality are integrated in all the activities encompassed within Agenda 21, the Millennium development goals⁶ and the Plan of Implementation of the Summit.
21. We recognize the reality that global society has the means and is endowed with the resources to address the challenges of poverty eradication and sustainable development confronting all humanity. Together, we will take extra steps to ensure that these available resources are used to the benefit of humanity.
22. In this regard, to contribute to the achievement of our development goals and targets, we urge developed countries that have not done so to make concrete efforts reach the internationally agreed levels of official development assistance.
23. We welcome and support the emergence of stronger regional groupings and alliances, such as the New Partnership for Africa's Development, to promote regional cooperation, improved international cooperation and sustainable development.
24. We shall continue to pay special attention to the developmental needs of small island developing States and the least developed countries.
25. We reaffirm the vital role of the indigenous peoples in sustainable development.

⁵ See A/C.2/56/7, annex.

⁶ See General Assembly resolution 55/2.

26. We recognize that sustainable development requires a long-term perspective and broad-based participation in policy formulation, decision-making and implementation at all levels. As social partners, we will continue to work for stable partnerships with all major groups, respecting the independent, important roles of each of them.
27. We agree that in pursuit of its legitimate activities the private sector, including both large and small companies, has a duty to contribute to the evolution of equitable and sustainable communities and societies.
28. We also agree to provide assistance to increase income-generating employment opportunities, taking into account the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization.⁷
29. We agree that there is a need for private sector corporations to enforce corporate accountability, which should take place within a transparent and stable regulatory environment.
30. We undertake to strengthen and improve governance at all levels for the effective implementation of Agenda 21, the Millennium development goals and the Plan of Implementation of the Summit.

Multilateralism is the future

31. To achieve our goals of sustainable development, we need more effective, democratic and accountable international and multilateral institutions.
32. We reaffirm our commitment to the principles and purposes of the Charter of the United Nations and international law, as well as to the strengthening of multilateralism. We support the leadership role of the United Nations as the most universal and representative organization in the world, which is best placed to promote sustainable development.
33. We further commit ourselves to monitor progress at regular intervals towards the achievement of our sustainable development goals and objectives.

Making it happen!

34. We are in agreement that this must be an inclusive process, involving all the major groups and Governments that participated in the historic Johannesburg Summit.
35. We commit ourselves to act together, united by a common determination to save our planet, promote human development and achieve universal prosperity and peace.
36. We commit ourselves to the Plan of Implementation of the World Summit on Sustainable Development and to expediting the achievement of the time-bound, socio-economic and environmental targets contained therein.
37. From the African continent, the cradle of humankind, we solemnly pledge to the peoples of the world and the generations that will surely inherit this Earth that we are determined to ensure that our collective hope for sustainable development is realized.

Resolution 2* Plan of Implementation of the World Summit on Sustainable Development

The World Summit on Sustainable Development,

Having met in Johannesburg, South Africa, from 26 August to 4 September 2002,

1. ADOPTS the Plan of Implementation of the World Summit on Sustainable Development, which is annexed to the present resolution;
2. RECOMMENDS to the General Assembly that it endorse the Plan of Implementation as adopted by the Summit.

Annex

Plan of Implementation of the World Summit on Sustainable Development

Contents

- I. Introduction
- II. Poverty eradication
- III. Changing unsustainable patterns of consumption and production
- IV. Protecting and managing the natural resource base of economic and social development
- V. Sustainable development in a globalizing world
- VI. Health and sustainable development
- VII. Sustainable development of small island developing States
- VIII. Sustainable development for Africa
- IX. Other regional initiatives
 - A. Sustainable development in Latin America and the Caribbean

⁷ See ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up Adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 18 June 1998 (Geneva, International Labour Office, 1998).

* Adopted at the 17th plenary meeting, on 4 September 2002; for the discussion, see chap. IX.

- B. Sustainable development in Asia and the Pacific
- C. Sustainable development in the West Asia region
- D. Sustainable development in the Economic Commission for Europe region
- X. Means of implementation
- XI. Institutional framework for sustainable development
 - A. Objectives
 - B. Strengthening the institutional framework for sustainable development at the international level
 - C. Role of the General Assembly
 - D. Role of the Economic and Social Council
 - E. Role and function of the Commission on Sustainable Development
 - F. Role of international institutions
 - G. Strengthening institutional arrangements for sustainable development at the regional level
 - H. Strengthening institutional frameworks for sustainable development at the national level
 - I. Participation of major groups

I. Introduction

1. The United Nations Conference on Environment and Development, held in Rio de Janeiro in 1992,¹ provided the fundamental principles and the programme of action for achieving sustainable development. We strongly reaffirm our commitment to the Rio principles,² the full implementation of Agenda 21³ and the Programme for the Further Implementation of Agenda 21³. We also commit ourselves to achieving the internationally agreed development goals, including those contained in the United Nations Millennium Declaration⁴ and in the outcomes of the major United Nations conferences and international agreements since 1992.
2. The present plan of implementation will further build on the achievements made since the United Nations Conference on Environment and Development and expedite the realization of the remaining goals. To this end, we commit ourselves to undertaking concrete actions and measures at all levels and to enhancing international cooperation, taking into account the Rio principles, including, inter alia, the principle of common but differentiated responsibilities as set out in principle 7 of the Rio Declaration on Environment and Development.⁵ These efforts will also promote the integration of the three components of sustainable development — economic development, social development and environmental protection — as interdependent and mutually reinforcing pillars. Poverty eradication, changing unsustainable patterns of production and consumption and protecting and managing the natural resource base of economic and social development are overarching objectives of, and essential requirements for, sustainable development.
3. We recognize that the implementation of the outcomes of the Summit should benefit all, particularly women, youth, children and vulnerable groups. Furthermore, the implementation should involve all relevant actors through partnerships, especially between Governments of the North and South, on the one hand, and between Governments and major groups, on the other, to achieve the widely shared goals of sustainable development. As reflected in the Monterrey Consensus,⁶ such partnerships are key to pursuing sustainable development in a globalizing world.
4. Good governance within each country and at the international level is essential for sustainable development. At the domestic level, sound environmental, social and economic policies, democratic institutions responsive to the needs of the people, the rule of law, anti-corruption measures, gender equality and an enabling environment for investment are the basis for sustainable development. As a result of globalization, external factors have become critical in determining the success or failure of developing countries in their national efforts. The gap between developed and developing countries points to the continued need for a dynamic and enabling international economic environment supportive of international cooperation, particularly in the areas of finance, technology transfer, debt and trade and full and effective participation of developing countries in global decision-making, if the momentum for global progress towards sustainable development is to be maintained and increased.
5. Peace, security, stability and respect for human rights and fundamental freedoms, including the right to development, as well as respect for cultural diversity, are essential for achieving sustainable development and ensuring that sustainable development benefits all.
6. We acknowledge the importance of ethics for sustainable development and, therefore, emphasize the need to consider ethics in the implementation of Agenda 21.

¹ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93.I.8 and corrigenda).

² Ibid., vol. I: Resolutions Adopted by the Conference, resolution 1, annexes I and II.

³ General Assembly resolution S-19/2, annex.

⁴ General Assembly resolution 55/2.

⁵ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992 (United Nations publication, Sales No. E.93.I.8 and corrigenda), vol. I: Resolutions Adopted by the Conference, resolution 1, annex I.

⁶ Report of the International Conference on Financing for Development, Monterrey, Mexico, 18-22 March 2002 (United Nations publication, Sales No. E.02.II.A.7), chap. I, resolution 1, annex.

II. Poverty eradication

7. Eradicating poverty is the greatest global challenge facing the world today and an indispensable requirement for sustainable development, particularly for developing countries. Although each country has the primary responsibility for its own sustainable development and poverty eradication and the role of national policies and development strategies cannot be overemphasized, concerted and concrete measures are required at all levels to enable developing countries to achieve their sustainable development goals as related to the internationally agreed poverty-related targets and goals, including those contained in Agenda 21, the relevant outcomes of other United Nations conferences and the United Nations Millennium Declaration. This would include actions at all levels to:
 - a. Halve, by the year 2015, the proportion of the world's people whose income is less than 1 dollar a day and the proportion of people who suffer from hunger and, by the same date, to halve the proportion of people without access to safe drinking water;
 - b. Establish a world solidarity fund to eradicate poverty and to promote social and human development in the developing countries pursuant to modalities to be determined by the General Assembly, while stressing the voluntary nature of the contributions and the need to avoid duplication of existing United Nations funds, and encouraging the role of the private sector and individual citizens relative to Governments in funding the endeavours;
 - c. Develop national programmes for sustainable development and local and community development, where appropriate within country-owned poverty reduction strategies, to promote the empowerment of people living in poverty and their organizations. These programmes should reflect their priorities and enable them to increase access to productive resources, public services and institutions, in particular land, water, employment opportunities, credit, education and health;
 - d. Promote women's equal access to and full participation in, on the basis of equality with men, decision-making at all levels, mainstreaming gender perspectives in all policies and strategies, eliminating all forms of violence and discrimination against women and improving the status, health and economic welfare of women and girls through full and equal access to economic opportunity, land, credit, education and health-care services;
 - e. Develop policies and ways and means to improve access by indigenous people and their communities to economic activities and increase their employment through, where appropriate, measures such as training, technical assistance and credit facilities. Recognize that traditional and direct dependence on renewable resources and ecosystems, including sustainable harvesting, continues to be essential to the cultural, economic and physical well-being of indigenous people and their communities;
 - f. Deliver basic health services for all and reduce environmental health threats, taking into account the special needs of children and the linkages between poverty, health and environment, with provision of financial resources, technical assistance and knowledge transfer to developing countries and countries with economies in transition;
 - g. Ensure that children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and will have equal access to all levels of education;
 - h. Provide access to agricultural resources for people living in poverty, especially women and indigenous communities, and promote, as appropriate, land tenure arrangements that recognize and protect indigenous and common property resource management systems;
 - i. Build basic rural infrastructure, diversify the economy and improve transportation and access to markets, market information and credit for the rural poor to support sustainable agriculture and rural development;
 - j. Transfer basic sustainable agricultural techniques and knowledge, including natural resource management, to small and medium-scale farmers, fishers and the rural poor, especially in developing countries, including through multistakeholder approaches and public-private partnerships aimed at increasing agriculture production and food security;
 - k. Increase food availability and affordability, including through harvest and food technology and management, as well as equitable and efficient distribution systems, by promoting, for example, community-based partnerships linking urban and rural people and enterprises;
 - l. Combat desertification and mitigate the effects of drought and floods through measures such as improved use of climate and weather information and forecasts, early warning systems, land and natural resource management, agricultural practices and ecosystem conservation in order to reverse current trends and minimize degradation of land and water resources, including through the provision of adequate and predictable financial resources to implement the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa,⁷ as one of the tools for poverty eradication;
 - m. Increase access to sanitation to improve human health and reduce infant and child mortality, prioritizing water and sanitation in national sustainable development strategies and poverty reduction strategies where

⁷ United Nations, Treaty Series, vol. 1954, No. 33480.

they exist.

8. The provision of clean drinking water and adequate sanitation is necessary to protect human health and the environment. In this respect, we agree to halve, by the year 2015, the proportion of people who are unable to reach or to afford safe drinking water (as outlined in the Millennium Declaration) and the proportion of people who do not have access to basic sanitation, which would include actions at all levels to:
 - a. Develop and implement efficient household sanitation systems;
 - b. Improve sanitation in public institutions, especially schools;
 - c. Promote safe hygiene practices;
 - d. Promote education and outreach focused on children, as agents of behavioural change;
 - e. Promote affordable and socially and culturally acceptable technologies and practices;
 - f. Develop innovative financing and partnership mechanisms;
 - g. Integrate sanitation into water resources management strategies.
9. Take joint actions and improve efforts to work together at all levels to improve access to reliable and affordable energy services for sustainable development sufficient to facilitate the achievement of the Millennium development goals, including the goal of halving the proportion of people in poverty by 2015, and as a means to generate other important services that mitigate poverty, bearing in mind that access to energy facilitates the eradication of poverty. This would include actions at all levels to:
 - a. Improve access to reliable, affordable, economically viable, socially acceptable and environmentally sound energy services and resources, taking into account national specificities and circumstances, through various means, such as enhanced rural electrification and decentralized energy systems, increased use of renewables, cleaner liquid and gaseous fuels and enhanced energy efficiency, by intensifying regional and international cooperation in support of national efforts, including through capacity-building, financial and technological assistance and innovative financing mechanisms, including at the micro- and meso- levels, recognizing the specific factors for providing access to the poor;
 - b. Improve access to modern biomass technologies and fuelwood sources and supplies and commercialize biomass operations, including the use of agricultural residues, in rural areas and where such practices are sustainable;
 - c. Promote a sustainable use of biomass and, as appropriate, other renewable energies through improvement of current patterns of use, such as management of resources, more efficient use of fuelwood and new or improved products and technologies;
 - d. Support the transition to the cleaner use of liquid and gaseous fossil fuels, where considered more environmentally sound, socially acceptable and cost effective;
 - e. Develop national energy policies and regulatory frameworks that will help to create the necessary economic, social and institutional conditions in the energy sector to improve access to reliable, affordable, economically viable, socially acceptable and environmentally sound energy services for sustainable development and poverty eradication in rural, peri-urban and urban areas;
 - f. Enhance international and regional cooperation to improve access to reliable, affordable, economically viable, socially acceptable and environmentally sound energy services, as an integral part of poverty reduction programmes, by facilitating the creation of enabling environments and addressing capacity-building needs, with special attention to rural and isolated areas, as appropriate;
 - g. Assist and facilitate on an accelerated basis, with the financial and technical assistance of developed countries, including through public-private partnerships, the access of the poor to reliable, affordable, economically viable, socially acceptable and environmentally sound energy services, taking into account the instrumental role of developing national policies on energy for sustainable development, bearing in mind that in developing countries sharp increases in energy services are required to improve the standards of living of their populations and that energy services have positive impacts on poverty eradication and improve standards of living.
10. Strengthen the contribution of industrial development to poverty eradication and sustainable natural resource management. This would include actions at all levels to:
 - a. Provide assistance and mobilize resources to enhance industrial productivity and competitiveness as well as industrial development in developing countries, including the transfer of environmentally sound technologies on preferential terms, as mutually agreed;
 - b. Provide assistance to increase income-generating employment opportunities, taking into account the Declaration on Fundamental Principles and Rights at Work of the International Labour Organization;⁸
 - c. Promote the development of micro, small and medium-sized enterprises, including by means of training, education and skill enhancement, with a special focus on agro-industry as a provider of livelihoods for rural communities;

⁸ See ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up Adopted by the International Labour Conference at its Eighty-sixth Session, Geneva, 16 June 1998 (Geneva, International Labour Office, 1998).

- d. Provide financial and technological support, as appropriate, to rural communities of developing countries to enable them to benefit from safe and sustainable livelihood opportunities in small-scale mining ventures;
 - e. Provide support to developing countries for the development of safe lowcost technologies that provide or conserve fuel for cooking and water heating;
 - f. Provide support for natural resource management for creating sustainable livelihoods for the poor.
11. By 2020, achieve a significant improvement in the lives of at least 100 million slum dwellers, as proposed in the "Cities without slums" initiative. This would include actions at all levels to:
 - a. Improve access to land and property, to adequate shelter and to basic services for the urban and rural poor, with special attention to female heads of household;
 - b. Use low-cost and sustainable materials and appropriate technologies for the construction of adequate and secure housing for the poor, with financial and technological assistance to developing countries, taking into account their culture, climate, specific social conditions and vulnerability to natural disasters;
 - c. Increase decent employment, credit and income for the urban poor, through appropriate national policies, promoting equal opportunities for women and men;
 - d. Remove unnecessary regulatory and other obstacles for microenterprises and the informal sector;
 - e. Support local authorities in elaborating slum upgrading programmes within the framework of urban development plans and facilitate access, particularly for the poor, to information on housing legislation.
 12. Take immediate and effective measures to eliminate the worst forms of child labour as defined in International Labour Organization Convention No. 182, and elaborate and implement strategies for the elimination of child labour that is contrary to accepted international standards.
 13. Promote international cooperation to assist developing countries, upon request, in addressing child labour and its root causes, inter alia, through social and economic policies aimed at poverty conditions, while stressing that labour standards should not be used for protectionist trade purposes.

III. Changing unsustainable patterns of consumption and production

14. Fundamental changes in the way societies produce and consume are indispensable for achieving global sustainable development. All countries should promote sustainable consumption and production patterns, with the developed countries taking the lead and with all countries benefiting from the process, taking into account the Rio principles, including, inter alia, the principle of common but differentiated responsibilities as set out in principle 7 of the Rio Declaration on Environment and Development. Governments, relevant international organizations, the private sector and all major groups should play an active role in changing unsustainable consumption and production patterns. This would include the actions at all levels set out below.
15. Encourage and promote the development of a 10-year framework of programmes in support of regional and national initiatives to accelerate the shift towards sustainable consumption and production to promote social and economic development within the carrying capacity of ecosystems by addressing and, where appropriate, delinking economic growth and environmental degradation through improving efficiency and sustainability in the use of resources and production processes and reducing resource degradation, pollution and waste. All countries should take action, with developed countries taking the lead, taking into account the development needs and capabilities of developing countries, through mobilization, from all sources, of financial and technical assistance and capacity-building for developing countries. This would require actions at all levels to:
 - a. Identify specific activities, tools, policies, measures and monitoring and assessment mechanisms, including, where appropriate, life-cycle analysis and national indicators for measuring progress, bearing in mind that standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries;
 - b. Adopt and implement policies and measures aimed at promoting sustainable patterns of production and consumption, applying, inter alia, the polluter-pays principle described in principle 16 of the Rio Declaration on Environment and Development;
 - c. Develop production and consumption policies to improve the products and services provided, while reducing environmental and health impacts, using, where appropriate, science-based approaches, such as life-cycle analysis;
 - d. Develop awareness-raising programmes on the importance of sustainable production and consumption patterns, particularly among youth and the relevant segments in all countries, especially in developed countries, through, inter alia, education, public and consumer information, advertising and other media, taking into account local, national and regional cultural values;
 - e. Develop and adopt, where appropriate, on a voluntary basis, effective, transparent, verifiable, non-misleading and non-discriminatory consumer information tools to provide information relating to sustainable consumption and production, including human health and safety aspects. These tools should not be used as disguised trade barriers;
 - f. Increase eco-efficiency, with financial support from all sources, where mutually agreed, for capacity-building, technology transfer and exchange of technology with developing countries and countries with economies in

transition, in cooperation with relevant international organizations.

16. Increase investment in cleaner production and eco-efficiency in all countries through, inter alia, incentives and support schemes and policies directed at establishing appropriate regulatory, financial and legal frameworks. This would include actions at all levels to:
 - a. Establish and support cleaner production programmes and centres and more efficient production methods by providing, inter alia, incentives and capacity building to assist enterprises, especially small and medium-sized enterprises, particularly in developing countries, in improving productivity and sustainable development;
 - b. Provide incentives for investment in cleaner production and ecoefficiency in all countries, such as state-financed loans, venture capital, technical assistance and training programmes for small and medium-sized companies while avoiding trade-distorting measures inconsistent with the rules of the World Trade Organization;
 - c. Collect and disseminate information on cost-effective examples in cleaner production, eco-efficiency and environmental management and promote the exchange of best practices and know-how on environmentally sound technologies between public and private institutions;
 - d. Provide training programmes to small and medium-sized enterprises on the use of information and communication technologies.
17. Integrate the issue of production and consumption patterns into sustainable development policies, programmes and strategies, including, where applicable, into poverty reduction strategies.
18. Enhance corporate environmental and social responsibility and accountability. This would include actions at all levels to:
 - a. Encourage industry to improve social and environmental performance through voluntary initiatives, including environmental management systems, codes of conduct, certification and public reporting on environmental and social issues, taking into account such initiatives as the International Organization for Standardization standards and Global Reporting Initiative guidelines on sustainability reporting, bearing in mind principle 11 of the Rio Declaration on Environment and Development;
 - b. Encourage dialogue between enterprises and the communities in which they operate and other stakeholders;
 - c. Encourage financial institutions to incorporate sustainable development considerations into their decision-making processes;
 - d. Develop workplace-based partnerships and programmes, including training and education programmes.
19. Encourage relevant authorities at all levels to take sustainable development considerations into account in decision-making, including on national and local development planning, investment in infrastructure, business development and public procurement. This would include actions at all levels to:
 - a. Provide support for the development of sustainable development strategies and programmes, including in decision-making on investment in infrastructure and business development;
 - b. Continue to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the costs of pollution, with due regard to the public interest and without distorting international trade and investment;
 - c. Promote public procurement policies that encourage development and diffusion of environmentally sound goods and services;
 - d. Provide capacity-building and training to assist relevant authorities with regard to the implementation of the initiatives listed in the present paragraph;
 - e. Use environmental impact assessment procedures.
20. Call upon Governments as well as relevant regional and international organizations and other relevant stakeholders to implement, taking into account national and regional specificities and circumstances, the recommendations and conclusions adopted by the Commission on Sustainable Development concerning energy for sustainable development at its ninth session, including the issues and options set out below, bearing in mind that in view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. This would include actions at all levels to:
 - a. Take further action to mobilize the provision of financial resources, technology transfer, capacity-building and the diffusion of environmentally sound technologies according to the recommendations and conclusions of the Commission on Sustainable Development, as contained in section A, paragraph 3, and section D, paragraph 30, of its decision 9/1⁹ on energy for sustainable development;
 - b. Integrate energy considerations, including energy efficiency, affordability and accessibility, into socio-economic programmes, especially into policies of major energy-consuming sectors, and into the planning, operation and maintenance of long-lived energy consuming infrastructures, such as the public sector, transport, industry, agriculture, urban land use, tourism and construction sectors;
 - c. Develop and disseminate alternative energy technologies with the aim of giving a greater share of the energy

⁹ Official Records of the Economic and Social Council, 2001, Supplement No. 9 (E/2001/29), chap. I.B.

mix to renewable energies, improving energy efficiency and greater reliance on advanced energy technologies, including cleaner fossil fuel technologies;

- d. Combine, as appropriate, the increased use of renewable energy resources, more efficient use of energy, greater reliance on advanced energy technologies, including advanced and cleaner fossil fuel technologies, and the sustainable use of traditional energy resources, which could meet the growing need for energy services in the longer term to achieve sustainable development;
- e. Diversify energy supply by developing advanced, cleaner, more efficient, affordable and cost-effective energy technologies, including fossil fuel technologies and renewable energy technologies, hydro included, and their transfer to developing countries on concessional terms as mutually agreed. With a sense of urgency, substantially increase the global share of renewable energy sources with the objective of increasing its contribution to total energy supply, recognizing the role of national and voluntary regional targets as well as initiatives, where they exist, and ensuring that energy policies are supportive to developing countries' efforts to eradicate poverty, and regularly evaluate available data to review progress to this end;
- f. Support efforts, including through provision of financial and technical assistance to developing countries, with the involvement of the private sector, to reduce flaring and venting of gas associated with crude oil production;
- g. Develop and utilize indigenous energy sources and infrastructures for various local uses and promote rural community participation, including local Agenda 21 groups, with the support of the international community, in developing and utilizing renewable energy technologies to meet their daily energy needs to find simple and local solutions;
- h. Establish domestic programmes for energy efficiency, including, as appropriate, by accelerating the deployment of energy efficiency technologies, with the necessary support of the international community;
- i. Accelerate the development, dissemination and deployment of affordable and cleaner energy efficiency and energy conservation technologies, as well as the transfer of such technologies, in particular to developing countries, on favourable terms, including on concessional and preferential terms, as mutually agreed;
- j. Recommend that international financial institutions and other agencies' policies support developing countries, as well as countries with economies in transition, in their own efforts to establish policy and regulatory frameworks which create a level playing field between the following: renewable energy, energy efficiency, advanced energy technologies, including advanced and cleaner fossil fuel technologies, and centralized, distributed and decentralized energy systems;
- k. Promote increased research and development in the field of various energy technologies, including renewable energy, energy efficiency and advanced energy technologies, including advanced and cleaner fossil fuel technologies, both nationally and through international collaboration; strengthen national and regional research and development institutions/centres on reliable, affordable, economically viable, socially acceptable and environmentally sound energy for sustainable development;
- l. Promote networking between centres of excellence on energy for sustainable development, including regional networks, by linking competent centres on energy technologies for sustainable development that could support and promote efforts at capacity-building and technology transfer activities, particularly of developing countries, as well as serve as information clearing houses;
- m. Promote education to provide information for both men and women about available energy sources and technologies;
- n. Utilize financial instruments and mechanisms, in particular the Global Environment Facility, within its mandate, to provide financial resources to developing countries, in particular least developed countries and small island developing States, to meet their capacity needs for training, technical know-how and strengthening national institutions in reliable, affordable, economically viable, socially acceptable and environmentally sound energy, including promoting energy efficiency and conservation, renewable energy and advanced energy technologies, including advanced and cleaner fossil fuel technologies;
- o. Support efforts to improve the functioning, transparency and information about energy markets with respect to both supply and demand, with the aim of achieving greater stability and predictability, and to ensure consumer access to reliable, affordable, economically viable, socially acceptable and environmentally sound energy services;
- p. Policies to reduce market distortions would promote energy systems compatible with sustainable development through the use of improved market signals and by removing market distortions, including restructuring taxation and phasing out harmful subsidies, where they exist, to reflect their environmental impacts, with such policies taking fully into account the specific needs and conditions of developing countries, with the aim of minimizing the possible adverse impacts on their development;
- q. Take action, where appropriate, to phase out subsidies in this area that inhibit sustainable development, taking fully into account the specific conditions and different levels of development of individual countries and considering their adverse effect, particularly on developing countries;
- r. Governments are encouraged to improve the functioning of national energy markets in such a way that they support sustainable development, overcome market barriers and improve accessibility, taking fully into

account that such policies should be decided by each country, and that its own characteristics and capabilities and level of development should be considered, especially as reflected in national sustainable development strategies, where they exist;

- s. Strengthen national and regional energy institutions or arrangements for enhancing regional and international cooperation on energy for sustainable development, in particular to assist developing countries in their domestic efforts to provide reliable, affordable, economically viable, socially acceptable and environmentally sound energy services to all sections of their populations;
 - t. Countries are urged to develop and implement actions within the framework of the ninth session of the Commission on Sustainable Development, including through public-private partnerships, taking into account the different circumstances of countries, based on lessons learned by Governments, international institutions and stakeholders, including business and industry, in the field of access to energy, including renewable energy and energy-efficiency and advanced energy technologies, including advanced and cleaner fossil fuel technologies;
 - u. Promote cooperation between international and regional institutions and bodies dealing with different aspects of energy for sustainable development within their existing mandate, bearing in mind paragraph 46 (h) of the Programme of Action for the Further Implementation of Agenda 21, strengthening, as appropriate, regional and national activities for the promotion of education and capacity-building regarding energy for sustainable development;
 - v. Strengthen and facilitate, as appropriate, regional cooperation arrangements for promoting cross-border energy trade, including the interconnection of electricity grids and oil and natural gas pipelines;
 - w. Strengthen and, where appropriate, facilitate dialogue forums among regional, national and international producers and consumers of energy.
21. Promote an integrated approach to policy-making at the national, regional and local levels for transport services and systems to promote sustainable development, including policies and planning for land use, infrastructure, public transport systems and goods delivery networks, with a view to providing safe, affordable and efficient transportation, increasing energy efficiency, reducing pollution, congestion and adverse health effects and limiting urban sprawl, taking into account national priorities and circumstances. This would include actions at all levels to:
 - a. Implement transport strategies for sustainable development, reflecting specific regional, national and local conditions, to improve the affordability, efficiency and convenience of transportation as well as urban air quality and health and reduce greenhouse gas emissions, including through the development of better vehicle technologies that are more environmentally sound, affordable and socially acceptable;
 - b. Promote investment and partnerships for the development of sustainable, energy efficient multi-modal transportation systems, including public mass transportation systems and better transportation systems in rural areas, with technical and financial assistance for developing countries and countries with economies in transition.
 22. Prevent and minimize waste and maximize reuse, recycling and use of environmentally friendly alternative materials, with the participation of government authorities and all stakeholders, in order to minimize adverse effects on the environment and improve resource efficiency, with financial, technical and other assistance for developing countries. This would include actions at all levels to:
 - a. Develop waste management systems, with the highest priority placed on waste prevention and minimization, reuse and recycling, and environmentally sound disposal facilities, including technology to recapture the energy contained in waste, and encourage small-scale waste-recycling initiatives that support urban and rural waste management and provide income-generating opportunities, with international support for developing countries;
 - b. Promote waste prevention and minimization by encouraging production of reusable consumer goods and biodegradable products and developing the infrastructure required.
 23. Renew the commitment, as advanced in Agenda 21, to sound management of chemicals throughout their life cycle and of hazardous wastes for sustainable development as well as for the protection of human health and the environment, inter alia, aiming to achieve, by 2020, that chemicals are used and produced in ways that lead to the minimization of significant adverse effects on human health and the environment, using transparent science-based risk assessment procedures and science-based risk management procedures, taking into account the precautionary approach, as set out in principle 15 of the Rio Declaration on Environment and Development, and support developing countries in strengthening their capacity for the sound management of chemicals and hazardous wastes by providing technical and financial assistance. This would include actions at all levels to:
 - a. Promote the ratification and implementation of relevant international instruments on chemicals and hazardous waste, including the Rotterdam Convention on Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade¹⁰ so that it can enter into force by 2003 and the Stockholm Convention on Persistent Organic Pollutants¹¹ so that it can enter into force by 2004, and encourage and improve coordination as well as supporting developing countries in their implementation;

10 UNEP/FAO/PIC/CONF.5, annex III.

11 www.chem.unep.ch/sc.

- b. Further develop a strategic approach to international chemicals management based on the Bahia Declaration and Priorities for Action beyond 2000 of the Intergovernmental Forum on Chemical Safety¹² by 2005, and urge that the United Nations Environment Programme, the Intergovernmental Forum, other international organizations dealing with chemical management and other relevant international organizations and actors closely cooperate in this regard, as appropriate;
- c. Encourage countries to implement the new globally harmonized system for the classification and labelling of chemicals as soon as possible with a view to having the system fully operational by 2008;
- d. Encourage partnerships to promote activities aimed at enhancing environmentally sound management of chemicals and hazardous wastes, implementing multilateral environmental agreements, raising awareness of issues relating to chemicals and hazardous waste and encouraging the collection and use of additional scientific data;
- e. Promote efforts to prevent international illegal trafficking of hazardous chemicals and hazardous wastes and to prevent damage resulting from the transboundary movement and disposal of hazardous wastes in a manner consistent with obligations under relevant international instruments, such as the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal;¹³
- f. Encourage development of coherent and integrated information on chemicals, such as through national pollutant release and transfer registers;
- g. Promote reduction of the risks posed by heavy metals that are harmful to human health and the environment, including through a review of relevant studies, such as the United Nations Environment Programme global assessment of mercury and its compounds.

IV. Protecting and managing the natural resource base of economic and social development

- 24. Human activities are having an increasing impact on the integrity of ecosystems that provide essential resources and services for human well-being and economic activities. Managing the natural resources base in a sustainable and integrated manner is essential for sustainable development. In this regard, to reverse the current trend in natural resource degradation as soon as possible, it is necessary to implement strategies which should include targets adopted at the national and, where appropriate, regional levels to protect ecosystems and to achieve integrated management of land, water and living resources, while strengthening regional, national and local capacities. This would include actions at all levels as set out below.
- 25. Launch a programme of actions, with financial and technical assistance, to achieve the Millennium development goal on safe drinking water. In this respect, we agree to halve, by the year 2015, the proportion of people who are unable to reach or to afford safe drinking water, as outlined in the Millennium Declaration, and the proportion of people without access to basic sanitation, which would include actions at all levels to:
 - a. Mobilize international and domestic financial resources at all levels, transfer technology, promote best practice and support capacity-building for water and sanitation infrastructure and services development, ensuring that such infrastructure and services meet the needs of the poor and are gender-sensitive;
 - b. Facilitate access to public information and participation, including by women, at all levels in support of policy and decision-making related to water resources management and project implementation;
 - c. Promote priority action by Governments, with the support of all stakeholders, in water management and capacity-building at the national level and, where appropriate, at the regional level, and promote and provide new and additional financial resources and innovative technologies to implement chapter 18 of Agenda 21;
 - d. Intensify water pollution prevention to reduce health hazards and protect ecosystems by introducing technologies for affordable sanitation and industrial and domestic wastewater treatment, by mitigating the effects of groundwater contamination and by establishing, at the national level, monitoring systems and effective legal frameworks;
 - e. Adopt prevention and protection measures to promote sustainable water use and to address water shortages.
- 26. Develop integrated water resources management and water efficiency plans by 2005, with support to developing countries, through actions at all levels to:
 - a. Develop and implement national/regional strategies, plans and programmes with regard to integrated river basin, watershed and groundwater management and introduce measures to improve the efficiency of water infrastructure to reduce losses and increase recycling of water;
 - b. Employ the full range of policy instruments, including regulation, monitoring, voluntary measures, market and information-based tools, land-use management and cost recovery of water services, without cost recovery objectives becoming a barrier to access to safe water by poor people, and adopt an integrated water basin approach;
 - c. Improve the efficient use of water resources and promote their allocation among competing uses in a way that gives priority to the satisfaction of basic human needs and balances the requirement of preserving or

¹² Intergovernmental Forum on Chemical Safety, third session, Forum III final report IFCS/Forum III/23w), annex 6.

¹³ United Nations Treaty Series, vol. 1673, No. 28911.

- restoring ecosystems and their functions, in particular in fragile environments, with human domestic, industrial and agriculture needs, including safeguarding drinking water quality;
- d. Develop programmes for mitigating the effects of extreme water-related events;
 - e. Support the diffusion of technology and capacity-building for nonconventional water resources and conservation technologies, to developing countries and regions facing water scarcity conditions or subject to drought and desertification, through technical and financial support and capacity-building;
 - f. Support, where appropriate, efforts and programmes for energy-efficient, sustainable and cost-effective desalination of seawater, water recycling and water harvesting from coastal fogs in developing countries, through such measures as technological, technical and financial assistance and other modalities;
 - g. Facilitate the establishment of public-private partnerships and other forms of partnership that give priority to the needs of the poor, within stable and transparent national regulatory frameworks provided by Governments, while respecting local conditions, involving all concerned stakeholders, and monitoring the performance and improving accountability of public institutions and private companies.
27. Support developing countries and countries with economies in transition in their efforts to monitor and assess the quantity and quality of water resources, including through the establishment and/or further development of national monitoring networks and water resources databases and the development of relevant national indicators.
 28. Improve water resource management and scientific understanding of the water cycle through cooperation in joint observation and research, and for this purpose encourage and promote knowledge-sharing and provide capacity-building and the transfer of technology, as mutually agreed, including remote-sensing and satellite technologies, particularly to developing countries and countries with economies in transition.
 29. Promote effective coordination among the various international and intergovernmental bodies and processes working on water-related issues, both within the United Nations system and between the United Nations and international financial institutions, drawing on the contributions of other international institutions and civil society to inform intergovernmental decision-making; closer coordination should also be promoted to elaborate and support proposals and undertake activities related to the International Year of Freshwater, 2003 and beyond.
 30. Oceans, seas, islands and coastal areas form an integrated and essential component of the Earth's ecosystem and are critical for global food security and for sustaining economic prosperity and the well-being of many national economies, particularly in developing countries. Ensuring the sustainable development of the oceans requires effective coordination and cooperation, including at the global and regional levels, between relevant bodies, and actions at all levels to:
 - a. Invite States to ratify or accede to and implement the United Nations Convention on the Law of the Sea of 1982,¹⁴ which provides the overall legal framework for ocean activities;
 - b. Promote the implementation of chapter 17 of Agenda 21, which provides the programme of action for achieving the sustainable development of oceans, coastal areas and seas through its programme areas of integrated management and sustainable development of coastal areas, including exclusive economic zones; marine environmental protection; sustainable use and conservation of marine living resources; addressing critical uncertainties for the management of the marine environment and climate change; strengthening international, including regional, cooperation and coordination; and sustainable development of small islands;
 - c. Establish an effective, transparent and regular inter-agency coordination mechanism on ocean and coastal issues within the United Nations system;
 - d. Encourage the application by 2010 of the ecosystem approach, noting the Reykjavik Declaration on Responsible Fisheries in the Marine Ecosystem¹⁵ and decision V/6 of the Conference of Parties to the Convention on Biological Diversity;¹⁶
 - e. Promote integrated, multidisciplinary and multisectoral coastal and ocean management at the national level and encourage and assist coastal States in developing ocean policies and mechanisms on integrated coastal management;
 - f. Strengthen regional cooperation and coordination between the relevant regional organizations and programmes, the regional seas programmes of the United Nations Environment Programme, regional fisheries management organizations and other regional science, health and development organizations;
 - g. Assist developing countries in coordinating policies and programmes at the regional and subregional levels aimed at the conservation and sustainable management of fishery resources and implement integrated coastal area management plans, including through the promotion of sustainable coastal and small-scale fishing activities and, where appropriate, the development of related infrastructure;
 - h. Take note of the work of the open-ended informal consultative process established by the United Nations General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs and the upcoming review of its effectiveness and utility to be held at its fifty-

¹⁴ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII United Nations publication, Sales No. E.84.V.3), document A/CONF.62/122.

¹⁵ See Food and Agriculture Organization of the United Nations document C200/INF/25, appendix I.

¹⁶ See UNEP/CBD/COP/5/23, annex III.

seventh session under the terms of the above-mentioned resolution.

31. To achieve sustainable fisheries, the following actions are required at all levels:
 - a. Maintain or restore stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015;
 - b. Ratify or accede to and effectively implement the relevant United Nations and, where appropriate, associated regional fisheries agreements or arrangements, noting in particular the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks¹⁷ and the 1993 Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas;¹⁸
 - c. Implement the 1995 Code of Conduct for Responsible Fisheries,¹⁹ taking note of the special requirements of developing countries as noted in its article 5, and the relevant international plans of action and technical guidelines of the Food and Agriculture Organization of the United Nations;
 - d. Urgently develop and implement national and, where appropriate, regional plans of action, to put into effect the international plans of action of the Food and Agriculture Organization of the United Nations, in particular the International Plan of Action for the Management of Fishing Capacity²⁰ by 2005 and the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing²¹ by 2004. Establish effective monitoring, reporting and enforcement, and control of fishing vessels, including by flag States, to further the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing;
 - e. Encourage relevant regional fisheries management organizations and arrangements to give due consideration to the rights, duties and interests of coastal States and the special requirements of developing States when addressing the issue of the allocation of share of fishery resources for straddling stocks and highly migratory fish stocks, mindful of the provisions of the United Nations Convention on the Law of the Sea and the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, on the high seas and within exclusive economic zones;
 - f. Eliminate subsidies that contribute to illegal, unreported and unregulated fishing and to over-capacity, while completing the efforts undertaken at the World Trade Organization to clarify and improve its disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries;
 - g. Strengthen donor coordination and partnerships between international financial institutions, bilateral agencies and other relevant stakeholders to enable developing countries, in particular the least developed countries and small island developing States and countries with economies in transition, to develop their national, regional and subregional capacities for infrastructure and integrated management and the sustainable use of fisheries;
 - h. Support the sustainable development of aquaculture, including smallscale aquaculture, given its growing importance for food security and economic development.
32. In accordance with chapter 17 of Agenda 21, promote the conservation and management of the oceans through actions at all levels, giving due regard to the relevant international instruments to:
 - a. Maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, including in areas within and beyond national jurisdiction;
 - b. Implement the work programme arising from the Jakarta Mandate on the Conservation and Sustainable Use of Marine and Coastal Biological Diversity of the Convention on Biological Diversity,²² including through the urgent mobilization of financial resources and technological assistance and the development of human and institutional capacity, particularly in developing countries;
 - c. Develop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods, proper coastal land use and watershed planning and the integration of marine and coastal areas management into key sectors;
 - d. Develop national, regional and international programmes for halting the loss of marine biodiversity, including in coral reefs and wetlands;
 - e. Implement the Ramsar Convention,²³ including its joint work programme with the Convention on Biological Diversity,²⁴ and the programme of action called for by the International Coral Reef Initiative to strengthen

17 See International Fisheries Instruments (United Nations publication, Sales No. E.98.V.11), sect. I; see also A/CONF.164/37.

18 Ibid.

19 Ibid., sect. III.

20 Rome, Food and Agriculture Organization of the United Nations, 1999.

21 Ibid., 2001.

22 See A/51/312, annex II, decision II/10.

23 Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat United Nations, Treaty Series, vol. 996, No. 14583).

24 See United Nations Environment Programme, Convention on Biological Diversity Environmental Law and Institution Programme Activity Centre), June 1992.

joint management plans and international networking for wetland ecosystems in coastal zones, including coral reefs, mangroves, seaweed beds and tidal mud flats.

33. Advance implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities²⁵ and the Montreal Declaration on the Protection of the Marine Environment from Land-based Activities,²⁶ with particular emphasis during the period from 2002 to 2006 on municipal wastewater, the physical alteration and destruction of habitats, and nutrients, by actions at all levels to:
 - a. Facilitate partnerships, scientific research and diffusion of technical knowledge; mobilize domestic, regional and international resources; and promote human and institutional capacity-building, paying particular attention to the needs of developing countries;
 - b. Strengthen the capacity of developing countries in the development of their national and regional programmes and mechanisms to mainstream the objectives of the Global Programme of Action and to manage the risks and impacts of ocean pollution;
 - c. Elaborate regional programmes of action and improve the links with strategic plans for the sustainable development of coastal and marine resources, noting in particular areas that are subject to accelerated environmental changes and development pressures;
 - d. Make every effort to achieve substantial progress by the next Global Programme of Action conference in 2006 to protect the marine environment from land-based activities.
34. Enhance maritime safety and protection of the marine environment from pollution by actions at all levels to:
 - a. Invite States to ratify or accede to and implement the conventions and protocols and other relevant instruments of the International Maritime Organization relating to the enhancement of maritime safety and protection of the marine environment from marine pollution and environmental damage caused by ships, including the use of toxic anti-fouling paints, and urge the International Maritime Organization (IMO) to consider stronger mechanisms to secure the implementation of IMO instruments by flag States;
 - b. Accelerate the development of measures to address invasive alien species in ballast water. Urge the International Maritime Organization to finalize its draft International Convention on the Control and Management of Ships' Ballast Water and Sediments.
35. Governments, taking into account their national circumstances, are encouraged, recalling paragraph 8 of resolution GC (44)/RES/17 of the General Conference of the International Atomic Energy Agency, and taking into account the very serious potential for environment and human health impacts of radioactive wastes, to make efforts to examine and further improve measures and internationally agreed regulations regarding safety, while stressing the importance of having effective liability mechanisms in place, relevant to international maritime transportation and other transboundary movement of radioactive material, radioactive waste and spent fuel, including, inter alia, arrangements for prior notification and consultations done in accordance with relevant international instruments.
36. Improve the scientific understanding and assessment of marine and coastal ecosystems as a fundamental basis for sound decision-making, through actions at all levels to:
 - a. Increase scientific and technical collaboration, including integrated assessment at the global and regional levels, including the appropriate transfer of marine science and marine technologies and techniques for the conservation and management of living and non-living marine resources and expanding oceanobserving capabilities for the timely prediction and assessment of the state of marine environment;
 - b. Establish by 2004 a regular process under the United Nations for global reporting and assessment of the state of the marine environment, including socioeconomic aspects, both current and foreseeable, building on existing regional assessments;
 - c. Build capacity in marine science, information and management, through, inter alia, promoting the use of environmental impact assessments and environmental evaluation and reporting techniques, for projects or activities that are potentially harmful to the coastal and marine environments and their living and nonliving resources;
 - d. Strengthen the ability of the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization, the Food and Agriculture Organization of the United Nations and other relevant international and regional and subregional organizations to build national and local capacity in marine science and the sustainable management of oceans and their resources.
37. An integrated, multi-hazard, inclusive approach to address vulnerability, risk assessment and disaster management, including prevention, mitigation, preparedness, response and recovery, is an essential element of a safer world in the twenty-first century. Actions are required at all levels to:
 - a. Strengthen the role of the International Strategy for Disaster Reduction and encourage the international community to provide the necessary financial resources to its Trust Fund;
 - b. Support the establishment of effective regional, subregional and national strategies and scientific and technical institutional support for disaster management;

²⁵ A/51/116, annex II.

²⁶ See E/CN.17/2002/PC.2/15.

- c. Strengthen the institutional capacities of countries and promote international joint observation and research, through improved surface-based monitoring and increased use of satellite data, dissemination of technical and scientific knowledge, and the provision of assistance to vulnerable countries;
 - d. Reduce the risks of flooding and drought in vulnerable countries by, inter alia, promoting wetland and watershed protection and restoration, improved landuse planning, improving and applying more widely techniques and methodologies for assessing the potential adverse effects of climate change on wetlands and, as appropriate, assisting countries that are particularly vulnerable to those effects;
 - e. Improve techniques and methodologies for assessing the effects of climate change, and encourage the continuing assessment of those adverse effects by the Intergovernmental Panel on Climate Change;
 - f. Encourage the dissemination and use of traditional and indigenous knowledge to mitigate the impact of disasters and promote community-based disaster management planning by local authorities, including through training activities and raising public awareness;
 - g. Support the ongoing voluntary contribution of, as appropriate, nongovernmental organizations, the scientific community and other partners in the management of natural disasters according to agreed, relevant guidelines;
 - h. Develop and strengthen early warning systems and information networks in disaster management, consistent with the International Strategy for Disaster Reduction;
 - i. Develop and strengthen capacity at all levels to collect and disseminate scientific and technical information, including the improvement of early warning systems for predicting extreme weather events, especially El Niño/La Niña, through the provision of assistance to institutions devoted to addressing such events, including the International Centre for the Study of the El Niño phenomenon;
 - j. Promote cooperation for the prevention and mitigation of, preparedness for, response to and recovery from major technological and other disasters with an adverse impact on the environment in order to enhance the capabilities of affected countries to cope with such situations.
38. Change in the Earth's climate and its adverse effects are a common concern of humankind. We remain deeply concerned that all countries, particularly developing countries, including the least developed countries and small island developing States, face increased risks of negative impacts of climate change and recognize that, in this context, the problems of poverty, land degradation, access to water and food and human health remain at the centre of global attention. The United Nations Framework Convention on Climate Change²⁷ is the key instrument for addressing climate change, a global concern, and we reaffirm our commitment to achieving its ultimate objective of stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner, in accordance with our common but differentiated responsibilities and respective capabilities. Recalling the United Nations Millennium Declaration, in which heads of State and Government resolved to make every effort to ensure the entry into force of the Kyoto Protocol to the United Nations Framework Convention on Climate Change,²⁸ preferably by the tenth anniversary of the United Nations Conference on Environment and Development in 2002, and to embark on the required reduction of emissions of greenhouse gases, States that have ratified the Kyoto Protocol strongly urge States that have not already done so to ratify it in a timely manner. Actions at all levels are required to:
- a. Meet all the commitments and obligations under the United Nations Framework Convention on Climate Change;
 - b. Work cooperatively towards achieving the objectives of the Convention;
 - c. Provide technical and financial assistance and capacity-building to developing countries and countries with economies in transition in accordance with commitments under the Convention, including the Marrakesh Accords;²⁹
 - d. Build and enhance scientific and technological capabilities, inter alia, through continuing support to the Intergovernmental Panel on Climate Change for the exchange of scientific data and information especially in developing countries;
 - e. Develop and transfer technological solutions;
 - f. Develop and disseminate innovative technologies in regard to key sectors of development, particularly energy, and of investment in this regard, including through private sector involvement, market-oriented approaches, and supportive public policies and international cooperation;
 - g. Promote the systematic observation of the Earth's atmosphere, land and oceans by improving monitoring stations, increasing the use of satellites and appropriate integration of these observations to produce high-quality data that could be disseminated for the use of all countries, in particular developing countries;
 - h. Enhance the implementation of national, regional and international strategies to monitor the Earth's

27 A/AC.237/18 (Part II)/Add.1 and Corr.1, annex I.

28 FCCC/CP/1997/7/Add.1, decision 1/CP.3, annex.

29 FCCC/CP/2001/13 and Add.1-4.

atmosphere, land and oceans, including, as appropriate, strategies for integrated global observations, inter alia, with the cooperation of relevant international organizations, especially the specialized agencies, in cooperation with the Convention;

- i. Support initiatives to assess the consequences of climate change, such as the Arctic Council initiative, including the environmental, economic and social impacts on local and indigenous communities.
39. Enhance cooperation at the international, regional and national levels to reduce air pollution, including transboundary air pollution, acid deposition and ozone depletion, bearing in mind the Rio principles, including, inter alia, the principle that, in view of the different contributions to global environmental degradation, States have common but differentiated responsibilities, with actions at all levels to:
- a. Strengthen capacities of developing countries and countries with economies in transition to measure, reduce and assess the impacts of air pollution, including health impacts, and provide financial and technical support for these activities;
 - b. Facilitate implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer by ensuring adequate replenishment of its fund by 2003/2005;
 - c. Further support the effective regime for the protection of the ozone layer established in the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol, including its compliance mechanism;
 - d. Improve access by developing countries to affordable, accessible, cost-effective, safe and environmentally sound alternatives to ozone-depleting substances by 2010, and assist them in complying with the phase-out schedule under the Montreal Protocol, bearing in mind that ozone depletion and climate change are scientifically and technically interrelated;
 - e. Take measures to address illegal traffic in ozone-depleting substances.
40. Agriculture plays a crucial role in addressing the needs of a growing global population and is inextricably linked to poverty eradication, especially in developing countries. Enhancing the role of women at all levels and in all aspects of rural development, agriculture, nutrition and food security is imperative. Sustainable agriculture and rural development are essential to the implementation of an integrated approach to increasing food production and enhancing food security and food safety in an environmentally sustainable way. This would include actions at all levels to:
- a. Achieve the Millennium Declaration target to halve by the year 2015 the proportion of the world's people who suffer from hunger and realize the right to a standard of living adequate for the health and well-being of themselves and their families, including food, including by promoting food security and fighting hunger in combination with measures which address poverty, consistent with the outcome of the World Food Summit and, for States Parties, with their obligations under article 11 of the International Covenant on Economic, Social and Cultural Rights;³⁰
 - b. Develop and implement integrated land management and water-use plans that are based on sustainable use of renewable resources and on integrated assessments of socio-economic and environmental potentials and strengthen the capacity of Governments, local authorities and communities to monitor and manage the quantity and quality of land and water resources;
 - c. Increase understanding of the sustainable use, protection and management of water resources to advance long-term sustainability of freshwater, coastal and marine environments;
 - d. Promote programmes to enhance in a sustainable manner the productivity of land and the efficient use of water resources in agriculture, forestry, wetlands, artisanal fisheries and aquaculture, especially through indigenous and local community-based approaches;
 - e. Support the efforts of developing countries to protect oases from silt, land degradation and increasing salinity by providing appropriate technical and financial assistance;
 - f. Enhance the participation of women in all aspects and at all levels relating to sustainable agriculture and food security;
 - g. Integrate existing information systems on land-use practices by strengthening national research and extension services and farmer organizations to trigger farmer-to-farmer exchange on good practices, such as those related to environmentally sound, low-cost technologies, with the assistance of relevant international organizations;
 - h. Enact, as appropriate, measures that protect indigenous resource management systems and support the contribution of all appropriate stakeholders, men and women alike, in rural planning and development;
 - i. Adopt policies and implement laws that guarantee well defined and enforceable land and water use rights and promote legal security of tenure, recognizing the existence of different national laws and/or systems of land access and tenure, and provide technical and financial assistance to developing countries as well as countries with economies in transition that are undertaking land tenure reform in order to enhance sustainable livelihoods;

30 See General Assembly resolution 2200 A (XXI), annex.

- j. Reverse the declining trend in public sector finance for sustainable agriculture, provide appropriate technical and financial assistance, and promote private sector investment and support efforts in developing countries and countries with economies in transition to strengthen agricultural research and natural resource management capacity and dissemination of research results to the farming communities;
 - k. Employ market-based incentives for agricultural enterprises and farmers to monitor and manage water use and quality, inter alia, by applying such methods as small-scale irrigation and wastewater recycling and reuse;
 - l. Enhance access to existing markets and develop new markets for value-added agricultural products;
 - m. Increase brown-field redevelopment in developed countries and countries with economies in transition, with appropriate technical assistance where contamination is a serious problem;
 - n. Enhance international cooperation to combat the illicit cultivation of narcotic plants, taking into account their negative social, economic and environmental impacts;
 - o. Promote programmes for the environmentally sound, effective and efficient use of soil fertility improvement practices and agricultural pest control;
 - p. Strengthen and improve coordination of existing initiatives to enhance sustainable agricultural production and food security;
 - q. Invite countries that have not done so to ratify the International Treaty on Plant Genetic Resources for Food and Agriculture;³¹
 - r. Promote the conservation, and sustainable use and management of traditional and indigenous agricultural systems and strengthen indigenous models of agricultural production.
41. Strengthen the implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa,⁷ to address causes of desertification and land degradation in order to maintain and restore land, and to address poverty resulting from land degradation. This would include actions at all levels to:
- a. Mobilize adequate and predictable financial resources, transfer of technologies and capacity-building at all levels;
 - b. Formulate national action programmes to ensure timely and effective implementation of the Convention and its related projects, with the support of the international community, including through decentralized projects at the local level;
 - c. Encourage the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity and the Convention to Combat Desertification to continue exploring and enhancing synergies, with due regard to their respective mandates, in the elaboration and implementation of plans and strategies under the respective Conventions;
 - d. Integrate measures to prevent and combat desertification as well as to mitigate the effects of drought through relevant policies and programmes, such as land, water and forest management, agriculture, rural development, early warning systems, environment, energy, natural resources, health and education, and poverty eradication and sustainable development strategies;
 - e. Provide affordable local access to information to improve monitoring and early warning related to desertification and drought;
 - f. Call on the Second Assembly of the Global Environment Facility (GEF) to take action on the recommendations of the GEF Council concerning the designation of land degradation (desertification and deforestation) as a focal area of GEF as a means of GEF support for the successful implementation of the Convention to Combat Desertification; and consequently, consider making GEF a financial mechanism of the Convention, taking into account the prerogatives and decisions of the Conference of the Parties to the Convention, while recognizing the complementary roles of GEF and the Global Mechanism of the Convention in providing and mobilizing resources for the elaboration and implementation of action programmes;
 - g. Improve the sustainability of grassland resources through strengthening management and law enforcement and providing financial and technical support by the international community to developing countries.
42. Mountain ecosystems support particular livelihoods and include significant watershed resources, biological diversity and unique flora and fauna. Many are particularly fragile and vulnerable to the adverse effects of climate change and need specific protection. Actions at all levels are required to:
- a. Develop and promote programmes, policies and approaches that integrate environmental, economic and social components of sustainable mountain development and strengthen international cooperation for its positive impacts on poverty eradication programmes, especially in developing countries;
 - b. Implement programmes to address, where appropriate, deforestation, erosion, land degradation, loss of biodiversity, disruption of water flows and retreat of glaciers;
 - c. Develop and implement, where appropriate, gender-sensitive policies and programmes, including public and private investments that help eliminate inequities facing mountain communities;

³¹ Report of the Conference of the Food and Agriculture Organization of the United Nations, Thirty-first Session, Rome, 2-13 November 2001 (C2001/REP), appendix D.

- d. Implement programmes to promote diversification and traditional mountain economies, sustainable livelihoods and small-scale production systems, including specific training programmes and better access to national and international markets, communications and transport planning, taking into account the particular sensitivity of mountains;
 - e. Promote full participation and involvement of mountain communities in decisions that affect them and integrate indigenous knowledge, heritage and values in all development initiatives;
 - f. Mobilize national and international support for applied research and capacity-building, provide financial and technical assistance for the effective implementation of the sustainable development of mountain ecosystems in developing countries and countries with economies in transition, and address the poverty among people living in mountains through concrete plans, projects and programmes, with sufficient support from all stakeholders, taking into account the spirit of the International Year of Mountains, 2002.
43. Promote sustainable tourism development, including non-consumptive and eco-tourism, taking into account the spirit of the International Year of Eco-tourism 2002, the United Nations Year for Cultural Heritage in 2002, the World Eco-tourism Summit 2002 and its Quebec Declaration, and the Global Code of Ethics for Tourism as adopted by the World Tourism Organization in order to increase the benefits from tourism resources for the population in host communities while maintaining the cultural and environmental integrity of the host communities and enhancing the protection of ecologically sensitive areas and natural heritages. Promote sustainable tourism development and capacity-building in order to contribute to the strengthening of rural and local communities. This would include actions at all levels to:
- a. Enhance international cooperation, foreign direct investment and partnerships with both private and public sectors, at all levels;
 - b. Develop programmes, including education and training programmes, that encourage people to participate in eco-tourism, enable indigenous and local communities to develop and benefit from eco-tourism, and enhance stakeholder cooperation in tourism development and heritage preservation, in order to improve the protection of the environment, natural resources and cultural heritage;
 - c. Provide technical assistance to developing countries and countries with economies in transition to support sustainable tourism business development and investment and tourism awareness programmes, to improve domestic tourism, and to stimulate entrepreneurial development;
 - d. Assist host communities in managing visits to their tourism attractions for their maximum benefit, while ensuring the least negative impacts on and risks for their traditions, culture and environment, with the support of the World Tourism Organization and other relevant organizations;
 - e. Promote the diversification of economic activities, including through the facilitation of access to markets and commercial information, and participation of emerging local enterprises, especially small and medium-sized enterprises.
44. Biodiversity, which plays a critical role in overall sustainable development and poverty eradication, is essential to our planet, human well-being and to the livelihood and cultural integrity of people. However, biodiversity is currently being lost at unprecedented rates due to human activities; this trend can only be reversed if the local people benefit from the conservation and sustainable use of biological diversity, in particular in countries of origin of genetic resources, in accordance with article 15 of the Convention on Biological Diversity. The Convention is the key instrument for the conservation and sustainable use of biological diversity and the fair and equitable sharing of benefits arising from use of genetic resources. A more efficient and coherent implementation of the three objectives of the Convention and the achievement by 2010 of a significant reduction in the current rate of loss of biological diversity will require the provision of new and additional financial and technical resources to developing countries, and includes actions at all levels to:
- a. Integrate the objectives of the Convention into global, regional and national sectoral and cross-sectoral programmes and policies, in particular in the programmes and policies of the economic sectors of countries and international financial institutions;
 - b. Promote the ongoing work under the Convention on the sustainable use on biological diversity, including on sustainable tourism, as a cross-cutting issue relevant to different ecosystems, sectors and thematic areas;
 - c. Encourage effective synergies between the Convention and other multilateral environmental agreements, inter alia, through the development of joint plans and programmes, with due regard to their respective mandates, regarding common responsibilities and concerns;
 - d. Implement the Convention and its provisions, including active follow-up of its work programmes and decisions through national, regional and global action programmes, in particular the national biodiversity strategies and action plans, and strengthen their integration into relevant cross-sectoral strategies, programmes and policies, including those related to sustainable development and poverty eradication, including initiatives which promote community-based sustainable use of biological diversity;
 - e. Promote the wide implementation and further development of the ecosystem approach, as being elaborated in the ongoing work of the Convention;
 - f. Promote concrete international support and partnership for the conservation and sustainable use of biodiversity, including in ecosystems, at World Heritage sites and for the protection of endangered species,

- in particular through the appropriate channelling of financial resources and technology to developing countries and countries with economies in transition;
- g. To effectively conserve and sustainably use biodiversity, promote and support initiatives for hot spot areas and other areas essential for biodiversity and promote the development of national and regional ecological networks and corridors;
 - h. Provide financial and technical support to developing countries, including capacity-building, in order to enhance indigenous and community-based biodiversity conservation efforts;
 - i. Strengthen national, regional and international efforts to control invasive alien species, which are one of the main causes of biodiversity loss, and encourage the development of effective work programme on invasive alien species at all levels;
 - j. Subject to national legislation, recognize the rights of local and indigenous communities who are holders of traditional knowledge, innovations and practices, and, with the approval and involvement of the holders of such knowledge, innovations and practices, develop and implement benefit-sharing mechanisms on mutually agreed terms for the use of such knowledge, innovations and practices;
 - k. Encourage and enable all stakeholders to contribute to the implementation of the objectives of the Convention and, in particular, recognize the specific role of youth, women and indigenous and local communities in conserving and using biodiversity in a sustainable way;
 - l. Promote the effective participation of indigenous and local communities in decision and policy-making concerning the use of their traditional knowledge;
 - m. Encourage technical and financial support to developing countries and countries with economies in transition in their efforts to develop and implement, as appropriate, inter alia, national sui generis systems and traditional systems according to national priorities and legislation, with a view to conserving and the sustainable use of biodiversity;
 - n. Promote the wide implementation of and continued work on the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of Benefits arising out of their Utilization, as an input to assist the Parties when developing and drafting legislative, administrative or policy measures on access and benefit-sharing as well as contract and other arrangements under mutually agreed terms for access and benefit-sharing;
 - o. Negotiate within the framework of the Convention on Biological Diversity, bearing in mind the Bonn Guidelines, an international regime to promote and safeguard the fair and equitable sharing of benefits arising out of the utilization of genetic resources;
 - p. Encourage successful conclusion of existing processes under the auspices of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore of the World Intellectual Property Organization, and in the ad hoc open-ended working group on article 8 (j) and related provisions of the Convention;
 - q. Promote practicable measures for access to the results and benefits arising from biotechnologies based upon genetic resources, in accordance with articles 15 and 19 of the Convention, including through enhanced scientific and technical cooperation on biotechnology and biosafety, including the exchange of experts, training human resources and developing research-oriented institutional capacities;
 - r. With a view to enhancing synergy and mutual supportiveness, taking into account the decisions under the relevant agreements, promote the discussions, without prejudging their outcome, with regard to the relationships between the Convention and agreements related to international trade and intellectual property rights, as outlined in the Doha Ministerial Declaration;³²
 - s. Promote the implementation of the programme of work of the Global Taxonomy Initiative;
 - t. Invite all States that have not already done so to ratify the Convention, the Cartagena Protocol on Biosafety to the Convention³³ and other biodiversity-related agreements, and invite those that have done so to promote their effective implementation at the national, regional and international levels and to support developing countries and countries with economies in transition technically and financially in this regard.
45. Forests and trees cover nearly one third of the Earth's surface. Sustainable forest management of both natural and planted forests and for timber and non-timber products is essential to achieving sustainable development as well as a critical means to eradicate poverty, significantly reduce deforestation, halt the loss of forest biodiversity and land and resource degradation and improve food security and access to safe drinking water and affordable energy; in addition, it highlights the multiple benefits of both natural and planted forests and trees and contributes to the well-being of the planet and humanity. The achievement of sustainable forest management, nationally and globally, including through partnerships among interested Governments and stakeholders, including the private sector, indigenous and local communities and non-governmental organizations, is an essential goal of sustainable development. This would include actions at all levels to:
- a. Enhance political commitment to achieve sustainable forest management by endorsing it as a priority on the

³² See A/C.2/56/7, annex.

³³ <http://www.biodiv.org/biosafety/protocol.asp>.

international political agenda, taking full account of the linkages between the forest sector and other sectors through integrated approaches;

- b. Support the United Nations Forum on Forests, with the assistance of the Collaborative Partnership on Forests, as key intergovernmental mechanisms to facilitate and coordinate the implementation of sustainable forest management at the national, regional and global levels, thus contributing, inter alia, to the conservation and sustainable use of forest biodiversity;
 - c. Take immediate action on domestic forest law enforcement and illegal international trade in forest products, including in forest biological resources, with the support of the international community, and provide human and institutional capacity-building related to the enforcement of national legislation in those areas;
 - d. Take immediate action at the national and international levels to promote and facilitate the means to achieve sustainable timber harvesting and to facilitate the provision of financial resources and the transfer and development of environmentally sound technologies, and thereby address unsustainable timber harvesting practices;
 - e. Develop and implement initiatives to address the needs of those parts of the world that currently suffer from poverty and the highest rates of deforestation and where international cooperation would be welcomed by affected Governments;
 - f. Create and strengthen partnerships and international cooperation to facilitate the provision of increased financial resources, the transfer of environmentally sound technologies, trade, capacity-building, forest law enforcement and governance at all levels and integrated land and resource management to implement sustainable forest management, including the proposals for action of the Intergovernmental Panel on Forests/Intergovernmental Forum on Forests;
 - g. Accelerate implementation of the proposals for action of the Intergovernmental Panel on Forests/Intergovernmental Forum on Forests by countries and by the Collaborative Partnership on Forests and intensify efforts on reporting to the United Nations Forum on Forests to contribute to an assessment of progress in 2005;
 - h. Recognize and support indigenous and community-based forest management systems to ensure their full and effective participation in sustainable forest management;
 - i. Implement the expanded action-oriented work programme of the Convention on Biological Diversity on all types of forest biological diversity, in close cooperation with the Forum, Partnership members and other forest-related processes and conventions, with the involvement of all relevant stakeholders.
46. Mining, minerals and metals are important to the economic and social development of many countries. Minerals are essential for modern living. Enhancing the contribution of mining, minerals and metals to sustainable development includes actions at all levels to:
- a. Support efforts to address the environmental, economic, health and social impacts and benefits of mining, minerals and metals throughout their life cycle, including workers' health and safety, and use a range of partnerships, furthering existing activities at the national and international levels among interested Governments, intergovernmental organizations, mining companies and workers and other stakeholders to promote transparency and accountability for sustainable mining and minerals development;
 - b. Enhance the participation of stakeholders, including local and indigenous communities and women, to play an active role in minerals, metals and mining development throughout the life cycles of mining operations, including after closure for rehabilitation purposes, in accordance with national regulations and taking into account significant transboundary impacts;
 - c. Foster sustainable mining practices through the provision of financial, technical and capacity-building support to developing countries and countries with economies in transition for the mining and processing of minerals, including small-scale mining, and, where possible and appropriate, improve value-added processing, upgrade scientific and technological information and reclaim and rehabilitate degraded sites.

V. Sustainable development in a globalizing world

47. Globalization offers opportunities and challenges for sustainable development. We recognize that globalization and interdependence are offering new opportunities for trade, investment and capital flows and advances in technology, including information technology, for the growth of the world economy, development and the improvement of living standards around the world. At the same time, there remain serious challenges, including serious financial crises, insecurity, poverty, exclusion and inequality within and among societies. The developing countries and countries with economies in transition face special difficulties in responding to those challenges and opportunities. Globalization should be fully inclusive and equitable, and there is a strong need for policies and measures at the national and international levels, formulated and implemented with the full and effective participation of developing countries and countries with economies in transition, to help them to respond effectively to those challenges and opportunities. This will require urgent action at all levels to:
- a. Continue to promote open, equitable, rules-based, predictable and nondiscriminatory multilateral trading and financial systems that benefit all countries in the pursuit of sustainable development. Support the successful completion of the work programme contained in the Doha Ministerial Declaration and the

implementation of the Monterrey Consensus. Welcome the decision contained in the Doha Ministerial Declaration to place the needs and interests of developing countries at the heart of the work programme of the Declaration, including through enhanced market access for products of interest to developing countries;

- b. Encourage ongoing efforts by international financial and trade institutions to ensure that decision-making processes and institutional structures are open and transparent;
 - c. Enhance the capacities of developing countries, including the least developed countries, landlocked developing countries and small island developing States, to benefit from liberalized trade opportunities through international cooperation and measures aimed at improving productivity, commodity diversification and competitiveness, community-based entrepreneurial capacity and transportation and communication infrastructure development;
 - d. Support the International Labour Organization and encourage its ongoing work on the social dimension of globalization, as stated in paragraph 64 of the Monterrey Consensus;
 - e. Enhance the delivery of coordinated, effective and targeted trade-related technical assistance and capacity-building programmes, including taking advantage of existing and future market access opportunities, and examining the relationship between trade, environment and development.
48. Implement the outcomes of the Doha Ministerial Conference by the members of the World Trade Organization, further strengthen trade-related technical assistance and capacity-building and ensure the meaningful, effective and full participation of developing countries in multilateral trade negotiations by placing their needs and interests at the heart of the work programme of the World Trade Organization.
49. Actively promote corporate responsibility and accountability, based on the Rio principles, including through the full development and effective implementation of intergovernmental agreements and measures, international initiatives and public-private partnerships and appropriate national regulations, and support continuous improvement in corporate practices in all countries.
50. Strengthen the capacities of developing countries to encourage public/private initiatives that enhance the ease of access, accuracy, timeliness and coverage of information on countries and financial markets. Multilateral and regional financial institutions could provide further assistance for these purposes.
51. Strengthen regional trade and cooperation agreements, consistent with the multilateral trading system, among developed and developing countries and countries with economies in transition, as well as among developing countries, with the support of international finance institutions and regional development banks, as appropriate, with a view to achieving the objectives of sustainable development.
52. Assist developing countries and countries with economies in transition in narrowing the digital divide, creating digital opportunities and harnessing the potential of information and communication technologies for development through technology transfer on mutually agreed terms and the provision of financial and technical support and, in this context, support the World Summit on the Information Society.

VI. Health and sustainable development

53. The Rio Declaration on Environment and Development states that human beings are at the centre of concerns for sustainable development, and that they are entitled to a healthy and productive life, in harmony with nature. The goals of sustainable development can only be achieved in the absence of a high prevalence of debilitating diseases, while obtaining health gains for the whole population requires poverty eradication. There is an urgent need to address the causes of ill health, including environmental causes, and their impact on development, with particular emphasis on women and children, as well as vulnerable groups of society, such as people with disabilities, elderly persons and indigenous people.
54. Strengthen the capacity of health-care systems to deliver basic health services to all in an efficient, accessible and affordable manner aimed at preventing, controlling and treating diseases, and to reduce environmental health threats, in conformity with human rights and fundamental freedoms and consistent with national laws and cultural and religious values, and taking into account the reports of relevant United Nations conferences and summits and of special sessions of the General Assembly. This would include actions at all levels to:
- a. Integrate the health concerns, including those of the most vulnerable populations, into strategies, policies and programmes for poverty eradication and sustainable development;
 - b. Promote equitable and improved access to affordable and efficient healthcare services, including prevention, at all levels of the health system, essential and safe drugs at affordable prices, immunization services and safe vaccines and medical technology;
 - c. Provide technical and financial assistance to developing countries and countries with economies in transition to implement the Health for All Strategy, including health information systems and integrated databases on development hazards;
 - d. Improve the development and management of human resources in healthcare services;
 - e. Promote and develop partnerships to enhance health education with the objective of achieving improved health literacy on a global basis by 2010, with the involvement of United Nations agencies, as appropriate;
 - f. Develop programmes and initiatives to reduce, by the year 2015, mortality rates for infants and children

under 5 by two thirds, and maternal mortality rates by three quarters, of the prevailing rate in 2000, and reduce disparities between and within developed and developing countries as quickly as possible, with particular attention to eliminating the pattern of disproportionate and preventable mortality among girl infants and children;

- g. Target research efforts and apply research results to priority public health issues, in particular those affecting susceptible and vulnerable populations, through the development of new vaccines, reducing exposures to health risks, building on equal access to health-care services, education, training and medical treatment and technology and addressing the secondary effects of poor health;
 - h. Promote the preservation, development and use of effective traditional medicine knowledge and practices, where appropriate, in combination with modern medicine, recognizing indigenous and local communities as custodians of traditional knowledge and practices, while promoting effective protection of traditional knowledge, as appropriate, consistent with international law;
 - i. Ensure equal access of women to health-care services, giving particular attention to maternal and emergency obstetric care;
 - j. Address effectively, for all individuals of appropriate age, the promotion of healthy living, including their reproductive and sexual health, consistent with the commitments and outcomes of recent United Nations conferences and summits, including the World Summit for Children, the United Nations Conference on Environment and Development, the International Conference on Population and Development, the World Summit for Social Development and the Fourth World Conference on Women, and their respective reviews and reports;
 - k. Launch international capacity-building initiatives, as appropriate, that assess health and environment linkages and use the knowledge gained to create more effective national and regional policy responses to environmental threats to human health;
 - l. Transfer and disseminate, on mutually agreed terms, including through public-private multisector partnerships, with international financial support, technologies for safe water, sanitation and waste management for rural and urban areas in developing countries and countries with economies in transition, taking into account country-specific conditions and gender equality, including specific technology needs of women;
 - m. Strengthen and promote programmes of the International Labour Organization and World Health Organization to reduce occupational deaths, injuries and illnesses, and link occupational health with public health promotion as a means of promoting public health and education;
 - n. Improve availability and access for all to sufficient, safe, culturally acceptable and nutritionally adequate food, increase consumer health protection, address issues of micronutrient deficiency and implement existing internationally agreed commitments and relevant standards and guidelines;
 - o. Develop or strengthen, where applicable, preventive, promotive and curative programmes to address non-communicable diseases and conditions, such as cardiovascular diseases, cancer, diabetes, chronic respiratory diseases, injuries, violence and mental health disorders and associated risk factors, including alcohol, tobacco, unhealthy diets and lack of physical activity.
55. Implement, within the agreed time frames, all commitments agreed in the Declaration of Commitment on HIV/AIDS³⁴ adopted by the General Assembly at its twenty-sixth special session, emphasizing in particular the reduction of HIV prevalence among young men and women aged 15 to 24 by 25 per cent in the most affected countries by 2005, and globally by 2010, as well as combat malaria, tuberculosis and other diseases by, inter alia:
- a. Implementing national preventive and treatment strategies, regional and international cooperation measures and the development of international initiatives to provide special assistance to children orphaned by HIV/AIDS;
 - b. Fulfilling commitments for the provision of sufficient resources to support the Global Fund to Fight AIDS, Tuberculosis and Malaria, while promoting access to the Fund by countries most in need;
 - c. Protecting the health of workers and promoting occupational safety, by, inter alia, taking into account, as appropriate, the voluntary Code of Practice on HIV/AIDS and the World of Work of the International Labour Organization, to improve conditions of the workplace;
 - d. Mobilizing adequate public, and encouraging private, financial resources for research and development on diseases of the poor, such as HIV/AIDS, malaria, and tuberculosis, directed at biomedical and health research, as well as new vaccine and drug development.
56. Reduce respiratory diseases and other health impacts resulting from air pollution, with particular attention to women and children, by:
- a. Strengthening regional and national programmes, including through public-private partnerships, with technical and financial assistance to developing countries;
 - b. Supporting the phasing out of lead in gasoline;

³⁴ General Assembly resolution S-26/2, annex.

- c. Strengthening and supporting efforts for the reduction of emissions through the use of cleaner fuels and modern pollution control techniques;
 - d. Assisting developing countries in providing affordable energy to rural communities, particularly to reduce dependence on traditional fuel sources for cooking and heating, which affect the health of women and children.
57. Phase out lead in lead-based paints and in other sources of human exposure, work to prevent, in particular, children's exposure to lead and strengthen monitoring and surveillance efforts and the treatment of lead poisoning.

VII. Sustainable development of small island developing States

58. Small island developing States are a special case both for environment and development. Although they continue to take the lead in the path towards sustainable development in their countries, they are increasingly constrained by the interplay of adverse factors clearly underlined in Agenda 21, the Programme of Action for the Sustainable Development of Small Island Developing States³⁵ and the decisions adopted at the twenty-second special session of the General Assembly. This would include actions at all levels to:
- a. Accelerate national and regional implementation of the Programme of Action, with adequate financial resources, including through Global Environment Facility focal areas, transfer of environmentally sound technologies and assistance for capacity-building from the international community;
 - b. Implement further sustainable fisheries management and improve financial returns from fisheries by supporting and strengthening relevant regional fisheries management organizations, as appropriate, such as the recently established Caribbean Regional Fisheries Mechanism and such agreements as the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean;
 - c. Assist small island developing States, including through the elaboration of specific initiatives, in delimiting and managing in a sustainable manner their coastal areas and exclusive economic zones and the continental shelf, including, where appropriate, the continental shelf areas beyond 200 miles from coastal baselines, as well as relevant regional management initiatives within the context of the United Nations Convention on the Law of the Sea and the regional seas programmes of the United Nations Environment Programme;
 - d. Provide support, including for capacity-building, for the development and further implementation of:
 - i. Small island developing States-specific components within programmes of work on marine and coastal biological diversity;
 - ii. Freshwater programmes for small island developing States, including through the Global Environment Facility focal areas;
 - e. Effectively reduce, prevent and control waste and pollution and their health-related impacts by undertaking initiatives by 2004 aimed at implementing the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities in small island developing States;
 - f. Work to ensure that, in the ongoing negotiations and elaboration of the World Trade Organization work programme on trade in small economies, due account is taken of small island developing States, which have severe structural handicaps in integrating into the global economy, within the context of the Doha development agenda;
 - g. Develop community-based initiatives on sustainable tourism by 2004 and build the capacities necessary to diversify tourism products, while protecting culture and traditions and effectively conserving and managing natural resources;
 - h. Extend assistance to small island developing States in support of local communities and appropriate national and regional organizations of small island developing States for comprehensive hazard and risk management, disaster prevention, mitigation and preparedness, and help relieve the consequences of disasters, extreme weather events and other emergencies;
 - i. Support the finalization and subsequent early operationalization, on agreed terms, of economic, social and environmental vulnerability indices and related indicators as tools for the achievement of the sustainable development of the small island developing States;
 - j. Assist small island developing States in mobilizing adequate resources and partnerships for their adaptation needs relating to the adverse effects of climate change, sea level rise and climate variability, consistent with commitments under the United Nations Framework Convention on Climate Change, where applicable;
 - k. Support efforts by small island developing States to build capacities and institutional arrangements to implement intellectual property regimes.
59. Support the availability of adequate, affordable and environmentally sound energy services for the sustainable development of small island developing States by, inter alia:
- a. Strengthening ongoing and supporting new efforts on energy supply and services, by 2004, including through the United Nations system and partnership initiatives;

³⁵ Report of the Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 25 April-6 May 1994 (United Nations publication, Sales No. E.94.I.18 and corrigenda), chap. I, resolution 1, annex II.

- b. Developing and promoting efficient use of sources of energy, including indigenous sources and renewable energy, and building the capacities of small island developing States for training, technical know-how and strengthening national institutions in the area of energy management.
60. Provide support to small island developing States to develop capacity and strengthen:
- a. Health-care services for promoting equitable access to health care;
 - b. Health systems for making available necessary drugs and technology in a sustainable and affordable manner to fight and control communicable and noncommunicable diseases, in particular HIV/AIDS, tuberculosis, diabetes, malaria and dengue fever;
 - c. Efforts to reduce and manage waste and pollution and building capacity for maintaining and managing systems to deliver water and sanitation services, in both rural and urban areas;
 - d. Efforts to implement initiatives aimed at poverty eradication, which have been outlined in section II of the present document.
61. Undertake a full and comprehensive review of the implementation of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States in 2004, in accordance with the provisions set forth in General Assembly resolution S-22/2, and in this context requests the General Assembly at its fifty-seventh session to consider convening an international meeting for the sustainable development of small island developing States.

VIII. Sustainable development for Africa

62. Since the United Nations Conference on Environment and Development, sustainable development has remained elusive for many African countries. Poverty remains a major challenge and most countries on the continent have not benefited fully from the opportunities of globalization, further exacerbating the continent's marginalization. Africa's efforts to achieve sustainable development have been hindered by conflicts, insufficient investment, limited market access opportunities and supply side constraints, unsustainable debt burdens, historically declining levels of official development assistance and the impact of HIV/AIDS. The World Summit on Sustainable Development should reinvigorate the commitment of the international community to address these special challenges and give effect to a new vision based on concrete actions for the implementation of Agenda 21 in Africa. The New Partnership for Africa's Development (NEPAD) is a commitment by African leaders to the people of Africa. It recognizes that partnerships among African countries themselves and between them and with the international community are key elements of a shared and common vision to eradicate poverty, and furthermore it aims to place their countries, both individually and collectively, on a path of sustained economic growth and sustainable development, while participating actively in the world economy and body politic. It provides a framework for sustainable development on the continent to be shared by all Africa's people. The international community welcomes NEPAD and pledges its support to the implementation of this vision, including through utilization of the benefits of South-South cooperation supported, *inter alia*, by the Tokyo International Conference on African Development. It also pledges support for other existing development frameworks that are owned and driven nationally by African countries and that embody poverty reduction strategies, including poverty reduction strategy papers. Achieving sustainable development includes actions at all levels to:
- a. Create an enabling environment at the regional, subregional, national and local levels in order to achieve sustained economic growth and sustainable development and support African efforts for peace, stability and security, the resolution and prevention of conflicts, democracy, good governance, respect for human rights and fundamental freedoms, including the right to development and gender equality;
 - b. Support the implementation of the vision of NEPAD and other established regional and subregional efforts, including through financing, technical cooperation and institutional cooperation and human and institutional capacity-building at the regional, subregional and national levels, consistent with national policies, programmes and nationally owned and led strategies for poverty reduction and sustainable development, such as, where applicable, poverty reduction strategy papers;
 - c. Promote technology development, transfer and diffusion to Africa and further develop technology and knowledge available in African centres of excellence;
 - d. Support African countries in developing effective science and technology institutions and research activities capable of developing and adapting to world class technologies;
 - e. Support the development of national programmes and strategies to promote education within the context of nationally owned and led strategies for poverty reduction and strengthen research institutions in education in order to increase the capacity to fully support the achievement of internationally agreed development goals related to education, including those contained in the Millennium Declaration on ensuring that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling and that girls and boys will have equal access to all levels of education relevant to national needs;
 - f. Enhance the industrial productivity, diversity and competitiveness of African countries through a combination of financial and technological support for the development of key infrastructure, access to technology, networking of research centres, adding value to export products, skills development and enhancing market access in support of sustainable development;

- g. Enhance the contribution of the industrial sector, in particular mining, minerals and metals, to the sustainable development of Africa by supporting the development of effective and transparent regulatory and management frameworks and value addition, broad-based participation, social and environmental responsibility and increased market access in order to create an attractive and conducive environment for investment;
 - h. Provide financial and technical support to strengthen the capacity of African countries to undertake environmental legislative policy and institutional reform for sustainable development and to undertake environmental impact assessments and, as appropriate, to negotiate and implement multilateral environment agreements;
 - i. Develop projects, programmes and partnerships with relevant stakeholders and mobilize resources for the effective implementation of the outcome of the African Process for the Protection and Development of the Marine and Coastal Environment;
 - j. Deal effectively with energy problems in Africa, including through initiatives to:
 - i. Establish and promote programmes, partnerships and initiatives to support Africa's efforts to implement NEPAD objectives on energy, which seek to secure access for at least 35 per cent of the African population within 20 years, especially in rural areas;
 - ii. Provide support to implement other initiatives on energy, including the promotion of cleaner and more efficient use of natural gas and increased use of renewable energy, and to improve energy efficiency and access to advanced energy technologies, including cleaner fossil fuel technologies, particularly in rural and peri-urban areas;
 - k. Assist African countries in mobilizing adequate resources for their adaptation needs relating to the adverse effects of climate change, extreme weather events, sea level rise and climate variability, and assist in developing national climate change strategies and mitigation programmes, and continue to take actions to mitigate the adverse effects on climate change in Africa, consistent with the United Nations Framework Convention on Climate Change;
 - l. Support African efforts to develop affordable transport systems and infrastructure that promote sustainable development and connectivity in Africa;
 - m. Further to paragraph 42 above, address the poverty affecting mountain communities in Africa;
 - n. Provide financial and technical support for afforestation and reforestation in Africa and to build capacity for sustainable forest management, including combating deforestation and measures to improve the policy and legal framework of the forest sector.
63. Provide financial and technical support for Africa's efforts to implement the Convention to Combat Desertification at the national level and integrate indigenous knowledge systems into land and natural resources management practices, as appropriate, and improve extension services to rural communities and promote better land and watershed management practices, including through improved agricultural practices that address land degradation, in order to develop capacity for the implementation of national programmes.
64. Mobilize financial and other support to develop and strengthen health systems that aim to:
- a. Promote equitable access to health-care services;
 - b. Make available necessary drugs and technology in a sustainable and affordable manner to fight and control communicable diseases, including HIV/AIDS, malaria and tuberculosis, and trypanosomiasis, as well as noncommunicable diseases, including those caused by poverty;
 - c. Build capacity of medical and paramedical personnel;
 - d. Promote indigenous medical knowledge, as appropriate, including traditional medicine;
 - e. Research and control Ebola disease.
65. Deal effectively with natural disasters and conflicts, including their humanitarian and environmental impacts, recognizing that conflicts in Africa have hindered, and in many cases obliterated, both the gains and efforts aimed at sustainable development, with the most vulnerable members of society, particularly women and children, being the most impacted victims, through efforts and initiatives, at all levels, to:
- a. Provide financial and technical assistance to strengthen the capacities of African countries, including institutional and human capacity, including at the local level, for effective disaster management, including observation and early warning systems, assessments, prevention, preparedness, response and recovery;
 - b. Provide support to African countries to enable them to better deal with the displacement of people as a result of natural disasters and conflicts and put in place rapid response mechanisms;
 - c. Support Africa's efforts for the prevention and resolution, management and mitigation of conflicts and its early response to emerging conflict situations to avert tragic humanitarian consequences;
 - d. Provide support to refugee host countries in rehabilitating infrastructure and environment, including ecosystems and habitats, that were damaged in the process of receiving and settling refugees.
66. Promote integrated water resources development and optimize the upstream and downstream benefits therefrom, the development and effective management of water resources across all uses and the protection of

water quality and aquatic ecosystems, including through initiatives at all levels, to:

- a. Provide access to potable domestic water, hygiene education and improved sanitation and waste management at the household level through initiatives to encourage public and private investment in water supply and sanitation that give priority to the needs of the poor within stable and transparent national regulatory frameworks provided by Governments, while respecting local conditions involving all concerned stakeholders and monitoring the performance and improving the accountability of public institutions and private companies; and develop critical water supply, reticulation and treatment infrastructure, and build capacity to maintain and manage systems to deliver water and sanitation services in both rural and urban areas;
 - b. Develop and implement integrated river basin and watershed management strategies and plans for all major water bodies, consistent with paragraph 25 above;
 - c. Strengthen regional, subregional and national capacities for data collection and processing and for planning, research, monitoring, assessment and enforcement, as well as arrangements for water resource management;
 - d. Protect water resources, including groundwater and wetland ecosystems, against pollution, and, in cases of the most acute water scarcity, support efforts for developing non-conventional water resources, including the energy-efficient, cost-effective and sustainable desalination of seawater, rainwater harvesting and recycling of water.
67. Achieve significantly improved sustainable agricultural productivity and food security in furtherance of the agreed Millennium development goals, including those contained in the Millennium Declaration, in particular to halve by 2015 the proportion of people who suffer from hunger, including through initiatives at all levels to:
- a. Support the development and implementation of national policies and programmes, including research programmes and development plans of African countries to regenerate their agricultural sector and sustainably develop their fisheries, and increase investment in infrastructure, technology and extension services, according to country needs. African countries should be in the process of developing and implementing food security strategies, within the context of national poverty eradication programmes, by 2005;
 - b. Promote and support efforts and initiatives to secure equitable access to land tenure and clarify resource rights and responsibilities, through land and tenure reform processes that respect the rule of law and are enshrined in national law, and provide access to credit for all, especially women, and that enable economic and social empowerment and poverty eradication as well as efficient and ecologically sound utilization of land and that enable women producers to become decision makers and owners in the sector, including the right to inherit land;
 - c. Improve market access for goods, including goods originating from African countries, in particular least developed countries, within the framework of the Doha Ministerial Declaration, without prejudging the outcome of the World Trade Organization negotiations, as well as within the framework of preferential agreements;
 - d. Provide support for African countries to improve regional trade and economic integration between African countries. Attract and increase investment in regional market infrastructure;
 - e. Support livestock development programmes aimed at progressive and effective control of animal diseases.
68. Achieve sound management of chemicals, with particular focus on hazardous chemicals and wastes, inter alia, through initiatives to assist African countries in elaborating national chemical profiles and regional and national frameworks and strategies for chemical management and establishing chemical focal points.
69. Bridge the digital divide and create digital opportunity in terms of access infrastructure and technology transfer and application through integrated initiatives for Africa. Create an enabling environment to attract investment, accelerate existing and new programmes and projects to connect essential institutions and stimulate the adoption of information communication technologies in government and commerce programmes and other aspects of national economic and social life.
70. Support Africa's efforts to attain sustainable tourism that contributes to social, economic and infrastructure development through the following measures:
- a. Implementing projects at the local, national and subregional levels, with specific emphasis on marketing African tourism products, such as adventure tourism, ecotourism and cultural tourism;
 - b. Establishing and supporting national and cross-border conservation areas to promote ecosystem conservation according to the ecosystem approach, and to promote sustainable tourism;
 - c. Respecting local traditions and cultures and promoting the use of indigenous knowledge in natural resource management and ecotourism;
 - d. Assisting host communities in managing their tourism projects for maximum benefit, while limiting negative impact on their traditions, culture and environment;
 - e. Support the conservation of Africa's 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, in accordance with commitments that countries have under biodiversity-related agreements to which they are parties, including

such agreements as the Convention on Biological Diversity and the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as well as regional biodiversity agreements.

71. Support African countries in their efforts to implement the Habitat Agenda and the Istanbul Declaration through initiatives to strengthen national and local institutional capacities in the areas of sustainable urbanization and human settlements, provide support for adequate shelter and basic services and the development of efficient and effective governance systems in cities and other human settlements and strengthen, inter alia, the joint programme on managing water for African cities of the United Nations Human Settlements Programme and the United Nations Environment Programme.

IX. Other regional initiatives

72. Important initiatives have been developed within other United Nations regions and regional, subregional and transregional forums to promote sustainable development. The international community welcomes these efforts and the results already achieved, calls for actions at all levels for their further development, while encouraging interregional, intraregional and international cooperation in this respect, and expresses its support for their further development and implementation by the countries of the regions.

A. Sustainable development in Latin America and the Caribbean

73. The Initiative of Latin America and the Caribbean on Sustainable Development is an undertaking by the leaders of that region that, building on the Platform for Action on the Road to Johannesburg, 2002,³⁶ which was approved in Rio de Janeiro in October 2001, recognizes the importance of regional actions towards sustainable development and takes into account the region's singularities, shared visions and cultural diversity. It is targeted towards the adoption of concrete actions in different areas of sustainable development, such as biodiversity, water resources, vulnerabilities and sustainable cities, social aspects, including health and poverty, economic aspects, including energy, and institutional arrangements, including capacity-building, indicators and participation of civil society, taking into account ethics for sustainable development.
74. The Initiative envisages the development of actions among countries in the region that may foster South-South cooperation and may count with the support of groups of countries, as well as multilateral and regional organizations, including financial institutions. As a framework for cooperation, the Initiative is open to partnerships with governments and all major groups.

B. Sustainable development in Asia and the Pacific

75. Bearing in mind the target of halving the number of people who live in poverty by the year 2015, as provided in the Millennium Declaration, the Phnom Penh Regional Platform on Sustainable Development for Asia and the Pacific³⁷ recognized that the region contains over half of the world's population and the largest number of the world's people living in poverty. Hence, sustainable development in the region is critical to achieving sustainable development at the global level.
76. The Regional Platform identified seven initiatives for follow-up action: capacity-building for sustainable development; poverty reduction for sustainable development; cleaner production and sustainable energy; land management and biodiversity conservation; protection and management of and access to freshwater resources; oceans, coastal and marine resources and sustainable development of small island developing States; and action on atmosphere and climate change. Follow-up actions of these initiatives will be taken through national strategies and relevant regional and subregional initiatives, such as the Regional Action Programme for Environmentally Sound and Sustainable Development and the Kitakyushu Initiative for a Clean Environment, adopted at the Fourth Ministerial Conference on Environment and Development in Asia and the Pacific organized by the Economic and Social Commission for Asia and the Pacific.

C. Sustainable development in the West Asia region

77. The West Asia region is known for its scarce water and limited fertile land resources. The region has made progress to a more knowledge-based production of higher value-added commodities.
78. The regional preparatory meeting endorsed the following priorities: poverty alleviation, relief of debt burden; and sustainable management of natural resources, including, inter alia, integrated water resources management, implementation of programmes to combat desertification, integrated coastal zone management and land and water pollution control.

D. Sustainable development in the Economic Commission for Europe region

79. The Economic Commission for Europe regional ministerial meeting for the World Summit on Sustainable Development recognized that the region has a major role to play and responsibilities in global efforts to achieve sustainable development by concrete actions. The region recognized that different levels of economic development in countries of the region may require the application of different approaches and mechanisms to implement Agenda 21. In order to address the three pillars of sustainable development in a mutually reinforcing way, the region identified its priority actions for sustainable development for the Economic Commission for Europe region in its Ministerial Statement to the Summit.³⁸

³⁶ E/CN.17/2002/PC.2/5/Add.2.

³⁷ E/CN.17/2002/PC.2/8.

³⁸ ECE/ACC.22/2001/2, annex I.

80. In furtherance of the region's commitment to sustainable development, there are ongoing efforts at the regional, subregional and transregional levels, including, inter alia, the Environment for Europe process; the fifth Economic Commission for Europe ministerial conference, to be held in Kiev in May 2003; the development of an environmental strategy for the 12 countries of Eastern Europe; the Caucasus and Central Asia; the Central Asian Agenda 21; work of the Organisation for Economic Cooperation and Development on sustainable development, the European Union sustainable development strategy; and regional and subregional conventions and processes relevant to sustainable development, including, inter alia, the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention), the Alpine Convention, the North American Commission for Environmental Cooperation, the International Boundary Waters Treaty Act, the Iqaluit Declaration of the Arctic Council, the Baltic Agenda 21 and the Mediterranean Agenda 21.

X. Means of implementation

81. The implementation of Agenda 21 and the achievement of the internationally agreed development goals, including those contained in the Millennium Declaration as well as in the present plan of action, require a substantially increased effort, both by countries themselves and by the rest of the international community, based on the recognition that each country has primary responsibility for its own development and that the role of national policies and development strategies cannot be overemphasized, taking fully into account the Rio principles, including, in particular, the principle of common but differentiated responsibilities, which states:

"States shall cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth's ecosystem. In view of the different contributions to global environmental degradation, States have common but differentiated responsibilities. The developed countries acknowledge the responsibility that they bear in the international pursuit of sustainable development in view of the pressures their societies place on the global environment and of the technologies and financial resources they command."

The internationally agreed development goals, including those contained in the Millennium Declaration and Agenda 21, as well as in the present plan of action, will require significant increases in the flow of financial resources as elaborated in the Monterrey Consensus, including through new and additional financial resources, in particular to developing countries, to support the implementation of national policies and programmes developed by them, improved trade opportunities, access to and transfer of environmentally sound technologies on a concessional or preferential basis, as mutually agreed, education and awareness-raising, capacity-building and information for decision-making and scientific capabilities within the agreed time frame required to meet these goals and initiatives. Progress to this end will require that the international community implement the outcomes of major United Nations conferences, such as the programmes of action adopted at the Third United Nations Conference on the Least Developed Countries³⁹ and the Global Conference on the Sustainable Development of Small Island Developing States, and relevant international agreements since 1992, particularly those of the International Conference on Financing for Development and the Fourth Ministerial Conference of the World Trade Organization, including building on them as part of a process of achieving sustainable development.

82. Mobilizing and increasing the effective use of financial resources and achieving the national and international economic conditions needed to fulfil internationally agreed development goals, including those contained in the Millennium Declaration, to eliminate poverty, improve social conditions and raise living standards and protect our environment, will be our first step to ensuring that the twenty-first century becomes the century of sustainable development for all.
83. In our common pursuit of growth, poverty eradication and sustainable development, a critical challenge is to ensure the necessary internal conditions for mobilizing domestic savings, both public and private, sustaining adequate levels of productive investment and increasing human capacity. A crucial task is to enhance the efficacy, coherence and consistency of macroeconomic policies. An enabling domestic environment is vital for mobilizing domestic resources, increasing productivity, reducing capital flight, encouraging the private sector and attracting and making effective use of international investment and assistance. Efforts to create such an environment should be supported by the international community.
84. Facilitate greater flows of foreign direct investment so as to support the sustainable development activities, including the development of infrastructure, of developing countries, and enhance the benefits that developing countries can draw from foreign direct investment, with particular actions to:
- a. Create the necessary domestic and international conditions to facilitate significant increases in the flow of foreign direct investment to developing countries, in particular the least developed countries, which is critical to sustainable development, particularly foreign direct investment flows for infrastructure development and other priority areas in developing countries to supplement the domestic resources mobilized by them;
 - b. Encourage foreign direct investment in developing countries and countries with economies in transition through export credits that could be instrumental to sustainable development;
85. Recognize that a substantial increase in official development assistance and other resources will be required if developing countries are to achieve the internationally agreed development goals and objectives, including

39 A/CONF.192/13.

those contained in the Millennium Declaration. To build support for official development assistance, we will cooperate to further improve policies and development strategies, both nationally and internationally, to enhance aid effectiveness, with actions to:

- a. Make available the increased commitments in official development assistance announced by several developed countries at the International Conference on Financing for Development. Urge the developed countries that have not done so to make concrete efforts towards the target of 0.7 per cent of gross national product as official development assistance to developing countries and effectively implement their commitment on such assistance to the least developed countries as contained in paragraph 83 of the Programme of Action for the Least Developed Countries for the Decade 2001-2010,⁴⁰ which was adopted in Brussels on 20 May 2001. We also encourage developing countries to build on progress achieved in ensuring that official development assistance is used effectively to help achieve development goals and targets in accordance with the outcome of the International Conference on Financing for Development. We acknowledge the efforts of all donors, commend those donors whose contributions exceed, reach or are increasing towards the targets, and underline the importance of undertaking to examine the means and time frames for achieving the targets and goals;
 - b. Encourage recipient and donor countries, as well as international institutions, to make official development assistance more efficient and effective for poverty eradication, sustained economic growth and sustainable development. In this regard, intensify efforts by the multilateral and bilateral financial and development institutions, in accordance with paragraph 43 of the Monterrey Consensus, in particular to harmonize their operational procedures at the highest standards, so as to reduce transaction costs and make disbursement and delivery of official development assistance more flexible and more responsive to the needs of developing countries, taking into account national development needs and objectives under the ownership of recipient countries, and to use development frameworks that are owned and driven by developing countries and that embody poverty reduction strategies, including poverty reduction strategy papers, as vehicles for aid delivery, upon request.
86. Make full and effective use of existing financial mechanisms and institutions, including through actions at all levels to:
- a. Strengthen ongoing efforts to reform the existing international financial architecture to foster a transparent, equitable and inclusive system that is able to provide for the effective participation of developing countries in the international economic decision-making processes and institutions, as well as for their effective and equitable participation in the formulation of financial standards and codes;
 - b. Promote, inter alia, measures in source and destination countries to improve transparency and information about financial flows to contribute to stability in the international financial environment. Measures that mitigate the impact of excessive volatility of short-term capital flows are important and must be considered;
 - c. Work to ensure that the funds are made available on a timely, more assured and predictable basis to international organizations and agencies, where appropriate, for their sustainable development activities, programmes and projects;
 - d. Encourage the private sector, including transnational corporations, private foundations and civil society institutions, to provide financial and technical assistance to developing countries;
 - e. Support new and existing public/private sector financing mechanisms for developing countries and countries with economies in transition, to benefit in particular small entrepreneurs and small, medium-sized and community-based enterprises and to improve their infrastructure, while ensuring the transparency and accountability of such mechanisms.
87. Welcome the successful and substantial third replenishment of the Global Environment Facility, which will enable it to address the funding requirements of new focal areas and existing ones and continue to be responsive to the needs and concerns of its recipient countries, in particular developing countries, and further encourage the Global Environment Facility to leverage additional funds from key public and private organizations, improve the management of funds through more speedy and streamlined procedures and simplify its project cycle.
88. Explore ways of generating new public and private innovative sources of finance for development purposes, provided that those sources do not unduly burden developing countries, noting the proposal to use special drawing rights allocations for development purposes, as set forth in paragraph 44 of the Monterrey Consensus.
89. Reduce unsustainable debt burden through such actions as debt relief and, as appropriate, debt cancellation and other innovative mechanisms geared to comprehensively address the debt problems of developing countries, in particular the poorest and most heavily indebted ones. Therefore, debt relief measures should, where appropriate, be pursued vigorously and expeditiously, including within the Paris and London Clubs and other relevant forums, in order to contribute to debt sustainability and facilitate sustainable development, while recognizing that debtors and creditors must share responsibility for preventing and resolving unsustainable debt situations, and that external debt relief can play a key role in liberating resources that can then be directed towards activities consistent with attaining sustainable growth and development. Therefore, we support paragraphs 47 to 51 of the Monterrey Consensus dealing with external debt. Debt relief arrangements should

seek to avoid imposing any unfair burdens on other developing countries. There should be an increase in the use of grants for the poorest, debt-vulnerable countries. Countries are encouraged to develop national comprehensive strategies to monitor and manage external liabilities as a key element in reducing national vulnerabilities. In this regard, actions are required to:

- a. Implement speedily, effectively and fully the enhanced heavily indebted poor countries (HIPC) initiative, which should be fully financed through additional resources, taking into consideration, as appropriate, measures to address any fundamental changes in the economic circumstances of those developing countries with unsustainable debt burden caused by natural catastrophes, severe terms-of-trade shocks or affected by conflict, taking into account initiatives which have been undertaken to reduce outstanding indebtedness;
 - b. Encourage participation in the HIPC initiative of all creditors that have not yet done so;
 - c. Bring international debtors and creditors together in relevant international forums to restructure unsustainable debt in a timely and efficient manner, taking into account the need to involve the private sector in the resolution of crises due to indebtedness, where appropriate;
 - d. Acknowledge the problems of the debt sustainability of some non-HIPC low-income countries, in particular those facing exceptional circumstances;
 - e. Encourage exploring innovative mechanisms to comprehensively address the debt problems of developing countries, including middle-income countries and countries with economies in transition. Such mechanisms may include debt-for-sustainable development swaps;
 - f. Encourage donor countries to take steps to ensure that resources provided for debt relief do not detract from official development assistance resources intended for developing countries.
90. Recognizing the major role that trade can play in achieving sustainable development and in eradicating poverty, we encourage members of the World Trade Organization (WTO) to pursue the work programme agreed at their Fourth Ministerial Conference. In order for developing countries, especially the least developed among them, to secure their share in the growth of world trade commensurate with the needs of their economic development, we urge WTO members to take the following actions:
- a. Facilitate the accession of all developing countries, particularly the least developed countries, as well as countries with economies in transition, that apply for membership in WTO, in accordance with the Monterrey Consensus;
 - b. Support the work programme adopted at the Doha Ministerial Conference as an important commitment on the part of developed and developing countries to mainstream appropriate trade policies in their respective development policies and programmes;
 - c. Implement substantial trade-related technical assistance and capacity building measures and support the Doha Development Agenda Global Trust Fund, established after the Doha Ministerial Conference, as an important step forward in ensuring a sound and predictable basis for WTO-related technical assistance and capacity-building;
 - d. Implement the New Strategy for Technical Cooperation for Capacity-Building, Growth and Integration endorsed in the Doha Declaration;
 - e. Fully support the implementation of the Integrated Framework for Trade-Related Technical Assistance to Least Developed Countries and urge development partners to significantly increase contributions to the Trust Fund for the Framework, in accordance with the Doha Ministerial Declaration.
91. In accordance with the Doha Declaration as well as with relevant decisions taken at Doha, we are determined to take concrete action to address issues and concerns raised by developing countries regarding the implementation of some WTO agreements and decisions, including the difficulties and resource constraints faced by them in fulfilling those agreements.
92. Call upon members of the World Trade Organization to fulfil the commitments made in the Doha Ministerial Declaration, notably in terms of market access, in particular for products of export interest to developing countries, especially least developed countries, by implementing the following actions, taking into account paragraph 45 of the Doha Ministerial Declaration:
- a. Review all special and differential treatment provisions with a view to strengthening them and making them more precise, effective and operational, in accordance with paragraph 44 of the Doha Ministerial Declaration;
 - b. Aim to reduce or, as appropriate, eliminate tariffs on non-agricultural products, including the reduction or elimination of tariff peaks, high tariffs and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries. Product coverage should be comprehensive and without a priori exclusions. The negotiations shall take fully into account the special needs and interests of developing and least developed countries, including through less than full reciprocity in reduction commitments, in accordance with the Doha Ministerial Declaration;
 - c. Fulfil, without prejudging the outcome of the negotiations, the commitment for comprehensive negotiations initiated under article 20 of the Agreement on Agriculture, as referred to in the Doha Ministerial Declaration,⁴¹ aiming at substantial improvements in market access, reductions of with a view to phasing out all forms of

41 A/C.2/56/2, annex, paras. 13 and 14

export subsidies, and substantial reductions in trade-distorting domestic support, while agreeing that the provisions for special and differential treatment for developing countries shall be an integral part of all elements of the negotiations and shall be embodied in the schedules of concession and commitments and, as appropriate, in the rules and disciplines to be negotiated, so as to be operationally effective and to enable developing countries to effectively take account of their development needs, including food security and rural development. Take note of the non-trade concerns reflected in the negotiating proposals submitted by members of the World Trade Organization and confirm that non-trade concerns will be taken into account in the negotiations as provided for in the Agreement on Agriculture, in accordance with the Doha Ministerial Declaration.

93. Call on developed countries that have not already done so to work towards the objective of duty-free and quota-free access for all least developed countries' exports, as envisaged in the Programme of Action for the Least Developed Countries for the Decade 2001-2010.
94. Commit to actively pursue the work programme of the World Trade Organization to address the trade-related issues and concerns affecting the fuller integration of small, vulnerable economies into the multilateral trading system in a manner commensurate with their special circumstances and in support of their efforts towards sustainable development, in accordance with paragraph 35 of the Doha Declaration.
95. Build the capacity of commodity-dependent countries to diversify exports through, inter alia, financial and technical assistance, international assistance for economic diversification and sustainable resource management and address the instability of commodity prices and declining terms of trade, as well as strengthen the activities covered by the second account of the Common Fund for Commodities to support sustainable development.
96. Enhance the benefits for developing countries, as well as countries with economies in transition, from trade liberalization, including through public-private partnerships, through, inter alia, action at all levels, including through financial support for technical assistance, the development of technology and capacity-building to developing countries to:
 - a. Enhance trade infrastructure and strengthen institutions;
 - b. Increase developing country capacity to diversify and increase exports to cope with the instability of commodity prices and declining terms of trade;
 - c. Increase the value added of developing country exports.
97. Continue to enhance the mutual supportiveness of trade, environment and development with a view to achieving sustainable development through actions at all levels to:
 - a. Encourage the WTO Committee on Trade and Environment and the WTO Committee on Trade and Development, within their respective mandates, to each act as a forum to identify and debate developmental and environmental aspects of the negotiations, in order to help achieve an outcome which benefits sustainable development in accordance with the commitments made under the Doha Ministerial Declaration;
 - b. Support the completion of the work programme of the Doha Ministerial Declaration on subsidies so as to promote sustainable development and enhance the environment, and encourage reform of subsidies that have considerable negative effects on the environment and are incompatible with sustainable development;
 - c. Encourage efforts to promote cooperation on trade, environment and development, including in the field of providing technical assistance to developing countries, between the secretariats of WTO, UNCTAD, UNDP, UNEP, and other relevant international environmental and development and regional organizations;
 - d. Encourage the voluntary use of environmental impact assessments as an important national-level tool to better identify trade, environment and development interlinkages. Further encourage countries and international organizations with experience in this field to provide technical assistance to developing countries for these purposes.
98. Promote mutual supportiveness between the multilateral trading system and the multilateral environmental agreements, consistent with sustainable development goals, in support of the work programme agreed through WTO, while recognizing the importance of maintaining the integrity of both sets of instruments.
99. Complement and support the Doha Ministerial Declaration and the Monterrey Consensus by undertaking further action at the national, regional and international levels, including through public/private partnerships, to enhance the benefits, in particular for developing countries as well as for countries with economies in transition, of trade liberalization, through, inter alia, actions at all levels to:
 - a. Establish and strengthen existing trade and cooperation agreements, consistent with the multilateral trading system, with a view to achieving sustainable development;
 - b. Support voluntary WTO-compatible market-based initiatives for the creation and expansion of domestic and international markets for environmentally friendly goods and services, including organic products, which maximize environmental and developmental benefits through, inter alia, capacity-building and technical assistance to developing countries;
 - c. Support measures to simplify and make more transparent domestic regulations and procedures that affect trade so as to assist exporters, particularly those from developing countries.

100. Address the public health problems affecting many developing and least developed countries, especially those resulting from HIV/AIDS, tuberculosis, malaria and other epidemics, while noting the importance of the Doha Declaration on the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and public health,⁴² in which it was agreed that the TRIPS Agreement does not and should not prevent WTO members from taking measures to protect public health. Accordingly, while reiterating our commitment to the TRIPS Agreement, we reaffirm that the Agreement can and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all.
101. States should cooperate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing transboundary or global environmental problems should, as far as possible, be based on an international consensus.
102. Take steps with a view to the avoidance of, and refrain from, any unilateral measure not in accordance with international law and the Charter of the United Nations that impedes the full achievement of economic and social development by the population of the affected countries, in particular women and children, that hinders their well-being or that creates obstacles to the full enjoyment of their human rights, including the right of everyone to a standard of living adequate for their health and well-being and their right to food, medical care and the necessary social services. Ensure that food and medicine are not used as tools for political pressure.
103. Take further effective measures to remove obstacles to the realization of the right of peoples to self-determination, in particular peoples living under colonial and foreign occupation, which continue to adversely affect their economic and social development and are incompatible with the dignity and worth of the human person and must be combated and eliminated. People under foreign occupation must be protected in accordance with the provisions of international humanitarian law.
104. In accordance with the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations,⁴³ this shall not be construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples and thus possessed of a Government representing the whole people belonging to the territory without distinction of any kind.
105. Promote, facilitate and finance, as appropriate, access to and the development, transfer and diffusion of environmentally sound technologies and corresponding know-how, in particular to developing countries and countries with economies in transition on favourable terms, including on concessional and preferential terms, as mutually agreed, as set out in chapter 34 of Agenda 21, including through urgent actions at all levels to:
 - a. Provide information more effectively;
 - b. Enhance existing national institutional capacity in developing countries to improve access to and the development, transfer and diffusion of environmentally sound technologies and corresponding know-how;
 - c. Facilitate country-driven technology needs assessments;
 - d. Establish legal and regulatory frameworks in both supplier and recipient countries that expedite the transfer of environmentally sound technologies in a cost effective manner by both public and private sectors and support their implementation;
 - e. Promote the access and transfer of technology related to early warning systems and to mitigation programmes to developing countries affected by natural disasters.
106. Improve the transfer of technologies to developing countries, in particular at the bilateral and regional levels, including through urgent actions at all levels to:
 - a. Improve interaction and collaboration, stakeholder relationships and networks between and among universities, research institutions, government agencies and the private sector;
 - b. Develop and strengthen networking of related institutional support structures, such as technology and productivity centres, research, training and development institutions, and national and regional cleaner production centres;
 - c. Create partnerships conducive to investment and technology transfer, development and diffusion, to assist developing countries, as well as countries with economies in transition, in sharing best practices and promoting programmes of assistance, and encourage collaboration between corporations and research institutes to enhance industrial efficiency, agricultural productivity, environmental management and competitiveness;
 - d. Provide assistance to developing countries, as well as countries with economies in transition, in accessing

⁴² Ibid., paras. 17-19.

⁴³ General Assembly resolution 2625 (XXV), annex.

- environmentally sound technologies that are publicly owned or in the public domain, as well as available knowledge in the public domain on science and technology, and in accessing the know-how and expertise required in order for them to make independent use of this knowledge in pursuing their development goals;
- e. Support existing mechanisms and, where appropriate, establish new mechanisms for the development, transfer and diffusion of environmentally sound technologies to developing countries and economies in transition.
107. Assist developing countries in building capacity to access a larger share of multilateral and global research and development programmes. In this regard, strengthen and, where appropriate, create centres for sustainable development in developing countries.
108. Build greater capacity in science and technology for sustainable development, with action to improve collaboration and partnerships on research and development and their widespread application among research institutions, universities, the private sector, governments, non-governmental organizations and networks, as well as between and among scientists and academics of developing and developed countries, and in this regard encourage networking with and between centres of scientific excellence in developing countries.
109. Improve policy and decision-making at all levels through, inter alia, improved collaboration between natural and social scientists, and between scientists and policy makers, including through urgent actions at all levels to:
- Increase the use of scientific knowledge and technology and increase the beneficial use of local and indigenous knowledge in a manner respectful of the holders of that knowledge and consistent with national law;
 - Make greater use of integrated scientific assessments, risk assessments and interdisciplinary and intersectoral approaches;
 - Continue to support and collaborate with international scientific assessments supporting decision-making, including the Intergovernmental Panel on Climate Change, with the broad participation of developing country experts;
 - Assist developing countries in developing and implementing science and technology policies;
 - Establish partnerships between scientific, public and private institutions, including by integrating the advice of scientists into decision-making bodies to ensure a greater role for science, technology development and engineering sectors;
 - Promote and improve science-based decision-making and reaffirm the precautionary approach as set out in principle 15 of the Rio Declaration on Environment and Development, which states:
 "In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."
110. Assist developing countries, through international cooperation, in enhancing their capacity in their efforts to address issues pertaining to environmental protection, including in their formulation and implementation of policies for environmental management and protection, including through urgent actions at all levels to:
- Improve their use of science and technology for environmental monitoring, assessment models, accurate databases and integrated information systems;
 - Promote and, where appropriate, improve their use of satellite technologies for quality data collection, verification and updating, and further improve aerial and ground-based observations, in support of their efforts to collect quality, accurate, long-term, consistent and reliable data;
 - Set up and, where appropriate, further develop national statistical services capable of providing sound data on science education and research and development activities that are necessary for effective science and technology policy-making.
111. Establish regular channels between policy makers and the scientific community to request and receive science and technology advice for the implementation of Agenda 21 and create and strengthen networks for science and education for sustainable development, at all levels, with the aim of sharing knowledge, experience and best practices and building scientific capacities, particularly in developing countries.
112. Use information and communication technologies, where appropriate, as tools to increase the frequency of communication and the sharing of experience and knowledge and to improve the quality of and access to information and communications technology in all countries, building on the work facilitated by the United Nations Information and Communications Technology Task Force and the efforts of other relevant international and regional forums.
113. Support publicly funded research and development entities to engage in strategic alliances for the purpose of enhancing research and development to achieve cleaner production and product technologies, through, inter alia, the mobilization from all sources of adequate financial and technical resources, including new and additional resources, and encourage the transfer and diffusion of those technologies, in particular to developing countries.

114. Examine issues of global public interest through open, transparent and inclusive workshops to promote a better public understanding of such questions.
115. Further resolve to take concerted action against international terrorism, which causes serious obstacles to sustainable development.
116. Education is critical for promoting sustainable development. It is therefore essential to mobilize necessary resources, including financial resources at all levels, by bilateral and multilateral donors, including the World Bank and the regional development banks, by civil society and by foundations, to complement the efforts by national governments to pursue the following goals and actions:
 - a. Meet the Millennium development goal of achieving universal primary education, ensuring that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling;
 - b. Provide all children, particularly those living in rural areas and those living in poverty, especially girls, with the access and opportunity to complete a full course of primary education.
117. Provide financial assistance and support to education, research, public awareness programmes and developmental institutions in developing countries and countries with economies in transition in order to:
 - a. Sustain their educational infrastructures and programmes, including those related to environment and public health education;
 - b. Consider means of avoiding the frequent, serious financial constraints faced by many institutions of higher learning, including universities around the world, particularly in developing countries and countries in transition.
118. Address the impact of HIV/AIDS on the educational system in those countries seriously affected by the pandemic.
119. Allocate national and international resources for basic education as proposed by the Dakar Framework for Action on Education for All and for improved integration of sustainable development into education and in bilateral and multilateral development programmes, and improve integration between publicly funded research and development and development programmes.
120. Eliminate gender disparity in primary and secondary education by 2005, as provided in the Dakar Framework for Action on Education for All, and at all levels of education no later than 2015, to meet the development goals contained in the Millennium Declaration, with action to ensure, inter alia, equal access to all levels and forms of education, training and capacity-building by gender mainstreaming, and by creating a gender-sensitive educational system.
121. Integrate sustainable development into education systems at all levels of education in order to promote education as a key agent for change.
122. Develop, implement, monitor and review education action plans and programmes at the national, subnational and local levels, as appropriate, that reflect the Dakar Framework for Action on Education for All and that are relevant to local conditions and needs leading to the achievement of community development and make education for sustainable development a part of those plans.
123. Provide all community members with a wide range of formal and non-formal continuing educational opportunities, including volunteer community service programmes, in order to end illiteracy and emphasize the importance of lifelong learning and promote sustainable development.
124. Support the use of education to promote sustainable development, including through urgent actions at all levels to:
 - a. Integrate information and communications technology in school curriculum development to ensure its access by both rural and urban communities and provide assistance, particularly to developing countries, inter alia, for the establishment of an appropriate enabling environment required for such technology;
 - b. Promote, as appropriate, affordable and increased access to programmes for students, researchers and engineers from developing countries in the universities and research institutions of developed countries in order to promote the exchange of experience and capacity that will benefit all partners;
 - c. Continue to implement the work programme of the Commission on Sustainable Development on education for sustainable development;
 - d. Recommend to the United Nations General Assembly that it consider adopting a decade of education for sustainable development, starting in 2005.
125. Enhance and accelerate human, institutional and infrastructure capacity-building initiatives and promote partnerships in that regard that respond to the specific needs of developing countries in the context of sustainable development.
126. Support local, national, subregional and regional initiatives with action to develop, use and adapt knowledge and techniques and to enhance local, national, subregional and regional centres of excellence for education, research and training in order to strengthen the knowledge capacity of developing countries and countries with economies in transition through, inter alia, the mobilization from all sources of adequate financial and other resources, including new and additional resources.

127. Provide technical and financial assistance to developing countries, including through the strengthening of capacity-building efforts, such as the United Nations Development Programme Capacity 21 programme, to:
 - a. Assess their own capacity development needs and opportunities at the individual, institutional and societal levels;
 - b. Design programmes for capacity-building and support for local, national and community-level programmes that focus on meeting the challenges of globalization more effectively and attaining the internationally agreed development goals, including those contained in the Millennium Declaration;
 - c. Develop the capacity of civil society, including youth, to participate, as appropriate, in designing, implementing and reviewing sustainable development policies and strategies at all levels;
 - d. Build and, where appropriate, strengthen national capacities for carrying out effective implementation of Agenda 21.
128. Ensure access, at the national level, to environmental information and judicial and administrative proceedings in environmental matters, as well as public participation in decision-making, so as to further principle 10 of the Rio Declaration on Environment and Development, taking into full account principles 5, 7 and 11 of the Declaration.
129. Strengthen national and regional information and statistical and analytical services relevant to sustainable development policies and programmes, including data disaggregated by sex, age and other factors, and encourage donors to provide financial and technical support to developing countries to enhance their capacity to formulate policies and implement programmes for sustainable development.
130. Encourage further work on indicators for sustainable development by countries at the national level, including integration of gender aspects, on a voluntary basis, in line with national conditions and priorities.
131. Promote further work on indicators, in conformity with paragraph 3 of decision 9/4 of the Commission on Sustainable Development.⁴⁴
132. Promote the development and wider use of earth observation technologies, including satellite remote sensing, global mapping and geographic information systems, to collect quality data on environmental impacts, land use and land-use changes, including through urgent actions at all levels to:
 - a. Strengthen cooperation and coordination among global observing systems and research programmes for integrated global observations, taking into account the need for building capacity and sharing of data from ground-based observations, satellite remote sensing and other sources among all countries;
 - b. Develop information systems that make the sharing of valuable data possible, including the active exchange of Earth observation data;
 - c. Encourage initiatives and partnerships for global mapping.
133. Support countries, particularly developing countries, in their national efforts to:
 - a. Collect data that are accurate, long-term, consistent and reliable;
 - b. Use satellite and remote-sensing technologies for data collection and further improvement of ground-based observations;
 - c. Access, explore and use geographic information by utilizing the technologies of satellite remote sensing, satellite global positioning, mapping and geographic information systems.
134. Support efforts to prevent and mitigate the impacts of natural disasters, including through urgent actions at all levels to:
 - a. Provide affordable access to disaster-related information for early warning purposes;
 - b. Translate available data, particularly from global meteorological observation systems, into timely and useful products.
135. Develop and promote the wider application of environmental impact assessments, inter alia, as a national instrument, as appropriate, to provide essential decision-support information on projects that could cause significant adverse effects to the environment.
136. Promote and further develop methodologies at policy, strategy and project levels for sustainable development decision-making at the local and national levels, and where relevant at the regional level. In this regard, emphasize that the choice of the appropriate methodology to be used in countries should be adequate to their country-specific conditions and circumstances, should be on a voluntary basis and should conform to their development priority needs.

XI. Institutional framework for sustainable development

137. An effective institutional framework for sustainable development at all levels is key to the full implementation of Agenda 21, the follow-up to the outcomes of the World Summit on Sustainable Development and meeting emerging sustainable development challenges. Measures aimed at strengthening such a framework should build on the provisions of Agenda 21, as well as the Programme for the Further Implementation of Agenda 21 of 1997, and the principles of the Rio Declaration on Environment and Development and should promote the

⁴⁴ See Official Records of the Economic and Social Council, 2001, Supplement No. 9 (E/2001/29), chap. I.B.

achievement of the internationally agreed development goals, including those contained in the Millennium Declaration, taking into account the Monterrey Consensus and relevant outcomes of other major United Nations conferences and international agreements since 1992. It should be responsive to the needs of all countries, taking into account the specific needs of developing countries including the means of implementation. It should lead to the strengthening of international bodies and organizations dealing with sustainable development, while respecting their existing mandates, as well as to the strengthening of relevant regional, national and local institutions.

138. Good governance is essential for sustainable development. Sound economic policies, solid democratic institutions responsive to the needs of the people and improved infrastructure are the basis for sustained economic growth, poverty eradication, and employment creation. Freedom, peace and security, domestic stability, respect for human rights, including the right to development, and the rule of law, gender equality, market-oriented policies, and an overall commitment to just and democratic societies are also essential and mutually reinforcing.

A. Objectives

139. Measures to strengthen institutional arrangements on sustainable development, at all levels, should be taken within the framework of Agenda 21,⁴⁵ build on developments since the United Nations Conference on Environment and Development and lead to the achievement of, inter alia, the following objectives:
- a. Strengthening commitments to sustainable development;
 - b. Integration of the economic, social and environmental dimensions of sustainable development in a balanced manner;
 - c. Strengthening of the implementation of Agenda 21, including through the mobilization of financial and technological resources, as well as capacity-building programmes, particularly for developing countries;
 - d. Strengthening coherence, coordination and monitoring;
 - e. Promoting the rule of law and strengthening of governmental institutions;
 - f. Increasing effectiveness and efficiency through limiting overlap and duplication of activities of international organizations, within and outside the United Nations system, based on their mandates and comparative advantages;
 - g. Enhancing participation and effective involvement of civil society and other relevant stakeholders in the implementation of Agenda 21, as well as promoting transparency and broad public participation;
 - h. Strengthening capacities for sustainable development at all levels, including the local level, in particular those of developing countries;
 - i. Strengthening international cooperation aimed at reinforcing the implementation of Agenda 21 and the outcomes of the Summit.

B. Strengthening the institutional framework for sustainable development at the international level

140. The international community should:
- a. Enhance the integration of sustainable development goals as reflected in Agenda 21 and support for implementation of Agenda 21 and the outcomes of the Summit into the policies, work programmes and operational guidelines of relevant United Nations agencies, programmes and funds, the Global Environment Facility and international financial and trade institutions, within their mandates, while stressing that their activities should take full account of national programmes and priorities, particularly those of developing countries, as well as, where appropriate, countries with economies in transition, to achieve sustainable development;
 - b. Strengthen collaboration within and between the United Nations system, international financial institutions, the Global Environment Facility and the World Trade Organization, utilizing the United Nations System Chief Executives Board for Coordination, the United Nations Development Group, the Environment Management Group and other inter-agency coordinating bodies. Strengthened interagency collaboration should be pursued in all relevant contexts, with special emphasis on the operational level and involving partnership arrangements on specific issues, to support, in particular, the efforts of developing countries in implementing Agenda 21;
 - c. Strengthen and better integrate the three dimensions of sustainable development policies and programmes and promote the full integration of sustainable development objectives into programmes and policies of bodies that have a primary focus on social issues. In particular, the social dimension of sustainable development should be strengthened, inter alia, by emphasizing follow-up to the outcomes of the World Summit for Social Development and its five-year review, and taking into account their reports, and by support to social protection systems;
 - d. Fully implement the outcomes of the decision on international environmental governance adopted by the Governing Council of the United Nations Environment Programme at its seventh special session⁴⁶ and

⁴⁵ References in the present chapter to Agenda 21 are deemed to include Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the Summit.

⁴⁶ UNEP/GCSS.VII/6, annex I.

invite the General Assembly at its fifty-seventh session to consider the important but complex issue of establishing universal membership for the Governing Council/Global Ministerial Environment Forum;

- e. Engage actively and constructively in ensuring the timely completion of the negotiations on a comprehensive United Nations convention against corruption, including the question of repatriation of funds illicitly acquired to countries of origin;
- f. Promote corporate responsibility and accountability and the exchange of best practices in the context of sustainable development, including, as appropriate, through multi-stakeholder dialogue, such as through the Commission on Sustainable Development, and other initiatives;
- g. Take concrete action to implement the Monterrey Consensus at all levels.

141. Good governance at the international level is fundamental for achieving sustainable development. In order to ensure a dynamic and enabling international economic environment, it is important to promote global economic governance through addressing the international finance, trade, technology and investment patterns that have an impact on the development prospects of developing countries. To this effect, the international community should take all necessary and appropriate measures, including ensuring support for structural and macroeconomic reform, a comprehensive solution to the external debt problem and increasing market access for developing countries. Efforts to reform the international financial architecture need to be sustained with greater transparency and the effective participation of developing countries in decision-making processes. A universal, rules-based, open, non-discriminatory and equitable multilateral trading system, as well as meaningful trade liberalization, can substantially stimulate development worldwide, benefiting countries at all stages of development.

142. A vibrant and effective United Nations system is fundamental to the promotion of international cooperation for sustainable development and to a global economic system that works for all. To this effect, a firm commitment to the ideals of the United Nations, the principles of international law and those enshrined in the Charter of the United Nations, as well as to strengthening the United Nations system and other multilateral institutions and promoting the improvement of their operations, is essential. States should also fulfil their commitment to negotiate and finalize as soon as possible a United Nations convention against corruption in all its aspects, including the question of repatriation of funds illicitly acquired to countries of origin and also to promoting stronger cooperation to eliminate money laundering.

C. Role of the General Assembly

143. The General Assembly of the United Nations should adopt sustainable development as a key element of the overarching framework for United Nations activities, particularly for achieving the internationally agreed development goals, including those contained in the Millennium Declaration, and should give overall political direction to the implementation of Agenda 21 and its review.

D. Role of the Economic and Social Council

144. Pursuant to the relevant provisions of the Charter of the United Nations, the provisions of Agenda 21 regarding the Economic and Social Council and General Assembly resolutions 48/162 and 50/227, which reaffirmed the Council as the central mechanism for the coordination of the United Nations system and its specialized agencies and supervision of subsidiary bodies, in particular its functional commissions, and to promote the implementation of Agenda 21 by strengthening system-wide coordination, the Council should:

- a. Increase its role in overseeing system-wide coordination and the balanced integration of economic, social and environmental aspects of United Nations policies and programmes aimed at promoting sustainable development;
- b. Organize periodic consideration of sustainable development themes in regard to the implementation of Agenda 21, including the means of implementation. Recommendations in regard to such themes could be made by the Commission on Sustainable Development;
- c. Make full use of its high-level, coordination, operational activities and the general segments to effectively take into account all relevant aspects of the work of the United Nations on sustainable development. In this context, the Council should encourage the active participation of major groups in its high-level segment and the work of its relevant functional commissions, in accordance with the respective rules of procedure;
- d. Promote greater coordination, complementarity, effectiveness and efficiency of activities of its functional commissions and other subsidiary bodies that are relevant to the implementation of Agenda 21;
- e. Terminate the work of the Committee on Energy and Natural Resources for Development and transfer its work to the Commission on Sustainable Development;
- f. Ensure that there is a close link between the role of the Council in the follow-up to the Summit and its role in the follow-up to the Monterrey Consensus, in a sustained and coordinated manner. To that end, the Council should explore ways to develop arrangements relating to its meetings with the Bretton Woods institutions and the World Trade Organization, as set out in the Monterrey Consensus;
- g. Intensify its efforts to ensure that gender mainstreaming is an integral part of its activities concerning the coordinated implementation of Agenda 21.

E. Role and function of the Commission on Sustainable Development

145. The Commission on Sustainable Development should continue to be the high level commission on sustainable development within the United Nations system and serve as a forum for consideration of issues related to integration of the three dimensions of sustainable development. Although the role, functions and mandate of the Commission as set out in relevant parts of Agenda 21 and adopted in General Assembly resolution 47/191 continue to be relevant, the Commission needs to be strengthened, taking into account the role of relevant institutions and organizations. An enhanced role of the Commission should include reviewing and monitoring progress in the implementation of Agenda 21 and fostering coherence of implementation, initiatives and partnerships.
146. Within that context, the Commission should place more emphasis on actions that enable implementation at all levels, including promoting and facilitating partnerships involving Governments, international organizations and relevant stakeholders for the implementation of Agenda 21.
147. The Commission should:
 - a. Review and evaluate progress and promote further implementation of Agenda 21;
 - b. Focus on the cross-sectoral aspects of specific sectoral issues and provide a forum for better integration of policies, including through interaction among Ministers dealing with the various dimensions and sectors of sustainable development through the high-level segments;
 - c. Address new challenges and opportunities related to the implementation of Agenda 21;
 - d. Focus on actions related to implementation of Agenda 21, limiting negotiations in the sessions of the Commission to every two years;
 - e. Limit the number of themes addressed in each session.
148. In relation to its role in facilitating implementation, the Commission should emphasize the following:
 - a. Review progress and promote the further implementation of Agenda 21. In this context, the Commission should identify constraints on implementation and make recommendations to overcome those constraints;
 - b. Serve as a focal point for the discussion of partnerships that promote sustainable development, including sharing lessons learned, progress made and best practices;
 - c. Review issues related to financial assistance and transfer of technology for sustainable development, as well as capacity-building, while making full use of existing information. In this regard, the Commission on Sustainable Development could give consideration to more effective use of national reports and regional experience and to this end make appropriate recommendations;
 - d. Provide a forum for analysis and exchange of experience on measures that assist sustainable development planning, decision-making and the implementation of sustainable development strategies. In this regard, the Commission could give consideration to more effective use of national and regional reports;
 - e. Take into account significant legal developments in the field of sustainable development, with due regard to the role of relevant intergovernmental bodies in promoting the implementation of Agenda 21 relating to international legal instruments and mechanisms.
149. With regard to the practical modalities and programme of work of the Commission, specific decisions on those issues should be taken by the Commission at its next session, when the Commission's thematic work programme will be elaborated. In particular, the following issues should be considered:
 - a. Giving a balanced consideration to implementation of all of the mandates of the Commission contained in General Assembly resolution 47/191;
 - b. Continuing to provide for more direct and substantive involvement of international organizations and major groups in the work of the Commission;
 - c. Give greater consideration to the scientific contributions to sustainable development through, for example, drawing on the scientific community and encouraging national, regional and international scientific networks to be involved in the Commission;
 - d. Furthering the contribution of educators to sustainable development, including, where appropriate, in the activities of the Commission;
 - e. The scheduling and duration of intersessional meetings.
150. Undertake further measures to promote best practices and lessons learned in sustainable development, and in addition promote the use of contemporary methods of data collection and dissemination, including broader use of information technologies.

F. Role of international institutions

151. Stress the need for international institutions both within and outside the United Nations system, including international financial institutions, the World Trade Organization and the Global Environment Facility, to enhance, within their mandates, their cooperative efforts to:
 - a. Promote effective and collective support to the implementation of Agenda 21 at all levels;

- b. Enhance the effectiveness and coordination of international institutions to implement Agenda 21, the outcomes of the World Summit on Sustainable Development, relevant sustainable development aspects of the Millennium Declaration, the Monterrey Consensus and the outcome of the Fourth Ministerial Meeting of the World Trade Organization, held in Doha in November 2001.
- 152. Request the Secretary-General of the United Nations, utilizing the United Nations System Chief Executives Board for Coordination, including through informal collaborative efforts, to further promote system-wide inter-agency cooperation and coordination on sustainable development, to take appropriate measures to facilitate exchange of information, and to continue to keep the Economic and Social Council and the Commission informed of actions being taken to implement Agenda 21.
- 153. Significantly strengthen support for the capacity-building programmes of the United Nations Development Programme for sustainable development, building on the experience gained from the Capacity 21 programme, as important mechanisms for supporting local and national development capacity-building efforts, in particular in developing countries.
- 154. Strengthen cooperation between the United Nations Environment Programme and other United Nations bodies and specialized agencies, the Bretton Woods institutions and the World Trade Organization, within their mandates.
- 155. The United Nations Environment Programme, the United Nations Centre for Human Settlements, the United Nations Development Programme and the United Nations Conference on Trade and Development, within their mandates, should strengthen their contribution to sustainable development programmes and the implementation of Agenda 21 at all levels, particularly in the area of promoting capacity-building.
- 156. To promote effective implementation of Agenda 21 at the international level, the following should also be undertaken:
 - a. Streamline the international sustainable development meeting calendar and, as appropriate, reduce the number of meetings, the length of meetings and the amount of time spent on negotiated outcomes in favour of more time spent on practical matters related to implementation;
 - b. Encourage partnership initiatives for implementation by all relevant actors to support the outcome of the World Summit on Sustainable Development. In this context, further development of partnerships and partnership follow-up should take note of the preparatory work for the Summit;
 - c. Make full use of developments in the field of information and communication technologies.
- 157. Strengthening of the international institutional framework for sustainable development is an evolutionary process. It is necessary to keep relevant arrangements under review; identify gaps; eliminate duplication of functions; and continue to strive for greater integration, efficiency and coordination of the economic, social and environmental dimensions of sustainable development aiming at the implementation of Agenda 21.

G. Strengthening institutional arrangements for sustainable development at the regional level

- 158. Implementation of Agenda 21 and the outcomes of the Summit should be effectively pursued at the regional and subregional levels, through the regional commissions and other regional and subregional institutions and bodies.
- 159. Intraregional coordination and cooperation on sustainable development should be improved among the regional commissions, United Nations Funds, programmes and agencies, regional development banks and other regional and subregional institutions and bodies. This should include, as appropriate, support for development, enhancement and implementation of agreed regional sustainable development strategies and action plans, reflecting national and regional priorities.
- 160. In particular, taking into account relevant provisions of Agenda 21, the regional commissions, in collaboration with other regional and subregional bodies, should:
 - a. Promote the integration of the three dimensions of sustainable development into their work in a balanced way, including through implementation of Agenda 21. To this end, the regional commissions should enhance their capacity through internal action and be provided, as appropriate, with external support;
 - b. Facilitate and promote a balanced integration of the economic, social and environmental dimensions of sustainable development into the work of regional, subregional and other bodies, for example by facilitating and strengthening the exchange of experiences, including national experience, best practices, case studies and partnership experience related to the implementation of Agenda 21;
 - c. Assist in the mobilization of technical and financial assistance, and facilitate the provision of adequate financing for the implementation of regionally and subregionally agreed sustainable development programmes and projects, including addressing the objective of poverty eradication;
 - d. Continue to promote multi-stakeholder participation and encourage partnerships to support the implementation of Agenda 21 at the regional and subregional levels.
- 161. Regionally and subregionally agreed sustainable development initiatives and programmes, such as the New Partnership for Africa's Development (NEPAD) and the interregional aspects of the globally agreed Programme of Action for the Sustainable Development of Small Island Developing States, should be supported.

H. Strengthening institutional frameworks for sustainable development at the national level

162. States should:

- a. Continue to promote coherent and coordinated approaches to institutional frameworks for sustainable development at all national levels, including through, as appropriate, the establishment or strengthening of existing authorities and mechanisms necessary for policy-making, coordination and implementation and enforcement of laws;
- b. Take immediate steps to make progress in the formulation and elaboration of national strategies for sustainable development and begin their implementation by 2005. To this end, as appropriate, strategies should be supported through international cooperation, taking into account the special needs of developing countries, in particular the least developed countries. Such strategies, which, where applicable, could be formulated as poverty reduction strategies that integrate economic, social and environmental aspects of sustainable development, should be pursued in accordance with each country's national priorities.

163. Each country has the primary responsibility for its own sustainable development, and the role of national policies and development strategies cannot be overemphasized. All countries should promote sustainable development at the national level by, inter alia, enacting and enforcing clear and effective laws that support sustainable development. All countries should strengthen governmental institutions, including by providing necessary infrastructure and by promoting transparency, accountability and fair administrative and judicial institutions.

164. All countries should also promote public participation, including through measures that provide access to information regarding legislation, regulations, activities, policies and programmes. They should also foster full public participation in sustainable development policy formulation and implementation. Women should be able to participate fully and equally in policy formulation and decision-making.

165. Further promote the establishment or enhancement of sustainable development councils and/or coordination structures at the national level, including at the local level, in order to provide a high-level focus on sustainable development policies. In that context, multi-stakeholder participation should be promoted.

166. Support efforts by all countries, particularly developing countries, as well as countries with economies in transition, to enhance national institutional arrangements for sustainable development, including at the local level. That could include promoting cross-sectoral approaches in the formulation of strategies and plans for sustainable development, such as, where applicable, poverty reduction strategies, aid coordination, encouraging participatory approaches and enhancing policy analysis, management capacity and implementation capacity, including mainstreaming a gender perspective in all those activities.

167. Enhance the role and capacity of local authorities as well as stakeholders in implementing Agenda 21 and the outcomes of the Summit and in strengthening the continuing support for local Agenda 21 programmes and associated initiatives and partnerships and encourage, in particular, partnerships among and between local authorities and other levels of government and stakeholders to advance sustainable development as called for in, inter alia, the Habitat Agenda.⁴⁷

I. Participation of major groups

168. Enhance partnerships between governmental and non-governmental actors, including all major groups, as well as volunteer groups, on programmes and activities for the achievement of sustainable development at all levels.

169. Acknowledge the consideration being given to the possible relationship between environment and human rights, including the right to development, with full and transparent participation of Member States of the United Nations and observer States.

170. Promote and support youth participation in programmes and activities relating to sustainable development through, for example, supporting local youth councils or their equivalent, and by encouraging their establishment where they do not exist.

Resolution 3* Expression of thanks to the people and Government of South Africa

The World Summit on Sustainable Development,

HAVING MET in Johannesburg, South Africa, from 26 August to 4 September 2002, at the invitation of the Government of South Africa,

1. EXPRESSES ITS DEEP APPRECIATION to His Excellency Thabo Mbeki, President of South Africa, for his outstanding contribution, as President of the World Summit on Sustainable Development, to the successful outcome of the Summit;
2. EXPRESSES ITS PROFOUND GRATITUDE to the Government of South Africa for having made it possible for the Summit to be held in South Africa and for the excellent facilities, staff and services so graciously placed at its disposal;

47 A/CONF.165/14, chap. I, resolution 1, annex II.

3. REQUESTS the Government of South Africa to convey to the city of Johannesburg and to the people of South Africa the gratitude of the Summit for the hospitality and warm welcome extended to the participants.

Resolution 4 Credentials of representatives to the World Summit on Sustainable Development**

The World Summit on Sustainable Development,

HAVING CONSIDERED the report of the Credentials Committee¹ and the recommendation contained therein,

APPROVES the report of the Credentials Committee.

* Adopted at the 17th plenary meeting, on 4 September 2002, for the discussion see chap. XII.

** Adopted at the 17th plenary meeting, on 4 September 2002, for the discussion see chap. X.

1 A/CONF.199/15.

World Health Organisation, Codes on Industrial and Environmental Safety and Hygiene

Numerous WHO codes exist which have an impact – directly or indirectly - on the working environment. The APRM documents do not specify which of these are applicable. Those wishing to investigate this issue should visit the WHO's website at www.who.int.

African Peer Review Mechanism (APRM) assessments are guided by an extensive list of African and international governance standards. The standards in this collection are organised by issuing agency. To assist with research, the standards are also indexed according to key concepts in the APRM Questionnaire.

This volume has been produced by the Governance and APRM Programme of the South African Institute of International Affairs (SAIIA). In operation since 2002, the programme provides training, facilitation and research to assist civil society and governments. The project's goal is to assist African institutions in understanding and participating in APRM to help maximise its impact on economic development, political freedom and good governance.

For further information, assistance in training or research material please contact:

Ross Herbert
Project Manager Governance and APRM Programme
Ross.Herbert@wits.ac.za

or

Steven Gruzd
Deputy Project Manager Governance and APRM Programme
Steven.Gruzd@wits.ac.za

The South African Institute of International Affairs

PO Box 31596, Braamfontein
2017 South Africa
Tel: (27-11) 339 2021
Fax: (27-11) 339 2154
Website: www.saiia.org.za



**This publication and the SAIIA
Governance and APRM Programme are
funded by the Royal Netherlands
Embassy in South Africa.**

ISBN 1-919969-12-8

