

## รายการอ้างอิง



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ภาคผนวก

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

## ภาคผนวก 1

Checklist - Matters to be considered when negotiation on Access to Genetic Resources

## A : General Clause

## 1. Capacity of Parties

- character [corporation , partnership , etc]
- a number of shareholding
- place of registration

## 2. Type of licensee to be operated

- tradename of licensee
- location of headquarters, and national office
- activity to be operated [nature of business]
- purpose of access requisition

## 3. Description of operation

- scope of operation
- location of operation

## 4. Duration of term of agreement

- date of commencement
- date of expiration

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**B : Condition on Access to Genetic Resources**

1. List of authorized genetic resources and species to be collected
2. Method for collecting sampling resource [technology lists and explanation]
  - exploration , survey , inventory , collection
  - storage
  - transportation fo headquarter,laboratory
3. Genetic resources and species under the list of the agreement [Duty to inform the government of the result of exploration]
4. List of accidental found additional genetic resources
  - under custody of licensor
  - out of custody of licensor
5. Restriction of utilization [limited the activities]

**C : Construction & Maintenance of research premises**

1. Constructional licensing premises clause
  - type of construction [size,material,equipment]
  - purpose of each room and type of equipment
  - method of construction
2. Right of licensor to inspect licensing research premises during the period of the license
3. Right of licensee and its employees to ingress and egress over licensed land ;
  - including its customers and others
  - restriction of ingression and egression
    - \*time
    - \*vehicle

\*others which will be effected other natural resources

4. Right of licensee to regulate ingress and egress by others
5. Liability of licensee for damage cause to premises and land by employed another authorised person
6. Right of licensor to designate time of access to land by license employees , and other authorized person
7. Assignment of research premises by licensee to licensor at expiration of licensing period
8. Responsibility of licensee to pay for maintenance during the licensing period
9. Duty of licensor to maintain the premises after expiration of licensing period
10. Alteration of premises
  - consented by both parties

#### **D : Equipment clause**

1. List of equipment to be provided
  - by licensor
  - by licensee
  - by third parties
2. Right of each party to approve equipment provided by the other party
3. Right of both parties to approve equipment provided by the third parties
4. Right of each party to remove its equipment on the termination of agreement



5. Right to removal the third parties' equipment on termination agreement
6. Responsibility for maintenance of equipment during the licensing period and after expiration of licensing period

#### **E : Arrangement condition**

1. Compliance by licensee with all applicable laws
2. Obtaining necessary licenses and permits by licensor to operate the business
3. Office hours
4. Employee of licensee
  - the number of Thais technicians
  - the number of local people
  - categories of employment [group of staff]
  - safety precautionary working measure
  - remuneration
5. Duty of licensee to provide the the licensor with monthly and annual operational report
6. Right of licensor to inspect feild operation and laboratory research
7. Arrangement for lighting, water, other facilities on licensing premises

#### **F : Environmental responsibility of licensee**

1. Duty of licensee to protect land and premises
  - erosion
  - pollution
  - ecological degradation

- surface
2. List of natural resources deem vulnerable under the agreement
  3. Type of environmental damage envisage
    - kind of damage
    - ways to recover such damage
  4. Environmental Impact Assessment procedure required by MSTE
  5. Payment of monetary copensation
    - to licensor
    - to person injured
    - to person with legal interested in damaged land and resources
  6. Responsibility of licensee for rehabilitation of damaged environment
  7. Liability for environmental damage
    - criminal liability according to legislation
      - \* strict liability for directors and officers
      - \* strict liability for business entity
    - administrative liability according to legislation
      - \* cancellation of other permits
    - sanctionary terms
      - \* termination of agreement
      - \* cancellation of license

#### **G : Financial Arrangement**

1. Licensing fee [lease interesrs]
  - term of payment
    - \* monthly fee

- \* percentage of gross receipts
  - \* lump-sum
  - time and frequency of payment
2. Royalties on agreed genetic resources
- term of payment
    - \* monthly fee
    - \* percentage of gross receipts
    - \* lump-sum
  - time and frequency of payment
3. Royalties on other agreed genetic resources discovered accidentally
- term of payment
    - \* monthly fee
    - \* percentage of gross receipts
    - \* lump-sum
  - times and frequency of payment
4. Accounting system to be used
- type
  - monthly and annual accounting report
  - right of licensor to inspect balance sheet, profit and lost statement and other financial record
  - right of licensor to examine tax statement of licensee concerning the business under licensing agreement
  - duty of licensee to disclose licensor method of financing business on the license
5. Security deposit to secure faithful performance
6. Payment of taxes
7. Duty of licensee to provide the adequate insured coverage

- scope of coverage
  - \*comprehensive liability and property damage
  - \*fire
  - \*workers' compensation and employer's liability insurance
- endorsement that policies are primary for the benefit of licensor
- endorsement that policies will not be cancelled without prior notice to licensor

#### H : Miscellaneous

1. Right of licensor to appoint agent
2. Appointment of licensee's agent subject to prior consent of licensor
3. Restriction on the assignment of licensee's rights
4. Right of licensee to terminate the agreement
5. Option to renew before expiration of agreement
6. Effect of holding over by licensee
7. Modification of agreement
8. Duty to give notice ; method and necessity of giving notice
9. Right of licensor on default by licensee
  - termination of agreement
  - forfeiture of security deposit
  - right to re-enter licensing agreement
10. Interpretation of agreement



11. Choice of law to govern transaction

12. Dispute resolution procedure



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย


**CONVENTION ON BIOLOGICAL  
DIVERSITY,**

**JUNE 1992**



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

UNITED NATIONS ENVIRONMENT PROGRAMME



CONVENTION ON BIOLOGICAL DIVERSITY

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

ENVIRONMENTAL LAW AND INSTITUTIONS PROGRAMME ACTIVITY CENTRE

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ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย



NAIROBI FINAL ACT OF THE CONFERENCE FOR THE ADOPTION OF  
THE AGREED TEXT OF THE CONVENTION ON  
BIOLOGICAL DIVERSITY

1. The Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity was convened by the Executive Director of the United Nations Environment Programme (UNEP) pursuant to decision 15/34, adopted by the Governing Council of UNEP on 25 May 1989, which, *inter alia*:

"6. Authorizes the Executive Director, on the basis of the final report of the Ad Hoc Working Group of Legal and Technical Experts, to convene, in consultation with Governments and within available resources, an ad hoc working group of legal and technical experts with a mandate to negotiate an international legal instrument for the conservation of the biological diversity of the planet;

"...

"8. Requests the Executive Director, subject to the availability of resources, to expedite the work of the ad hoc working groups as a matter of urgency with the aim of having the proposed new international legal instrument ready for adoption as soon as possible;"

2. The Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity met at UNEP Headquarters, Nairobi, at the kind invitation of the Government of Kenya on 22 May 1992.

3. All States were invited to participate in the Conference. The following States accepted the invitation and participated in the Conference:

Algeria, Argentina, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Bhutan, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Comoros, Congo, Costa Rica, Cote D'Ivoire, Cuba, Czechoslovakia, Denmark, Djibouti, Ecuador, Egypt, Equatorial Guinea, Ethiopia, Finland, France, Gambia, Germany, Ghana, Greece, Guinea, Guinea-Bissau, Guyana, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Jordan, Kenya, Lesotho, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Malta, Mauritius, Mexico, Morocco, Mongolia, Mozambique, Myanmar, Netherlands, New Zealand, Niger, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Thailand, Turkey, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Yemen, Yugoslavia, Zaire, Zambia and Zimbabwe.

4. The European Economic Community also participated.

5. Observers from the following United Nations bodies, specialized agencies, intergovernmental and non-governmental organizations also attended the Conference:

Secretariat of the United Nations Conference on Environment and Development (UNCED), United Nations Environment Programme/CMS Secretariat, United Nations Sudano-Sahelian Office (UNSO), United Nations Centre for Human Settlements (Habitat), Food and Agriculture Organization

/...



of the United Nations (FAO), United Nations Educational Scientific and Cultural Organization (UNESCO), World Bank, International Board for Plant Genetic Resources (IBPGR), Regional Gene Bank of the Southern African Development Coordination Conference (SADCC), African Centre for Technology Studies (ACTS), Asian-African Legal Consultative Committee (AALCC), Defenders of Wildlife, Environmental Liaison Centre International (ELCI), Friends World Committee for Consultation (QUAKERS), Greenpeace International, International Organization of Consumers Unions (IOCU), South Pacific Regional Environment Programme, World Conservation Monitoring Centre, World Conservation Union (IUCN), World Resources Institute (WRI) and World-Wide Fund for Nature (WWF).

6. The Conference had been preceded by three meetings of technical experts and seven negotiating sessions, held between November 1988 and May 1992. Pursuant to Governing Council decision 14/26 of 17 June 1987, the Ad Hoc Working Group of Experts on Biological Diversity was established and held three sessions between November 1988 and July 1990. On the basis of the final report of the Ad Hoc Working Group of Experts, the Governing Council, pursuant to decision 15/34 of 25 May 1989, established the Ad Hoc Working Group of Legal and Technical Experts, with a mandate to negotiate an international legal instrument for the conservation and rational use of biological diversity. The Ad Hoc Working Group held two negotiating sessions in Nairobi in November 1990 and in February/March 1991. By decision 16/42 of 31 May 1991, the Governing Council of UNEP renamed the Ad Hoc Working Group of Legal and Technical Experts on Biological Diversity the "Intergovernmental Negotiating Committee (INC) for a Convention on Biological Diversity", which held the following meetings: the third negotiating session/first session of INC in Madrid, Spain, from 24 June to 3 July 1991; the fourth negotiating session/second session of INC in Nairobi, Kenya, from 23 September to 2 October 1991; the fifth negotiating session/third session of INC in Geneva, Switzerland, from 25 November to 4 December 1991; the sixth negotiating session/fourth session of INC in Nairobi, Kenya, from 6 to 15 February 1992; and the final negotiating session in Nairobi, Kenya, from 11 to 22 May 1992.

7. The Conference was formally opened by Dr. Mostafa K. Tolba, the Executive Director of UNEP. In the course of the Conference, statements were made by Central African Republic, Uruguay, Nigeria, United Republic of Tanzania, Malaysia, Norway (on behalf of the Nordic countries), Sweden, Uganda, Germany, Indonesia, Spain, Ethiopia, Venezuela, Guinea-Bissau, Lesotho, Burundi, Portugal (on behalf of the European Community and its member States), Colombia, Costa Rica, Algeria, Denmark, Russian Federation (on behalf of the Group of Eastern European States), Ghana, Kenya, the Food and Agriculture Organization of the United Nations, and the World Conservation Union.

8. Dr. Mostafa K. Tolba served as Secretary-General of the Conference and Ms. Iwona Rummel-Bulska (UNEP) served as Executive Secretary.

9. The Bureau of the INC continued as the Bureau of the Conference and comprised the following members:

Chairman:	H.E. Mr. V. Sanchez	(Chile)
Vice-Chairmen:	Mr. V. Koester	(Denmark)
	Mr. J. Muliro	(Kenya)
	Mr. G. Zavarzin	(Russian Federation)
Rapporteur:	Mr. J. Hussain	(Pakistan)

/...

10. The Conference adopted the following agenda:

1. Opening of the Conference.
2. Bureau of the Conference.
3. Adoption of the agenda.
4. Organization of the work of the Conference.
5. Credentials of representatives:
  - (a) Appointment of the Credentials Committee;
  - (b) Report of the Credentials Committee.
6. Adoption of the agreed text of the Convention.
7. Adoption of resolutions.
8. Adoption of the Final Act of the Conference.
9. Signature of Final Act.
10. Closure of the Conference.

11. The Conference decided that the rules of procedure adopted by the Ad Hoc Working Group of Legal and Technical Experts at its session from 25 February to 6 March 1991 (UNEP/Bio.Div/WG.2/2/5) would apply *mutatis mutandis* for the work of the Conference.

12. The Conference decided that its Bureau would execute the functions of the Credentials Committee.

13. The main document which was before the Conference for adoption was the draft Convention on Biological Diversity (UNEP/Bio.Div/CONF/L.2).

14. In addition, the Conference had before it a number of draft resolutions for its consideration and adoption.

15. The Conference approved the recommendation of its Credentials Committee that the credentials of the representatives of the participating States as listed in paragraph 3 should be recognized as being in order.

16. The Conference, on 22 May 1992, adopted the agreed text of the Convention on Biological Diversity. The Convention, which is appended to this Final Act, will be open for signature during the Plenipotentiary Conference on the Convention on Biological Diversity, convened at the time of the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, on 5 June 1992 and will remain open for signature at Rio de Janeiro from 5 June 1992 to 14 June 1992, and at United Nations Headquarters in New York from 15 June 1992 to 4 June 1993.

17. The Conference also adopted four resolutions, the texts of which are attached to this Final Act.

18. At the time of the adoption of this Final Act, several States made declarations, the texts of which are attached to this Final Act.

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IN WITNESS WHEREOF the representatives have signed this Final Act.

DONE in Nairobi this twenty-second day of May one thousand nine hundred and ninety-two in one original in the Arabic, Chinese, English, French, Russian and Spanish languages, each language version being equally authentic. The original text will be deposited with the Secretary-General of the United Nations.



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย



RESOLUTIONS ADOPTED BY THE CONFERENCE FOR THE ADOPTION OF  
THE AGREED TEXT OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Resolution 1

INTERIM FINANCIAL ARRANGEMENTS

*The Conference,*

*Having agreed upon and adopted the text of the Convention on Biological Diversity at Nairobi on 22 May 1992,*

*Considering that preparations should be made during the period between the opening of the Convention for signature and its entry into force for early and effective implementation of the relevant provisions of the Convention once it has entered into force,*

*Noting that financial support and a financial mechanism during the period between opening of the Convention for signature and its entry into force are necessary for the early and effective operation of the Convention,*

1. *Invites the Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development to undertake the operation of the financial mechanism in accordance with Article 21 on an interim basis for the period between the opening of the Convention for signature and its entry into force and, for the purposes of Article 39, until the first meeting of the Conference of the Parties to the Convention;*

2. *Calls upon the United Nations Development Programme, the International Bank for Reconstruction and Development, the regional development banks, the United Nations Environment Programme and other United Nations bodies and agencies such as the Food and Agriculture Organization of the United Nations and the United Nations Educational, Scientific and Cultural Organization to provide financial and other resources for the provisional implementation of the Convention on Biological Diversity on an interim basis for the period between the opening of the Convention for signature and its entry into force and for the purposes of Article 39, until the first meeting of the Conference of the Parties.*

*Adopted on 22 May 1992*

Resolution 2

INTERNATIONAL COOPERATION FOR THE CONSERVATION OF  
BIOLOGICAL DIVERSITY AND THE SUSTAINABLE USE OF  
ITS COMPONENTS PENDING THE ENTRY INTO FORCE OF  
THE CONVENTION ON BIOLOGICAL DIVERSITY

*The Conference,*

*Having agreed upon and adopted the text of the Convention on Biological Diversity at Nairobi on 22 May 1992,*

*Noting that preparations are required for an early and effective operation of the Convention once it has entered into force,*

*Noting further that, in the interim arrangements, involvement in the negotiations of all Governments, particularly those that participated in the Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity, is desirable,*

*Noting with appreciation the work so far undertaken under the auspices of the United Nations Environment Programme in the first set of country studies conducted with national, bilateral and multilateral support,*

*Recognizing the ongoing joint programmes of the United Nations Environment Programme and other organizations that have mobilized the involvement, in each region, of all sectors to explore options for the conservation of biological diversity and the sustainable use of its components,*

*Further recognizing that the preparation of biological diversity country studies is the first systematic attempt to assist countries in establishing baseline information on their biological diversity and is the basis for national action programmes on conservation of biological diversity and the sustainable use of its components,*

1. *Calls upon* all States and regional economic integration organizations entitled to consider signing the Convention during the United Nations Conference on Environment and Development in Rio de Janeiro or at the earliest subsequent opportunity and thereafter to consider the ratification, acceptance, approval of or accession to the Convention;
2. *Invites* the Governing Council of the United Nations Environment Programme to consider requesting the Executive Director of the Programme to convene meetings of an Intergovernmental Committee on the Convention on Biological Diversity starting in 1993, to consider the following issues:
  - (a) *Assistance to Governments, upon request, in further work in the preparation of country studies in recognition of their importance in the development of their national biological diversity strategy and action plans, inter alia:*
    - (i) *To identify components of biological diversity of importance for its conservation and the sustainable use of its components including the collection and evaluation of data needed for effective monitoring of those components;*
    - (ii) *To identify processes and activities which have or are likely to have an adverse impact on biological diversity;*

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- (iii) To evaluate the potential economic implications of the conservation of biological diversity and the sustainable use of biological and genetic resources and to ascribe values to biological and genetic resources;
  - (iv) To suggest priority action for the conservation of biological diversity and the sustainable use of its components;
  - (v) To review and, where appropriate, suggest revision of the draft guidelines for country studies on biological diversity;
  - (vi) To identify modalities for providing support to countries, in particular developing countries, undertaking studies;
- (b) Organization of the preparation of an agenda for scientific and technological research on conservation of biological diversity and the sustainable use of its components, including possible institutional arrangements *ad interim* for scientific cooperation among Governments for the early implementation of the provisions of the Convention on Biological Diversity before it has entered into force;
- (c) Consideration of the need for and modalities of a protocol setting out appropriate procedures including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity;
- (d) Modalities for the transfer of technologies, in particular to developing countries, relevant to the conservation of biological diversity and the sustainable use of its components, as well as technical cooperation in support of national capacity-building in those areas;
- (e) Provision of policy guidance to the institutional structure invited to undertake the operation of the financial mechanism in accordance with Article 21 of the Convention on an interim basis for the period between the opening of the Convention for signature and its entry into force;
- (f) Modalities for bringing into early effect the provisions of Article 21;
- (g) Development of the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources, including monitoring and evaluation on a regular basis of such utilization;
- (h) Financial implications of and relevant arrangements in support of international cooperative action before the entry into force of the Convention, including voluntary contributions in cash and kind required for the operation of an interim secretariat and the meetings of the Intergovernmental Committee on the Convention on Biological Diversity;
- (i) Other preparations for the first meeting of the Conference of the Parties to the Convention;

3. Further requests the Executive Director of the United Nations Environment Programme to provide the secretariat on an interim basis until the Convention has entered into force and also requests the Executive Director to seek the full and active involvement of the Food and Agriculture Organization of the United Nations and the United Nations Educational, Scientific and Cultural Organization in the establishment and operations of the Interim Secretariat, as well as full cooperation with the secretariats of relevant conventions and

agreements and the Consultative Group on International Agricultural Research, the World Conservation Union and other relevant international organizations, taking into account relevant decisions of the United Nations Conference on Environment and Development.

4. *Invites* the Food and Agriculture Organization of the United Nations and the United Nations Educational, Scientific and Cultural Organization to provide full support to the establishment and operations of the interim secretariat;
5. *Also requests* the Executive Director of the United Nations Environment Programme to contribute to the financing of the costs of the preparations for and the holding of the meetings, subject to the availability of resources in the Environment Fund;
6. *Invites* Governments to contribute generously to the functioning of the interim secretariat and the successful conduct of the meetings of the Intergovernmental Committee on the Convention on Biological Diversity and to assist financially with a view to ensuring full and effective participation of developing countries;
7. *Further invites* Governments to inform the meetings of national action taken for the conservation of biological diversity and the sustainable use of its components consistent with the provisions of the Convention and pending its entry into force;
8. *Also invites* the secretariats of major international and regional environmental conventions, agreements and organizations to provide information to the Intergovernmental Committee on their activities, and the Secretary-General of the United Nations to provide the relevant sections of Agenda 21 that will be adopted at the United Nations Conference on Environment and Development in Rio de Janeiro.

Adopted on 22 May 1992

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย





Resolution 3

THE INTERRELATIONSHIP BETWEEN THE CONVENTION ON BIOLOGICAL DIVERSITY  
AND THE PROMOTION OF SUSTAINABLE AGRICULTURE

*The Conference,*

Having agreed upon and adopted the text of the Convention on Biological Diversity at Nairobi on 22 May 1992,

Recognizing the basic and continuing needs for sufficient food, shelter, clothing, fuel, ornamental plants and medicinal products for peoples of the world,

Emphasizing that the Convention on Biological Diversity stresses the conservation and sustainable use of biological resources,

Recognizing the benefits from the care and improvement by the peoples of the world of animal, plant and microbial genetic resources to supply those basic needs and from the institutional research on and development of those genetic resources,

Recalling that broadly-based consultations in international organizations and forums have studied, debated and achieved consensus on urgent action for the security and sustainable use of plant genetic resources for food and agriculture,

Noting that the Preparatory Committee of the United Nations Conference on Environment and Development has recommended that policies and programmes of priority for *in-situ*, on-farm and *ex-situ* conservation and sustainable use of plant genetic resources for food and sustainable agriculture, integrated into strategies and programmes for sustainable agriculture, should be adopted not later than the year 2000 and that such national action should include *inter alia*:

- (a) Preparation of plans or programmes of priority action on conservation and sustainable use of plant genetic resources for food and sustainable agriculture based, as appropriate, on country studies on plant genetic resources for food and sustainable agriculture;
- (b) Promotion of crop diversification in agricultural systems where appropriate, including new plants with potential value as food crops;
- (c) Promotion of utilization of, as well as research on, poorly known but potentially useful plants and crops, where appropriate;
- (d) Strengthening of national capabilities for utilization of plant genetic resources for food and sustainable agriculture, plant breeding and seed production capabilities, both by specialized institutions and farmers' communities;
- (e) The completion of the first regeneration and safe duplication of existing *ex-situ* collections on a world-wide basis as soon as possible; and
- (f) The establishment of *ex-situ* base collection networks,

/...

Noting further that the Preparatory Committee for the United Nations Conference on Environment and Development has recommended:

(a) The strengthening of the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture operated by the Food and Agriculture Organization of the United Nations in close cooperation with the International Board for Plant Genetic Resources, the Consultative Group on International Agricultural Research and other relevant organizations;

(b) The promotion of the Fourth International Technical Conference on the Conservation and Sustainable use of Plant Genetic Resources for Food and Sustainable Agriculture in 1994 to adopt the first State-of-the-World Report and the first Global Plan of Action on the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture; and

(c) The adjustment of the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture in line with the outcome of the negotiations on a Convention on Biological Diversity,

Recalling the agreement in the Preparatory Committee for the United Nations Conference on Environment and Development on provisions regarding conservation and utilization of animal genetic resources for sustainable agriculture,

1. Confirms the great importance of the provisions of the Convention on Biological Diversity for the conservation and utilization of genetic resources for food and agriculture;
2. Urges that ways and means should be explored to develop complementarity and cooperation between the Convention on Biological Diversity and the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture;
3. Recognizes the need for the provision of support to the implementation of all activities agreed upon in the programme area on conservation and sustainable utilization of plant genetic resources for food and sustainable agriculture and in the programme area on conservation and utilization of animal genetic resources for sustainable agriculture in the Agenda 21 proposed to be adopted at the United Nations Conference on Environment and Development in Rio de Janeiro;
4. Further recognizes the need to seek solutions to outstanding matters concerning plant genetic resources within the Global System for the Conservation and Sustainable Use of Plant Genetic Resources for Food and Sustainable Agriculture, in particular:

(a) Access to ex-situ collections not acquired in accordance with this Convention; and

(b) The question of farmers' rights.

Adopted on 22 May 1992

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Resolution 4

TRIBUTE TO THE GOVERNMENT OF THE REPUBLIC OF KENYA

*The Conference,*

*Having met in Nairobi on 22 May 1992 at the gracious invitation of the Government of the Republic of Kenya,*

*Deeply appreciative of the courtesy and hospitality extended by the Government of the Republic of Kenya and the City of Nairobi to the members of the delegations, observers and the secretariat attending the Conference,*

- 1. Expresses its sincere gratitude to the Government of the Republic of Kenya, to the authorities of the City of Nairobi and, through them, to the Kenyan people for the cordial welcome which they accorded to the Conference and to those associated with its work and for their contribution to the success of the Conference;*
- 2. Decides, as a further sign of appreciation, to call the Final Act of the Conference the "Nairobi Final Act".*

*Adopted on 22 May 1992*

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

DECLARATIONS MADE AT THE TIME OF ADOPTION OF THE  
AGREED TEXT OF THE CONVENTION ON BIOLOGICAL  
DIVERSITY

*Declaration of Algeria and Niger*

1. The Saharo-Sahelian region hosts several species of wild animals. Currently, there is little information and knowledge on the status and distribution of these rare and endangered species.
2. Some of these species such as the addax, the algazel oryx, the maned moufflon, the dam gazelle and the slender-horned gazelle are considered to be disappearing.
3. In this light, it appears necessary to take an initiative to protect them.
4. With this in mind, Algeria and the Niger are proposing to hold a seminar on the protection of Saharo-Sahelian fauna with a view to considering the possibility of adopting a protocol on the subject.
5. The countries that may be interested are those that share the arid and semi-arid areas of West and North Africa.
6. This protocol of agreement would be of great importance for the conservation of biological diversity and could offer prospects for cooperation among the States concerned through regional projects.

*Declaration of Australia, Austria, Belgium, Canada, Denmark, Finland,  
France, Germany, Greece, Italy, Japan, Malta, Netherlands,  
New Zealand, Portugal, Spain, Switzerland, United Kingdom,  
and United States*

Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Italy, Japan, Malta, Netherlands, New Zealand, Portugal, Spain, Switzerland, the United Kingdom and the United States of America state their understanding that the decision to be taken by the Conference of the Parties under Article 21, paragraph 1, of the Convention refers to the "amount of resources needed" by the financial mechanism, not to the extent or nature and form of the contributions of the Contracting Parties.

*Declaration of Chile*

The delegation of Chile wishes to state that its agreement to Article 22, on the relationship with other international conventions, was based on a desire not to block the existing consensus, although it would have preferred that the Article did not appear in this Convention. The Government of Chile hopes that the content and scope of this Article will be thoroughly studied within the framework of the Conference of the Parties.



*Declaration of Colombia*

1 A thorough review of the text we are adopting today by a consensus to which Colombia was party reveals areas on which we must confirm and specify our position, with a view to strengthening the Convention in the near future and making it more useful with respect to the concerns of developing countries such as our own.

2. First, with respect to the principle laid down in the third article of the Convention, our country shares its spirit but interprets the text to mean that no country shall be responsible for activities carried out beyond the control of its Government, within its national jurisdiction, which cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

3. Secondly, our country welcomes the full recognition within the Convention of the knowledge, innovations and practices of indigenous communities, but considers that such communities must be fully guaranteed participation in the benefits arising from the use of such knowledge, innovations and practices and not only that such participation should be encouraged, as the text of Convention rather weakly states. We therefore believe a future instrument under the Convention should endeavour to improve on this point.

4. Furthermore, Colombia questions the inclusion in the Convention of an article laying down the relationship with other international treaties, since this matter falls under the Vienna Convention on the Law of Treaties and also because the Article refers to another legal instrument that has still not entered into force.

*Declaration of Denmark, Finland, Sweden and Norway*

1. The Nordic countries stress that concept and idea of national action plans for the conservation and sustainable use of biological diversity is an important implementation tool to fulfil the obligations under the Convention. Without strong national commitments, the Convention will not achieve its objectives.

2. The Nordic countries would also like to stress the special obligations of developed countries to contribute financially and technologically to enable developing countries to fulfil their obligations under the Convention. The highly different socio-economic conditions and the enormous differences in the amount of biological diversity found in various countries, must be taken into account. A fair international burden sharing according to each country's means and needs is therefore absolutely crucial for the ultimate achievement of the objectives of the Convention.

3. The Nordic countries will continue full participation in and contribution to the work for conservation and sustainable use of biological diversity worldwide. The Nordic countries urge all countries of the world to sign the Convention in Rio de Janeiro and to ratify it as soon as possible.



*Declaration of France*

1. France expected practical and sound provisions to strengthen the conservation of biodiversity. Such provisions are few and too vague. In this respect, it seemed to stand to reason to include a provision existing in several conventions (World Heritage and Biosphere Reserve of Unesco, Ramsar, CITES) in a convention on biological diversity: we refer to global lists. France regrets that the manner in which the text of the Convention was adopted did not allow it to make a compromise proposal on the question of the global approach to biological diversity.
2. The difference of outlook on the part of some delegations towards a provision that France regarded as essential, together with the way in which the text of the Convention under-values the scientific approach, force France to refrain from initialling the Final Act of the Conference.

*Declaration of India*

1. The Government of India is of the view that the issue of liability and compensation for damage to biological diversity, referred to in Article 14, paragraph 2, of the Convention, is not a priority area of work to be addressed by the Conference of the Parties. There is lack of clarity as regards the subject matter and the scope of the studies referred to in that Article. It also believes that the focus of the studies referred to and relating to liability and compensation should be on subjects such as biotechnology products, the environmental impacts or effects of genetically modified organisms, and acid rain.
2. As regards Article 22, paragraph 1, of the Convention, it is the clear understanding of the Government of India that the reference to "any existing international agreement" means "any existing international agreement compatible with the conservation and sustainable use of biological diversity".
3. It is also the understanding of the Government of India that the "institutional structure" referred to in Article 39 of the Convention and the "mechanism" referred to in Article 21 are identical. Moreover, the phrase "Provided that it has been fully restructured in accordance with the requirements of Article 21" implies that for the Global Environment Facility to be the interim institutional structure as per Article 39 would require that it shall (a) function under the authority and guidance of, and be accountable to, the Conference of the Parties; (b) operate within a democratic and transparent system of governance; and (c) have universal membership.

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

*Declaration of Malawi*

1. Malawi will sign the Convention on Biological Diversity because she strongly believes that this instrument will save the ever-declining conservation and sustainable utilization of biological diversity, especially in the developing countries. We feel that the mechanisms that have been developed in the various articles of this Convention, namely, access to and transfer of relevant technologies, provision of new and additional financial resources to developing countries, and fair and equitable sharing of the benefits arising out of the utilization of genetic resources will achieve the underlying aims of the Convention.
2. Malawi attaches great importance to the protection and sustainable use of all forms of biological resources. We agree with the policy of involving the public in the protection of the country's biological resources, especially those communities living near protected areas (national parks and forest reserves) where a number of conservation economic activities have been initiated.
3. Malawi endorses the sovereign right of each State to exploit its own biological resources in accordance with its policies, but each Contracting Party as a State has a responsibility for the conservation and sustainable use of its biological resources.

*Declaration of Malaysia*

1. My delegation wishes to state that the terms of transfer of technology referred to in Article 16, paragraph 2, do not fully reflect the position of my country which requires that such transfer should be specifically on concessional and preferential terms.
2. Our reservation on Article 39, on financial interim arrangements, are recorded in the draft report of the sixth plenary meeting in document UNEP/Bio.Div/N7-INC.5/L.1/Add.3 and reads as follows:  

"The Malaysian delegation always maintained that we do not see any role for the GEF in this Convention. It has always been our clear position that the Convention should have its own specific funds, called the Biological Diversity Fund. In view of that, we wish to express our reservations in the strongest terms that the GEF has been accepted into the draft Convention, even on an interim basis. As we all know, in spite of our best efforts and intentions, these interim measures have the habit of becoming permanent features."
3. While concurring with the consensus on Article 19 of the Convention dealing with handling of biotechnology and distribution of its benefits, the delegation of Malaysia understands the term "living modified organisms" to mean "genetically modified organisms".



*Declaration of Peru*

1. Article 2 lacks a definition of the term "conservation of biological diversity", which should cover the preservation or integral protection, maintenance, sustainable use and recovery of its components.
2. In Article 19, paragraph 3, there is no express mention of the human being within the scope of this paragraph, that is, the protection of the human being from the adverse effects that may be produced by living organisms modified by biotechnology.
3. In paragraph (j) of Article 8 ("In-situ Conservation), the equitable distribution of the benefits should be stipulated, with a change in the word "encourage".

*Declaration of Saudi Arabia*

1. The delegation of my country would like to extend its congratulations and thanks to your Excellency, the Executive Director, the Bureau, the secretariat and to our colleagues in the INC, for what they have achieved. We would like also to extend our thanks to the Kenyan Government for its hospitality.
2. Due to the fact that the weekend in my country is on Thursday and Friday, it was very difficult for me to communicate the changes made, particularly on Article 21 of the Convention, to my Government. Hence, I could not manage to obtain instructions from it. Therefore, I would like to put the following on record.
3. My acceptance to adopt the text of this Convention to be open for signature in Rio de Janeiro is my sole personal responsibility. However, this does not imply that the Government of Saudi Arabia would not sign the Convention.

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

*Declaration of the United States of America*

1. In signing the Final Act, the United States recognizes that this negotiation has drawn to a close.
2. The United States strongly supports the conservation of biodiversity and, as is known, was an original proponent of a convention on this important subject. We continue to view international cooperation in this area as extremely desirable.
3. It is deeply regrettable to us that -- whether because of the haste with which we have completed our work or the result of substantive disagreement -- a number of issues of serious concern in the United States have not been adequately addressed in the course of this negotiation. As a result, in our view, the text is seriously flawed in a number of important respects.
4. As a matter of substance, we find particularly unsatisfactory the text's treatment of intellectual property rights; finances, including, importantly, the role of the Global Environment Facility (GEF); technology transfer and biotechnology.
5. In addition, we are disappointed with the development of issues related to environmental impact assessments, the legal relationship between this Convention and other international agreements, and the scope of obligations with respect to the marine environment.
6. Procedurally, we believe that the hasty and disjointed approach to the preparation of this Convention has deprived delegations of the ability to consider the text as a whole before adoption. Further, it has not resulted in a text that reflects well on the international treaty-making process in the environmental field.

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

DECLARATIONS MADE AT THE TIME OF ADOPTION OF THE  
RECOMMENDATION OF THE CREDENTIALS COMMITTEE

*Declaration of Austria*

1. I would like to make a statement on the status of the Yugoslav delegation.
2. Austria has addressed a note to the Secretary-General of the United Nations notifying Austria's position with regard to the status of Yugoslav membership in the United Nations.
3. I will cite the essential parts of the said note:

"The proclamation of the Federal Republic of Yugoslavia is a further important step in the process of dissolution of the Socialist Federal Republic of Yugoslavia. The international recognition of States is subject to requirements which the Federal Republic of Yugoslavia does not meet. There is no legal basis for an automatic continuation of the legal existence of the former Socialist Federal Republic of Yugoslavia by the Federal Republic of Yugoslavia, which therefore cannot be considered to continue the Yugoslav membership in the United Nations."

*Declaration of the European Community*

1. The European Community and its member States have not recognized that the automatic continuity of the Federal Socialist Republic of Yugoslavia in the international organizations, including the United Nations, is ensured.
2. At this stage, they reserve their position, considering therefore that the presence of Yugoslavia at this Conference is without prejudice to any future stand to be adopted.

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย



DECLARATIONS MADE UPON SIGNATURE OF THE  
CONVENTION ON BIOLOGICAL DIVERSITY\*

*Declaration of France*

Upon signing the Convention on Biological Diversity, the French Republic declares:

- With reference to Article 3, that it interprets this article as a guiding principle to be taken into account in the implementation of the Convention;
- With reference to Article 21, paragraph 1, that the decision taken periodically by the Conference of the Parties concerns the "amount of resources needed" and that nothing in the Convention authorizes the Conference of the Parties to take decisions concerning the amount, nature or frequency of contributions by the Parties to the Convention.

*Declaration of Italy*

The Italian Government, when signing the Convention on Biological Diversity, declares its understanding that the decision to be taken by the Conference of the Parties under Article 21, paragraph 1, of the Convention refers to the "amount of resources needed" by the financial mechanism, not to the extent or nature and form of the contributions of the Contracting Parties.



ศูนย์วิทยทรัพยากร  
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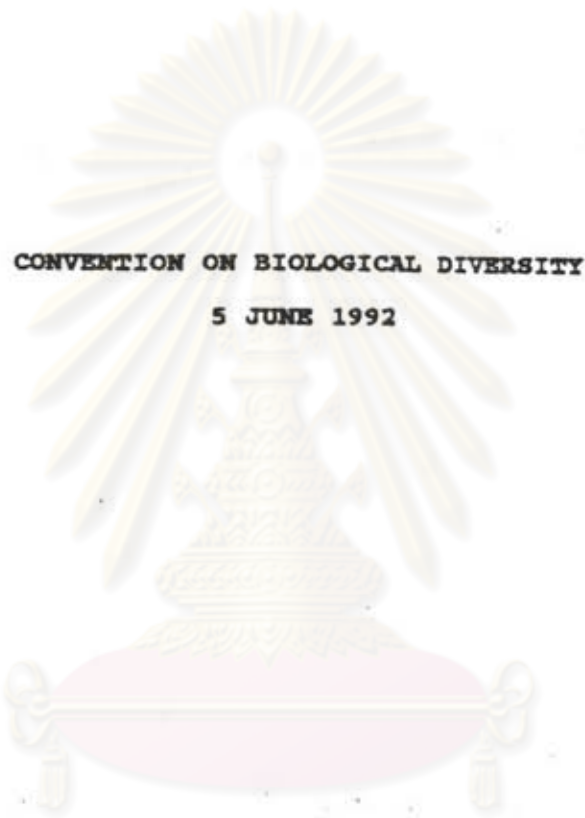
\* As of 1 August 1992.

*Declaration of Switzerland*

1. The Swiss Government wishes to lay particular emphasis on the progress made in establishing framework conditions for cooperation among States in the important area of research activities and technology transfer relating to resources from third countries.
2. These important provisions establish the platform for ever closer cooperation with public research bodies or institutions in Switzerland, as well as for the transfer of technologies at the disposal of governmental or public bodies, particularly the universities and various research and development centres financed by public funds.
3. It has been our understanding that the genetic resources acquired according to the procedure provided for the Article 15 and developed by private research institutions will be the subject of programmes of cooperation, joint research and technology transfer, and this in accordance with the principles and rules governing the protection of intellectual property.
4. These principles and rules are essential for private research and investment, particularly in advanced technologies such as modern biotechnology, which requires large financial inputs. It is on the basis of this interpretation that the Swiss Government wishes to state that it is the management system will take into account, in a balanced way, the needs and interests of the developing countries as well as the possibilities and prepared to take, in due course, the appropriate general policy measures, particularly under Articles 16 and 19, with a view to promoting and encouraging cooperation, on a contractual basis, between Swiss enterprises and private enterprises and governmental bodies in other contracting countries.
5. With regard to financial cooperation, Switzerland interprets the provisions of Articles 2 and 21 as follows: the resources to be applied and interests of the developed countries.

*Declaration of the United Kingdom of Great Britain  
and Northern Ireland*

1. The Government of the United Kingdom of Great Britain and Northern Ireland declare their understanding that Article 3 of the Convention sets out a guiding principle to be taken into account in the implementation of the Convention.
2. The Government of the United Kingdom of Great Britain and Northern Ireland also declare their understanding that the decisions to be taken by the Conference of the Parties under paragraph 1 of Article 21 concern "the amount of resources needed" by the financial mechanism, and that nothing in Article 20 or Article 21 authorizes the Conference of the Parties to take decisions concerning the amount, nature, frequency or size of the contributions of the Parties under the Convention.



CONVENTION ON BIOLOGICAL DIVERSITY

5 JUNE 1992

ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย



CONVENTION ON BIOLOGICAL DIVERSITY

*Preamble*

*The Contracting Parties,*

*Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values of biological diversity and its components,*

*Conscious also of the importance of biological diversity for evolution and for maintaining life sustaining systems of the biosphere,*

*Affirming that the conservation of biological diversity is a common concern of humankind,*

*Reaffirming that States have sovereign rights over their own biological resources,*

*Reaffirming also that States are responsible for conserving their biological diversity and for using their biological resources in a sustainable manner,*

*Concerned that biological diversity is being significantly reduced by certain human activities,*

*Aware of the general lack of information and knowledge regarding biological diversity and of the urgent need to develop scientific, technical and institutional capacities to provide the basic understanding upon which to plan and implement appropriate measures,*

*Noting that it is vital to anticipate, prevent and attack the causes of significant reduction or loss of biological diversity at source,*

*Noting also that where there is a threat of significant reduction or loss of biological diversity, lack of full scientific certainty should not be used as a reason for postponing measures to avoid or minimize such a threat,*

*Noting further that the fundamental requirement for the conservation of biological diversity is the *in-situ* conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings,*

*Noting further that *ex-situ* measures, preferably in the country of origin, also have an important role to play,*

*Recognizing the close and traditional dependence of many indigenous and local communities embodying traditional lifestyles on biological resources, and the desirability of sharing equitably benefits arising from the use of traditional knowledge, innovations and practices relevant to the conservation of biological diversity and the sustainable use of its components,*

*Recognizing also the vital role that women play in the conservation and sustainable use of biological diversity and affirming the need for the full participation of women at all levels of policy-making and implementation for biological diversity conservation,*

/...

*Stressing* the importance of, and the need to promote, international, regional and global cooperation among States and intergovernmental organizations and the non-governmental sector for the conservation of biological diversity and the sustainable use of its components,

*Acknowledging* that the provision of new and additional financial resources and appropriate access to relevant technologies can be expected to make a substantial difference in the world's ability to address the loss of biological diversity,

*Acknowledging further* that special provision is required to meet the needs of developing countries, including the provision of new and additional financial resources and appropriate access to relevant technologies,

*Noting* in this regard the special conditions of the least developed countries and small island States,

*Acknowledging* that substantial investments are required to conserve biological diversity and that there is the expectation of a broad range of environmental, economic and social benefits from those investments,

*Recognizing* that economic and social development and poverty eradication are the first and overriding priorities of developing countries,

*Aware* that conservation and sustainable use of biological diversity is of critical importance for meeting the food, health and other needs of the growing world population, for which purpose access to and sharing of both genetic resources and technologies are essential,

*Noting* that, ultimately, the conservation and sustainable use of biological diversity will strengthen friendly relations among States and contribute to peace for humankind,

*Desiring* to enhance and complement existing international arrangements for the conservation of biological diversity and sustainable use of its components, and

*Determined* to conserve and sustainably use biological diversity for the benefit of present and future generations,

Have agreed as follows:

#### *Article 1. Objectives*

The objectives of this Convention, to be pursued in accordance with its relevant provisions, are the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies, taking into account all rights over those resources and to technologies, and by appropriate funding.

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Article 2. Use of Terms

For the purposes of this Convention:

"*Biological diversity*" means the variability among living organisms from all sources including, *inter alia*, terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems.

"*Biological resources*" includes genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity.

"*Biotechnology*" means any technological application that uses biological systems, living organisms, or derivatives thereof, to make or modify products or processes for specific use.

"*Country of origin of genetic resources*" means the country which possesses those genetic resources in *in-situ* conditions.

"*Country providing genetic resources*" means the country supplying genetic resources collected from *in-situ* sources, including populations of both wild and domesticated species, or taken from *ex-situ* sources, which may or may not have originated in that country.

"*Domesticated or cultivated species*" means species in which the evolutionary process has been influenced by humans to meet their needs.

"*Ecosystem*" means a dynamic complex of plant, animal and micro-organism communities and their non-living environment interacting as a functional unit.

"*Ex-situ conservation*" means the conservation of components of biological diversity outside their natural habitats.

"*Genetic material*" means any material of plant, animal, microbial or other origin containing functional units of heredity.

"*Genetic resources*" means genetic material of actual or potential value.

"*Habitat*" means the place or type of site where an organism or population naturally occurs.

"*In-situ conditions*" means conditions where genetic resources exist within ecosystems and natural habitats, and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"*In-situ conservation*" means the conservation of ecosystems and natural habitats and the maintenance and recovery of viable populations of species in their natural surroundings and, in the case of domesticated or cultivated species, in the surroundings where they have developed their distinctive properties.

"*Protected area*" means a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives.

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"Regional economic integration organization" means an organization constituted by sovereign States of a given region, to which its member States have transferred competence in respect of matters governed by this Convention and which has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to it.

"Sustainable use" means the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations.

"Technology" includes biotechnology.

#### Article 3. Principle

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction.

#### Article 4. Jurisdictional Scope

Subject to the rights of other States, and except as otherwise expressly provided in this Convention, the provisions of this Convention apply, in relation to each Contracting Party:

(a) In the case of components of biological diversity, in areas within the limits of its national jurisdiction; and

(b) In the case of processes and activities, regardless of where their effects occur, carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction.

#### Article 5. Cooperation

Each Contracting Party shall, as far as possible and as appropriate, cooperate with other Contracting Parties, directly or, where appropriate, through competent international organizations, in respect of areas beyond national jurisdiction and on other matters of mutual interest, for the conservation and sustainable use of biological diversity.

#### Article 6. General Measures for Conservation and Sustainable Use

Each Contracting Party shall, in accordance with its particular conditions and capabilities:

(a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, *inter alia*, the measures set out in this Convention relevant to the Contracting Party concerned; and

(b) Integrate, as far as possible and as appropriate, the conservation and sustainable use of biological diversity into relevant sectoral or cross-sectoral plans, programmes and policies.

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*Article 7. Identification and Monitoring*

Each Contracting Party shall, as far as possible and as appropriate, in particular for the purposes of Articles 8 to 10:

- (a) Identify components of biological diversity important for its conservation and sustainable use having regard to the indicative list of categories set down in Annex I;
- (b) Monitor, through sampling and other techniques, the components of biological diversity identified pursuant to subparagraph (a) above, paying particular attention to those requiring urgent conservation measures and those which offer the greatest potential for sustainable use;
- (c) Identify processes and categories of activities which have or are likely to have significant adverse impacts on the conservation and sustainable use of biological diversity, and monitor their effects through sampling and other techniques; and
- (d) Maintain and organize, by any mechanism data, derived from identification and monitoring activities pursuant to subparagraphs (a), (b) and (c) above.

*Article 8. In-situ Conservation*

Each Contracting Party shall, as far as possible and as appropriate:

- (a) Establish a system of protected areas or areas where special measures need to be taken to conserve biological diversity;
- (b) Develop, where necessary, guidelines for the selection, establishment and management of protected areas or areas where special measures need to be taken to conserve biological diversity;
- (c) Regulate or manage biological resources important for the conservation of biological diversity whether within or outside protected areas, with a view to ensuring their conservation and sustainable use;
- (d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species in natural surroundings;
- (e) Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas;
- (f) Rehabilitate and restore degraded ecosystems and promote the recovery of threatened species, *inter alia*, through the development and implementation of plans or other management strategies;
- (g) Establish or maintain means to regulate, manage or control the risks associated with the use and release of living modified organisms resulting from biotechnology which are likely to have adverse environmental impacts that could affect the conservation and sustainable use of biological diversity, taking also into account the risks to human health;
- (h) Prevent the introduction of, control or eradicate those alien species which threaten ecosystems, habitats or species;

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(i) Endeavour to provide the conditions needed for compatibility between present uses and the conservation of biological diversity and the sustainable use of its components;

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

(k) Develop or maintain necessary legislation and/or other regulatory provisions for the protection of threatened species and populations;

(l) Where a significant adverse effect on biological diversity has been determined pursuant to Article 7, regulate or manage the relevant processes and categories of activities; and

(m) Cooperate in providing financial and other support for *in-situ* conservation outlined in subparagraphs (a) to (l) above, particularly to developing countries.

#### Article 9. *Ex-situ* Conservation

Each Contracting Party shall, as far as possible and as appropriate, and predominantly for the purpose of complementing *in-situ* measures:

(a) Adopt measures for the *ex-situ* conservation of components of biological diversity, preferably in the country of origin of such components;

(b) Establish and maintain facilities for *ex-situ* conservation of and research on plants, animals and micro-organisms, preferably in the country of origin of genetic resources;

(c) Adopt measures for the recovery and rehabilitation of threatened species and for their reintroduction into their natural habitats under appropriate conditions;

(d) Regulate and manage collection of biological resources from natural habitats for *ex-situ* conservation purposes so as not to threaten ecosystems and *in-situ* populations of species, except where special temporary *ex-situ* measures are required under subparagraph (c) above; and

(e) Cooperate in providing financial and other support for *ex-situ* conservation outlined in subparagraphs (a) to (d) above and in the establishment and maintenance of *ex-situ* conservation facilities in developing countries.

#### Article 10. *Sustainable Use of Components of Biological Diversity*

Each Contracting Party shall, as far as possible and as appropriate:

(a) Integrate consideration of the conservation and sustainable use of biological resources into national decision-making;

(b) Adopt measures relating to the use of biological resources to avoid or minimize adverse impacts on biological diversity;

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(c) Protect and encourage customary use of biological resources in accordance with traditional cultural practices that are compatible with conservation or sustainable use requirements;

(d) Support local populations to develop and implement remedial action in degraded areas where biological diversity has been reduced; and

(e) Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources.

*Article 11. Incentive Measures*

Each Contracting Party shall, as far as possible and as appropriate, adopt economically and socially sound measures that act as incentives for the conservation and sustainable use of components of biological diversity.

*Article 12. Research and Training*

The Contracting Parties, taking into account the special needs of developing countries, shall:

(a) Establish and maintain programmes for scientific and technical education and training in measures for the identification, conservation and sustainable use of biological diversity and its components and provide support for such education and training for the specific needs of developing countries;

(b) Promote and encourage research which contributes to the conservation and sustainable use of biological diversity, particularly in developing countries, *inter alia*, in accordance with decisions of the Conference of the Parties taken in consequence of recommendations of the Subsidiary Body on Scientific, Technical and Technological Advice; and

(c) In keeping with the provisions of Articles 16, 18 and 20, promote and cooperate in the use of scientific advances in biological diversity research in developing methods for conservation and sustainable use of biological resources.

*Article 13. Public Education and Awareness*

The Contracting Parties shall:

(a) Promote and encourage understanding of the importance of, and the measures required for, the conservation of biological diversity, as well as its propagation through media, and the inclusion of these topics in educational programmes; and

(b) Cooperate, as appropriate, with other States and international organizations in developing educational and public awareness programmes, with respect to conservation and sustainable use of biological diversity.

*Article 14. Impact Assessment and Minimizing Adverse Impacts*

1. Each Contracting Party, as far as possible and as appropriate, shall:

(a) Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant

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adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures;

(b) Introduce appropriate arrangements to ensure that the environmental consequences of its programmes and policies that are likely to have significant adverse impacts on biological diversity are duly taken into account;

(c) Promote, on the basis of reciprocity, notification, exchange of information and consultation on activities under their jurisdiction or control which are likely to significantly affect adversely the biological diversity of other States or areas beyond the limits of national jurisdiction, by encouraging the conclusion of bilateral, regional or multilateral arrangements, as appropriate;

(d) In the case of imminent or grave danger or damage, originating under its jurisdiction or control, to biological diversity within the area under jurisdiction of other States or in areas beyond the limits of national jurisdiction, notify immediately the potentially affected States of such danger or damage, as well as initiate action to prevent or minimize such danger or damage; and

(e) Promote national arrangements for emergency responses to activities or events, whether caused naturally or otherwise, which present a grave and imminent danger to biological diversity and encourage international cooperation to supplement such national efforts and, where appropriate and agreed by the States or regional economic integration organizations concerned, to establish joint contingency plans.

2. The Conference of the Parties shall examine, on the basis of studies to be carried out, the issue of liability and redress, including restoration and compensation, for damage to biological diversity, except where such liability is a purely internal matter.

#### Article 15. Access to Genetic Resources

1. Recognizing the sovereign rights of States over their natural resources, the authority to determine access to genetic resources rests with the national governments and is subject to national legislation.

2. Each Contracting Party shall endeavour to create conditions to facilitate access to genetic resources for environmentally sound uses by other Contracting Parties and not to impose restrictions that run counter to the objectives of this Convention.

3. For the purpose of this Convention, the genetic resources being provided by a Contracting Party, as referred to in this Article and Articles 16 and 19, are only those that are provided by Contracting Parties that are countries of origin of such resources or by the Parties that have acquired the genetic resources in accordance with this Convention.

4. Access, where granted, shall be on mutually agreed terms and subject to the provisions of this Article.

5. Access to genetic resources shall be subject to prior informed consent of the Contracting Party providing such resources, unless otherwise determined by that Party.

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6. Each Contracting Party shall endeavour to develop and carry out scientific research based on genetic resources provided by other Contracting Parties with the full participation of, and where possible in, such Contracting Parties.

7. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, and in accordance with Articles 16 and 19 and, where necessary, through the financial mechanism established by Articles 20 and 21 with the aim of sharing in a fair and equitable way the results of research and development and the benefits arising from the commercial and other utilization of genetic resources with the Contracting Party providing such resources. Such sharing shall be upon mutually agreed terms.

*Article 16. Access to and Transfer of Technology*

1. Each Contracting Party, recognizing that technology includes biotechnology, and that both access to and transfer of technology among Contracting Parties are essential elements for the attainment of the objectives of this Convention, undertakes subject to the provisions of this Article to provide and/or facilitate access for and transfer to other Contracting Parties of technologies that are relevant to the conservation and sustainable use of biological diversity or make use of genetic resources and do not cause significant damage to the environment.

2. Access to and transfer of technology referred to in paragraph 1 above to developing countries shall be provided and/or facilitated under fair and most favourable terms, including on concessional and preferential terms where mutually agreed, and, where necessary, in accordance with the financial mechanism established by Articles 20 and 21. In the case of technology subject to patents and other intellectual property rights, such access and transfer shall be provided on terms which recognize and are consistent with the adequate and effective protection of intellectual property rights. The application of this paragraph shall be consistent with paragraphs 3, 4 and 5 below.

3. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that Contracting Parties, in particular those that are developing countries, which provide genetic resources are provided access to and transfer of technology which makes use of those resources, on mutually agreed terms, including technology protected by patents and other intellectual property rights, where necessary, through the provisions of Articles 20 and 21 and in accordance with international law and consistent with paragraphs 4 and 5 below.

4. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, with the aim that the private sector facilitates access to, joint development and transfer of technology referred to in paragraph 1 above for the benefit of both governmental institutions and the private sector of developing countries and in this regard shall abide by the obligations included in paragraphs 1, 2 and 3 above.

5. The Contracting Parties, recognizing that patents and other intellectual property rights may have an influence on the implementation of this Convention, shall cooperate in this regard subject to national legislation and international law in order to ensure that such rights are supportive of and do not run counter to its objectives.



*Article 17. Exchange of Information*

1. The Contracting Parties shall facilitate the exchange of information, from all publicly available sources, relevant to the conservation and sustainable use of biological diversity, taking into account the special needs of developing countries.
2. Such exchange of information shall include exchange of results of technical, scientific and socio-economic research, as well as information on training and surveying programmes, specialized knowledge, indigenous and traditional knowledge as such and in combination with the technologies referred to in Article 16, paragraph 1. It shall also, where feasible, include repatriation of information.

*Article 18. Technical and Scientific Cooperation*

1. The Contracting Parties shall promote international technical and scientific cooperation in the field of conservation and sustainable use of biological diversity, where necessary, through the appropriate international and national institutions.
2. Each Contracting Party shall promote technical and scientific cooperation with other Contracting Parties, in particular developing countries, in implementing this Convention, *inter alia*, through the development and implementation of national policies. In promoting such cooperation, special attention should be given to the development and strengthening of national capabilities, by means of human resources development and institution building.
3. The Conference of the Parties, at its first meeting, shall determine how to establish a clearing-house mechanism to promote and facilitate technical and scientific cooperation.
4. The Contracting Parties shall, in accordance with national legislation and policies, encourage and develop methods of cooperation for the development and use of technologies, including indigenous and traditional technologies, in pursuance of the objectives of this Convention. For this purpose, the Contracting Parties shall also promote cooperation in the training of personnel and exchange of experts.
5. The Contracting Parties shall, subject to mutual agreement, promote the establishment of joint research programmes and joint ventures for the development of technologies relevant to the objectives of this Convention.

*Article 19. Handling of Biotechnology and Distribution of its Benefits*

1. Each Contracting Party shall take legislative, administrative or policy measures, as appropriate, to provide for the effective participation in biotechnological research activities by those Contracting Parties, especially developing countries, which provide the genetic resources for such research, and where feasible in such Contracting Parties.
2. Each Contracting Party shall take all practicable measures to promote and advance priority access on a fair and equitable basis by Contracting Parties, especially developing countries, to the results and benefits arising from biotechnologies based upon genetic resources provided by those Contracting Parties. Such access shall be on mutually agreed terms.

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3. The Parties shall consider the need for and modalities of a protocol setting out appropriate procedures, including, in particular, advance informed agreement, in the field of the safe transfer, handling and use of any living modified organism resulting from biotechnology that may have adverse effect on the conservation and sustainable use of biological diversity.

4. Each Contracting Party shall, directly or by requiring any natural or legal person under its jurisdiction providing the organisms referred to in paragraph 3 above, provide any available information about the use and safety regulations required by that Contracting Party in handling such organisms, as well as any available information on the potential adverse impact of the specific organisms concerned to the Contracting Party into which those organisms are to be introduced.

*Article 20. Financial Resources*

1. Each Contracting Party undertakes to provide, in accordance with its capabilities, financial support and incentives in respect of those national activities which are intended to achieve the objectives of this Convention, in accordance with its national plans, priorities and programmes.

2. The developed country Parties shall provide new and additional financial resources to enable developing country Parties to meet the agreed full incremental costs to them of implementing measures which fulfil the obligations of this Convention and to benefit from its provisions and which costs are agreed between a developing country Party and the institutional structure referred to in Article 21, in accordance with policy, strategy, programme priorities and eligibility criteria and an indicative list of incremental costs established by the Conference of the Parties. Other Parties, including countries undergoing the process of transition to a market economy, may voluntarily assume the obligations of the developed country Parties. For the purpose of this Article, the Conference of the Parties, shall at its first meeting establish a list of developed country Parties and other Parties which voluntarily assume the obligations of the developed country Parties. The Conference of the Parties shall periodically review and if necessary amend the list. Contributions from other countries and sources on a voluntary basis would also be encouraged. The implementation of these commitments shall take into account the need for adequacy, predictability and timely flow of funds and the importance of burden-sharing among the contributing Parties included in the list.

3. The developed country Parties may also provide, and developing country Parties avail themselves of, financial resources related to the implementation of this Convention through bilateral, regional and other multilateral channels.

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

5. The Parties shall take full account of the specific needs and special situation of least developed countries in their actions with regard to funding and transfer of technology.

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6. The Contracting Parties shall also take into consideration the special conditions resulting from the dependence on, distribution and location of, biological diversity within developing country Parties, in particular small island States.

7. Consideration shall also be given to the special situation of developing countries, including those that are most environmentally vulnerable, such as those with arid and semi-arid zones, coastal and mountainous areas.

*Article 21. Financial Mechanism*

1. There shall be a mechanism for the provision of financial resources to developing country Parties for purposes of this Convention on a grant or concessional basis the essential elements of which are described in this Article. The mechanism shall function under the authority and guidance of, and be accountable to, the Conference of the Parties for purposes of this Convention. The operations of the mechanism shall be carried out by such institutional structure as may be decided upon by the Conference of the Parties at its first meeting. For purposes of this Convention, the Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria relating to the access to and utilization of such resources. The contributions shall be such as to take into account the need for predictability, adequacy and timely flow of funds referred to in Article 20 in accordance with the amount of resources needed to be decided periodically by the Conference of the Parties and the importance of burden-sharing among the contributing Parties included in the list referred to in Article 20, paragraph 2. Voluntary contributions may also be made by the developed country Parties and by other countries and sources. The mechanism shall operate within a democratic and transparent system of governance.

2. Pursuant to the objectives of this Convention, the Conference of the Parties shall at its first meeting determine the policy, strategy and programme priorities, as well as detailed criteria and guidelines for eligibility for access to and utilization of the financial resources including monitoring and evaluation on a regular basis of such utilization. The Conference of the Parties shall decide on the arrangements to give effect to paragraph 1 above after consultation with the institutional structure entrusted with the operation of the financial mechanism.

3. The Conference of the Parties shall review the effectiveness of the mechanism established under this Article, including the criteria and guidelines referred to in paragraph 2 above, not less than two years after the entry into force of this Convention and thereafter on a regular basis. Based on such review, it shall take appropriate action to improve the effectiveness of the mechanism if necessary.

4. The Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity.

*Article 22. Relationship with Other International Conventions*

1. The provisions of this Convention shall not affect the rights and obligations of any Contracting Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity.

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2. Contracting Parties shall implement this Convention with respect to the marine environment consistently with the rights and obligations of States under the law of the sea.

*Article 23. Conference of the Parties*

1. A Conference of the Parties is hereby established. The first meeting of the Conference of the Parties shall be convened by the Executive Director of the United Nations Environment Programme not later than one year after the entry into force of this Convention. Thereafter, ordinary meetings of the Conference of the Parties shall be held at regular intervals to be determined by the Conference at its first meeting.
2. Extraordinary meetings of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to them by the Secretariat, it is supported by at least one third of the Parties.
3. The Conference of the Parties shall by consensus agree upon and adopt rules of procedure for itself and for any subsidiary body it may establish, as well as financial rules governing the funding of the Secretariat. At each ordinary meeting, it shall adopt a budget for the financial period until the next ordinary meeting.
4. The Conference of the Parties shall keep under review the implementation of this Convention, and, for this purpose, shall:
  - (a) Establish the form and the intervals for transmitting the information to be submitted in accordance with Article 26 and consider such information as well as reports submitted by any subsidiary body;
  - (b) Review scientific, technical and technological advice on biological diversity provided in accordance with Article 25;
  - (c) Consider and adopt, as required, protocols in accordance with Article 28;
  - (d) Consider and adopt, as required, in accordance with Articles 29 and 30, amendments to this Convention and its annexes;
  - (e) Consider amendments to any protocol, as well as to any annexes thereto, and, if so decided, recommend their adoption to the parties to the protocol concerned;
  - (f) Consider and adopt, as required, in accordance with Article 30, additional annexes to this Convention;
  - (g) Establish such subsidiary bodies, particularly to provide scientific and technical advice, as are deemed necessary for the implementation of this Convention;
  - (h) Contact, through the Secretariat, the executive bodies of conventions dealing with matters covered by this Convention with a view to establishing appropriate forms of cooperation with them; and

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(i) Consider and undertake any additional action that may be required for the achievement of the purposes of this Convention in the light of experience gained in its operation.

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Convention, may be represented as observers at meetings of the Conference of the Parties. Any other body or agency, whether governmental or non-governmental, qualified in fields relating to conservation and sustainable use of biological diversity, which has informed the Secretariat of its wish to be represented as an observer at a meeting of the Conference of the Parties, may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

#### Article 24. Secretariat

1. A secretariat is hereby established. Its functions shall be:
  - (a) To arrange for and service meetings of the Conference of the Parties provided for in Article 23;
  - (b) To perform the functions assigned to it by any protocol;
  - (c) To prepare reports on the execution of its functions under this Convention and present them to the Conference of the Parties;
  - (d) To coordinate with other relevant international bodies and, in particular to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
  - (e) To perform such other functions as may be determined by the Conference of the Parties.
2. At its first ordinary meeting, the Conference of the Parties shall designate the secretariat from amongst those existing competent international organizations which have signified their willingness to carry out the secretariat functions under this Convention.

#### Article 25. Subsidiary Body on Scientific, Technical and Technological Advice

1. A subsidiary body for the provision of scientific, technical and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely advice relating to the implementation of this Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.
2. Under the authority of and in accordance with guidelines laid down by the Conference of the Parties, and upon its request, this body shall:
  - (a) Provide scientific and technical assessments of the status of biological diversity;



(b) Prepare scientific and technical assessments of the effects of types of measures taken in accordance with the provisions of this Convention;

(c) Identify innovative, efficient and state-of-the-art technologies and know-how relating to the conservation and sustainable use of biological diversity and advise on the ways and means of promoting development and/or transferring such technologies;

(d) Provide advice on scientific programmes and international cooperation in research and development related to conservation and sustainable use of biological diversity; and

(e) Respond to scientific, technical, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.

3. The functions, terms of reference, organization and operation of this body may be further elaborated by the Conference of the Parties.

#### Article 26. Reports

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

#### Article 27. Settlement of Disputes

1. In the event of a dispute between Contracting Parties concerning the interpretation or application of this Convention, the parties concerned shall seek solution by negotiation.

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

3. When ratifying, accepting, approving or acceding to this Convention, or at any time thereafter, a State or regional economic integration organization may declare in writing to the Depositary that for a dispute not resolved in accordance with paragraph 1 or paragraph 2 above, it accepts one or both of the following means of dispute settlement as compulsory:

(a) Arbitration in accordance with the procedure laid down in Part 1 of Annex II;

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

4. If the parties to the dispute have not, in accordance with paragraph 3 above, accepted the same or any procedure, the dispute shall be submitted to conciliation in accordance with Part 2 of Annex II unless the parties otherwise agree.

5. The provisions of this Article shall apply with respect to any protocol except as otherwise provided in the protocol concerned.

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*Article 28. Adoption of Protocols*

1. The Contracting Parties shall cooperate in the formulation and adoption of protocols to this Convention.
2. Protocols shall be adopted at a meeting of the Conference of the Parties.

3. The text of any proposed protocol shall be communicated to the Contracting Parties by the Secretariat at least six months before such a meeting.

*Article 29. Amendment of the Convention or Protocols*

1. Amendments to this Convention may be proposed by any Contracting Party. Amendments to any protocol may be proposed by any Party to that protocol.

2. Amendments to this Convention shall be adopted at a meeting of the Conference of the Parties. Amendments to any protocol shall be adopted at a meeting of the Parties to the Protocol in question. The text of any proposed amendment to this Convention or to any protocol, except as may otherwise be provided in such protocol, shall be communicated to the Parties to the instrument in question by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to this Convention for information.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention or to any protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-third majority vote of the Parties to the instrument in question present and voting at the meeting, and shall be submitted by the Depositary to all Parties for ratification, acceptance or approval.

4. Ratification, acceptance or approval of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 above shall enter into force among Parties having accepted them on the ninetieth day after the deposit of instruments of ratification, acceptance or approval by at least two thirds of the Contracting Parties to this Convention or of the Parties to the protocol concerned, except as may otherwise be provided in such protocol. Thereafter the amendments shall enter into force for any other Party on the ninetieth day after that Party deposits its instrument of ratification, acceptance or approval of the amendments.

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

*Article 30. Adoption and Amendment of Annexes*

1. The annexes to this Convention or to any protocol shall form an integral part of the Convention or of such protocol, as the case may be, and, unless expressly provided otherwise, a reference to this Convention or its protocols constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to procedural, scientific, technical and administrative matters.

2. Except as may be otherwise provided in any protocol with respect to its annexes, the following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention or of annexes to any protocol:

(a) Annexes to this Convention or to any protocol shall be proposed and adopted according to the procedure laid down in Article 29;

(b) Any Party that is unable to approve an additional annex to this Convention or an annex to any protocol to which it is Party shall so notify the Depositary, in writing, within one year from the date of the communication of the adoption by the Depositary. The Depositary shall without delay notify all Parties of any such notification received. A Party may at any time withdraw a previous declaration of objection and the annexes shall thereupon enter into force for that Party subject to subparagraph (c) below;

(c) On the expiry of one year from the date of the communication of the adoption by the Depositary, the annex shall enter into force for all Parties to this Convention or to any protocol concerned which have not submitted a notification in accordance with the provisions of subparagraph (b) above.

3. The proposal, adoption and entry into force of amendments to annexes to this Convention or to any protocol shall be subject to the same procedure as for the proposal, adoption and entry into force of annexes to the Convention or annexes to any protocol.

4. If an additional annex or an amendment to an annex is related to an amendment to this Convention or to any protocol, the additional annex or amendment shall not enter into force until such time as the amendment to the Convention or to the protocol concerned enters into force.

#### *Article 31. Right to Vote*

1. Except as provided for in paragraph 2 below, each Contracting Party to this Convention or to any protocol shall have one vote.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to this Convention or the relevant protocol. Such organizations shall not exercise their right to vote if their member States exercise theirs, and vice versa.

#### *Article 32. Relationship between this Convention and Its Protocols*

1. A State or a regional economic integration organization may not become a Party to a protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Decisions under any protocol shall be taken only by the Parties to the protocol concerned. Any Contracting Party that has not ratified, accepted or approved a protocol may participate as an observer in any meeting of the parties to that protocol.



*Article 33. Signature*

This Convention shall be open for signature at Rio de Janeiro by all States and any regional economic integration organization from 5 June 1992 until 14 June 1992, and at the United Nations Headquarters in New York from 15 June 1992 to 4 June 1993.

*Article 34. Ratification, Acceptance or Approval*

1. This Convention and any protocol shall be subject to ratification, acceptance or approval by States and by regional economic integration organizations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.
2. Any organization referred to in paragraph 1 above which becomes a Contracting Party to this Convention or any protocol without any of its member States being a Contracting Party shall be bound by all the obligations under the Convention or the protocol, as the case may be. In the case of such organizations, one or more of whose member States is a Contracting Party to this Convention or relevant protocol, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention or protocol, as the case may be. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention or relevant protocol concurrently.
3. In their instruments of ratification, acceptance or approval, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.

*Article 35. Accession*

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organizations from the date on which the Convention or the protocol concerned is closed for signature. The instruments of accession shall be deposited with the Depositary.
2. In their instruments of accession, the organizations referred to in paragraph 1 above shall declare the extent of their competence with respect to the matters governed by the Convention or the relevant protocol. These organizations shall also inform the Depositary of any relevant modification in the extent of their competence.
3. The provisions of Article 34, paragraph 2, shall apply to regional economic integration organizations which accede to this Convention or any protocol.

*Article 36. 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.
2. Any protocol shall enter into force on the ninetieth day after the date of deposit of the number of instruments of ratification, acceptance, approval or accession, specified in that protocol, has been deposited.

/...



3. For each Contracting Party which ratifies, accepts or approves this Convention or accedes thereto after the deposit of the thirtieth instrument of ratification, acceptance, approval or accession, it shall enter into force on the ninetieth day after the date of deposit by such Contracting Party of its instrument of ratification, acceptance, approval or accession.

4. Any protocol, except as otherwise provided in such protocol, shall enter into force for a Contracting Party that ratifies, accepts or approves that protocol or accedes thereto after its entry into force pursuant to paragraph 2 above, on the ninetieth day after the date on which that Contracting Party deposits its instrument of ratification, acceptance, approval or accession, or on the date on which this Convention enters into force for that Contracting Party, whichever shall be the later.

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

*Article 37. Reservations*

No reservations may be made to this Convention.

*Article 38. Withdrawals*

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

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

3. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it is party.

*Article 39. Financial Interim Arrangements*

Provided that it has been fully restructured in accordance with the requirements of Article 21, the Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the institutional structure referred to in Article 21 on an interim basis, for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties or until the Conference of the Parties decides which institutional structure will be designated in accordance with Article 21.

*Article 40. Secretariat Interim Arrangements*

The secretariat to be provided by the Executive Director of the United Nations Environment Programme shall be the secretariat referred to in Article 24, paragraph 2, on an interim basis for the period between the entry into force of this Convention and the first meeting of the Conference of the Parties.

/...

*Article 41. Depositary*

The Secretary-General of the United Nations shall assume the functions of Depositary of this Convention and any protocols.

*Article 42. Authentic Texts*

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

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

Done at Rio de Janeiro on this fifth day of June, one thousand nine hundred and ninety-two.



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย



*Annex I*

**IDENTIFICATION AND MONITORING**

1. Ecosystems and habitats: containing high diversity, large numbers of endemic or threatened species, or wilderness; required by migratory species; of social, economic, cultural or scientific importance; or, which are representative, unique or associated with key evolutionary or other biological processes;
2. Species and communities which are: threatened; wild relatives of domesticated or cultivated species; of medicinal, agricultural or other economic value; or social, scientific or cultural importance; or importance for research into the conservation and sustainable use of biological diversity, such as indicator species; and
3. Described genomes and genes of social, scientific or economic importance.



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

*Annex II*

Part 1

ARBITRATION

*Article 1*

The claimant party shall notify the secretariat that the parties are referring a dispute to arbitration pursuant to Article 27. The notification shall state the subject-matter of arbitration and include, in particular, the articles of the Convention or the protocol, the interpretation or application of which are at issue. If the parties do not agree on the subject matter of the dispute before the President of the tribunal is designated, the arbitral tribunal shall determine the subject matter. The secretariat shall forward the information thus received to all Contracting Parties to this Convention or to the protocol concerned.

*Article 2*

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

*Article 3*

1. If the President of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary-General of the United Nations shall, at the request of a party, designate the President within a further two-month period.
2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary-General who shall make the designation within a further two-month period.

*Article 4*

The arbitral tribunal shall render its decisions in accordance with the provisions of this Convention, any protocols concerned, and international law.

*Article 5*

Unless the parties to the dispute otherwise agree, the arbitral tribunal shall determine its own rules of procedure.

/...



*Article 6*

The arbitral tribunal may, at the request of one of the parties, recommend essential interim measures of protection.

*Article 7*

The parties to the dispute shall facilitate the work of the arbitral tribunal and, in particular, using all means at their disposal, shall:

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

*Article 8*

The parties and the arbitrators are under an obligation to protect the confidentiality of any information they receive in confidence during the proceedings of the arbitral tribunal.

*Article 9*

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

*Article 10*

Any Contracting Party that has an interest of a legal nature in the subject-matter of the dispute which may be affected by the decision in the case, may intervene in the proceedings with the consent of the tribunal.

*Article 11*

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

*Article 12*

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

*Article 13*

If one of the parties to the dispute does not appear before the arbitral tribunal or fails to defend its case, the other party may request the tribunal to continue the proceedings and to make its award. Absence of a party or a failure of a party to defend its case shall not constitute a bar to the proceedings. Before rendering its final decision, the arbitral tribunal must satisfy itself that the claim is well founded in fact and law.

*Article 14*

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

*Article 15*

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

*Article 16*

The award shall be binding on the parties to the dispute. It shall be without appeal unless the parties to the dispute have agreed in advance to an appellate procedure.

*Article 17*

Any controversy which may arise between the parties to the dispute as regards the interpretation or manner of implementation of the final decision may be submitted by either party for decision to the arbitral tribunal which rendered it.

## Part 2

## CONCILIATION

*Article 1*

A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall, unless the parties otherwise agree, be composed of five members, two appointed by each Party concerned and a President chosen jointly by those members.

*Article 2*

In disputes between more than two parties, parties in the same interest shall appoint their members of the commission jointly by agreement. Where two or more parties have separate interests or there is a disagreement as to whether they are of the same interest, they shall appoint their members separately.

*Article 3*

If any appointments by the parties are not made within two months of the date of the request to create a conciliation commission, the Secretary-General of the United Nations shall, if asked to do so by the party that made the request, make those appointments within a further two-month period.

*Article 4*

If a President of the conciliation commission has not been chosen within two months of the last of the members of the commission being appointed, the Secretary-General of the United Nations shall, if asked to do so by a party, designate a President within a further two-month period.



**Article 5**

The conciliation commission shall take its decisions by majority vote of its members. It shall, unless the parties to the dispute otherwise agree, determine its own procedure. It shall render a proposal for resolution of the dispute, which the parties shall consider in good faith.

**Article 6**

A disagreement as to whether the conciliation commission has competence shall be decided by the commission.



ศูนย์วิทยทรัพยากร  
จุฬาลงกรณ์มหาวิทยาลัย

SIGNATORIES OF THE CONVENTION ON BIOLOGICAL DIVERSITY AT THE TIME OF  
THE UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT  
(RIO DE JANEIRO, 3-14 JUNE 1992)

<i>Signatory</i>	<i>Date of signature</i>
1. Antigua and Barbuda	5 June 1992
2. Australia	5 June 1992
3. Bangladesh	5 June 1992
4. Belgium	5 June 1992
5. Brazil	5 June 1992
6. Finland	5 June 1992
7. India	5 June 1992
8. Indonesia	5 June 1992
9. Italy	5 June 1992
10. Liechtenstein	5 June 1992
11. Republic of Moldova	5 June 1992
12. Nauru	5 June 1992
13. Netherlands	5 June 1992
14. Pakistan	5 June 1992
15. Poland	5 June 1992
16. Romania	5 June 1992
17. Botswana	8 June 1992
18. Madagascar	8 June 1992
19. Sweden	8 June 1992
20. Tuvalu	8 June 1992
21. Yugoslavia	8 June 1992
22. Bahrain	9 June 1992
23. Ecuador	9 June 1992
24. Egypt	9 June 1992
25. Kazakhstan	9 June 1992
26. Kuwait	9 June 1992
27. Luxembourg	9 June 1992
28. Norway	9 June 1992
29. Sudan	9 June 1992
30. Uruguay	9 June 1992
31. Vanuatu	9 June 1992
32. Cote d'Ivoire	10 June 1992
33. Ethiopia	10 June 1992
34. Iceland	10 June 1992
35. Malawi	10 June 1992
36. Mauritius	10 June 1992
37. Oman	10 June 1992
38. Rwanda	10 June 1992
39. San Marino	10 June 1992
40. Seychelles	10 June 1992
41. Sri Lanka	10 June 1992
42. Belarus	11 June 1992
43. Bhutan	11 June 1992
44. Burundi	11 June 1992
45. Canada	11 June 1992
46. China	11 June 1992
47. Comoros	11 June 1992
48. Congo	11 June 1992
49. Croatia	11 June 1992
50. Democratic People's Republic of Korea	11 June 1992
51. Israel	11 June 1992
52. Jamaica	11 June 1992
53. Jordan	11 June 1992
54. Kenya	11 June 1992
55. Latvia	11 June 1992



<i>Signatory</i>	<i>Date of signature</i>
56. Lesotho	11 June 1992
57. Lithuania	11 June 1992
58. Monaco	11 June 1992
59. Myanmar	11 June 1992
60. Niger	11 June 1992
61. Qatar	11 June 1992
62. Trinidad and Tobago	11 June 1992
63. Turkey	11 June 1992
64. Ukraine	11 June 1992
65. United Arab Emirates	11 June 1992
66. Zaire	11 June 1992
67. Zambia	11 June 1992
68. Afghanistan	12 June 1992
69. Angola	12 June 1992
70. Argentina	12 June 1992
71. Azerbaijan	12 June 1992
72. Bahamas	12 June 1992
73. Barbados	12 June 1992
74. Bulgaria	12 June 1992
75. Burkina Faso	12 June 1992
76. Cape Verde	12 June 1992
77. Chad	12 June 1992
78. Colombia	12 June 1992
79. Cook Islands	12 June 1992
80. Cuba	12 June 1992
81. Cyprus	12 June 1992
82. Denmark	12 June 1992
83. Estonia	12 June 1992
84. Gabon	12 June 1992
85. Gambia	12 June 1992
86. Germany	12 June 1992
87. Ghana	12 June 1992
88. Greece	12 June 1992
89. Guinea	12 June 1992
90. Guinea-Bissau	12 June 1992
91. Lebanon	12 June 1992
92. Liberia	12 June 1992
93. Malaysia	12 June 1992
94. Maldives	12 June 1992
95. Malta	12 June 1992
96. Marshall Islands	12 June 1992
97. Mauritania	12 June 1992
98. Micronesia	12 June 1992
99. Mongolia	12 June 1992
100. Mozambique	12 June 1992
101. Namibia	12 June 1992
102. Nepal	12 June 1992
103. New Zealand	12 June 1992
104. Paraguay	12 June 1992
105. Peru	12 June 1992
106. Philippines	12 June 1992
107. Saint Kitts and Nevis	12 June 1992
108. Samoa	12 June 1992
109. Sao Tome and Principe	12 June 1992
110. Swaziland	12 June 1992

<i>Signatory</i>	<i>Date of signature</i>
111. Switzerland	12 June 1992
112. Thailand	12 June 1992
113. Togo	12 June 1992
114. Uganda	12 June 1992
115. United Kingdom of Great Britain and Northern Ireland	12 June 1992
116. United Republic of Tanzania	12 June 1992
117. Venezuela	12 June 1992
118. Yemen	12 June 1992
119. Zimbabwe	12 June 1992
120. Algeria	13 June 1992
121. Armenia	13 June 1992
122. Austria	13 June 1992
123. Belize	13 June 1992
124. Benin	13 June 1992
125. Bolivia	13 June 1992
126. Central African Republic	13 June 1992
127. Chile	13 June 1992
128. Costa Rica	13 June 1992
129. Djibouti	13 June 1992
130. Dominican Republic	13 June 1992
131. El Salvador	13 June 1992
132. European Economic Community	13 June 1992
133. France	13 June 1992
134. Guatemala	13 June 1992
135. Guyana	13 June 1992
136. Haiti	13 June 1992
137. Hungary	13 June 1992
138. Honduras	13 June 1992
139. Ireland	13 June 1992
140. Japan	13 June 1992
141. Mexico	13 June 1992
142. Morocco	13 June 1992
143. Nicaragua	13 June 1992
144. Nigeria	13 June 1992
145. Panama	13 June 1992
146. Papua New Guinea	13 June 1992
147. Portugal	13 June 1992
148. Republic of Korea	13 June 1992
149. Russian Federation	13 June 1992
150. Senegal	13 June 1992
151. Slovenia	13 June 1992
152. Solomon Islands	13 June 1992
153. Spain	13 June 1992
154. Suriname	13 June 1992
155. Tunisia	13 June 1992
156. Cameroon	14 June 1992
157. Iran	14 June 1992

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### ประวัติผู้เขียน

นายชนภัทร วินยวัฒน์ เกิดเมื่อวันที่ 19 ตุลาคม พ.ศ. 2512 สำเร็จการศึกษา  
นิติศาสตรบัณฑิตเกียรตินิยม จากจุฬาลงกรณ์มหาวิทยาลัย เมื่อปีการศึกษา 2534 ได้รับ  
ประกาศนียบัตรเนติบัณฑิตไทยสมัยที่ 45 จากสำนักอบรมและศึกษากฎหมายแห่งเนติบัณฑิตยสภา  
เข้าศึกษาต่อปริญญาวิทยาศาสตรมหาบัณฑิต สาขาวิชากฎหมายระหว่างประเทศ คณะนิติศาสตร์  
จุฬาลงกรณ์มหาวิทยาลัย เมื่อปีการศึกษา 2535 ได้รับทุนรัตนโกสินทร์จาก Canadian  
International Development Agency (CIDA) ให้ไปทำการศึกษาและทำวิทยานิพนธ์ ณ University  
of Victoria ประเทศแคนาดา ในระหว่างปี 2537 - 2538



ศูนย์วิทยพัชร์พยากร  
จุฬาลงกรณ์มหาวิทยาลัย