

FOIA MARKER

**This is not a textual record. This is used as an
administrative marker by the William J. Clinton
Presidential Library Staff.**

Collection/Record Group: Clinton Presidential Records
Subgroup/Office of Origin: Council on Environmental Quality
Series/Staff Member: Kathleen (Katie) McGinty
Subseries:

OA/ID Number: 2903
FolderID:

Folder Title:
Biodiversity

Stack:	Row:	Section:	Shelf:	Position:
S	61	6	4	1

Note to Eileen
from David
re: Biodi strategy
January 31, 1994

I had another very productive meeting on Friday of the small group of biodi people on the outline of the international strategy.

We now have a pretty good, fairly detailed outline for the strategy -- objectives, priorities, means, vehicles/arenas. Peter Thomas is to clean it up by next Tuesday to reflect ~~today's~~ ^{Friday's} meeting; I'll show it to you then.

Here is how I intend to proceed for the next steps. The target should be to complete the strategy, including getting agency sign-off, by the end of March. This fits into the FY'96 budget cycle in that it could be sent to agencies as a budget guidance document. So to get there . . .

- 1) Feb. 4 -- complete outline. (The outline will be reviewed once more next week by the small group).
- 2) Feb. 14 or 15 -- biodi IWG meeting (working level not principals) to review outline and make writing assignments. (I have already made writing assignments for about 1/2 of the document.)
- 3) Feb. 23 -- draft writing assignments due.
- 4) Mar. 4 -- Peter Thomas and I will edit the pieces into a single first draft and send out to IWG (working level for review).

Depending how many drafts need to be prepared, we ought to be able to have an IWG principals meeting to adopt the document by the end of March

working level group

Big



15th
TIME
1-3

SELECTED DOCUMENTS

UN

Convention on Biological Diversity *

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,

Recognising 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,

Recognising 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 organisations 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 ac-

cess 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,

Recognising 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 utilisation 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.

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.

"Regional economic integration organisation" means an organisation 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 authorised, 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.

Principles

States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resour-

* Conference for the Adoption of the Agreed Text of the Convention on Biological Diversity, Nairobi, 22 May 1992. See also page 206.

ces 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 organisations, 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 Con-

vention 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.

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 organise 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;

- (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 utilisation 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.



Courtesy : International Herald Tribune

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
- (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 organisations 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 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 significantly to 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;
- (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 organisations 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. Recognising 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.
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 utilisation 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, recognising 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 recognise 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, recognising 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, specialised 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 Parties 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.

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 the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account 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.

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 utilisation 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 utilisation of the financial resources including monitoring and evaluation on a regular basis of such utilisation. 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 the present 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 serious damage or a threat to biological diversity.

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 the present 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 accord-

ance with Article 25;

(c) Consider and adopt, as required, protocols in accordance with Article 26;

(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

(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 specialised 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 organisations 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, organisation 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 organisation 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.

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 this 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 this 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 organisations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States which are Contracting Parties to the Convention or the relevant protocol. Such organisations 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 organisation 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 organisation from 5 of June 1992 until

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 organisations. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. Any organisation 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 organisations, one or more of whose member States is a Contracting Party to the Convention or relevant protocol, the organisation 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 organisation 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 organisations 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 organisations shall also inform the Depositary of any relevant modification in the extent of their competence.

* See also page 206

Article 35.

Accession

1. This Convention and any protocol shall be open for accession by States and by regional economic integration organisations 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 organisations 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 organisations 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 organisations 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 the 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 organisation shall not be counted as additional to those deposited by member States of such organisation.

Article 37.

Reservations

No reservations may be made to this Convention.

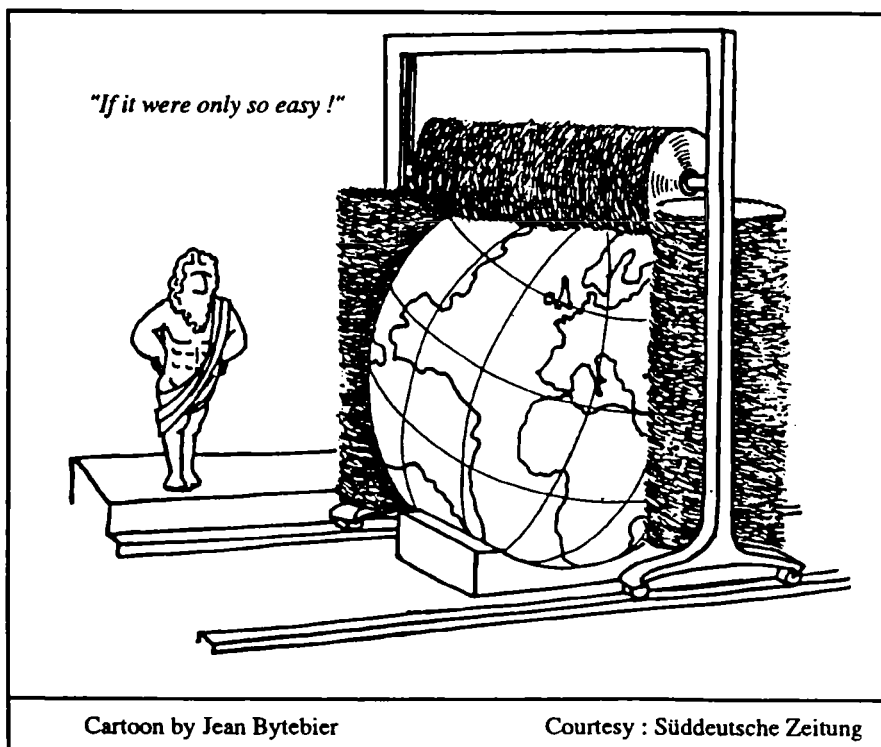
Article 38.

Withdrawals

1. At any time after two years from the date on which the present 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.



Cartoon by Jean Bytebier

Courtesy : Süddeutsche Zeitung

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 authorised 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.

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.

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

se 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 counter-claims 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. □

United Nations Framework Convention on Climate Change*

The Parties to this Convention,

Acknowledging that change in the Earth's climate and its adverse effects are a common concern of humankind,

Concerned that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind,

Noting that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs,

Aware of the role and importance in terrestrial and marine ecosystems of sinks and reservoirs of greenhouse gases,

Noting that there are many uncertainties in predictions of climate change, particularly with regard to the timing, magnitude and regional patterns thereof,

Acknowledging that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions,

Recalling the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,

Recalling also that 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 and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

Reaffirming the principle of sovereignty of States in international cooperation to address climate change,

Recognising that States should enact effective environmental legislation, that environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply, and that standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries,

Recalling the provisions of General Assembly resolution 44/228 of 22 December 1989 on the United Nations Conference on Environment and Development, and resolutions 43/53 of 6 December 1988, 44/207 of 22 December 1989, 45/212 of 21 December 1990 and 46/169 of 19 December 1991 on protection of global climate for present and future generations of mankind,

Recalling also the provisions of General Assembly resolution 44/206 of 22 December 1989 on the possible adverse effects of sea level rise on islands and coastal areas, particularly low-lying coastal areas and the pertinent provisions of General Assembly resolution 44/172 of 19 December 1989 on the implementation of the Plan of Action to Combat Desertification,

Recalling further the Vienna Convention for the Protection of the Ozone Layer, 1985, and the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, as adjusted and amended on 29 June 1990,

Noting the Ministerial Declaration of the Second World Climate Conference adopted on 7 November 1990,

Conscious of the valuable analytical work being conducted by many States on climate change and of the important contributions of the World Meteorological Organisation, the United Nations Environment Programme and other organs, organisations and bodies of the United Nations system, as well as other international and intergovernmental bodies, to the exchange of results of scientific research and the coordination of research,

Recognising that steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,

Recognising that various actions to address climate change can be justified economically in their own right and can also help in solving other environmental problems,

Recognising also the need for developed countries to take immediate action in a flexible manner on the basis of clear priorities, as a first step towards comprehensive response strategies at the global, national and, where agreed, regional levels that take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect,

Recognising further that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change,

Recognising the special difficulties of those countries, especially developing countries, whose economies are particularly dependent on fossil fuel production, use and exportation, as a consequence of action taken on limiting greenhouse gas emissions,

Affirming that responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter,

Taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty,

Recognising that all countries, especially developing countries, need access to resources required to achieve sustainable social and economic development and that, in order for developing countries to progress towards that goal, their energy consumption will need to grow taking into account the possibilities for achieving greater energy efficiency and for controlling greenhouse gas emissions in general, including through the application of new technologies on terms which make such an application economically and socially beneficial,

Determined to protect the climate system for present and future generations,

Have agreed as follows:

ARTICLE 1

DEFINITIONS *

(* Titles of articles are included solely to assist the reader)

For the purposes of this Convention:

1. "Adverse effects of climate change" means changes in the physical environment or biota result-

* Intergovernmental Negotiating Committee for a Framework Convention on Climate Change, Fifth session, second part New York, 30 April - 9 May 1992; (Report of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change on the Work of the Second Part of its fifth session, held at New York from 30 April to 9 May 1992). See also page 207.

STATE Department (DRAFT)

BIODIVERSITY CONVENTION Status of Interpretive Statements

EC

Technology Transfer (EC has competence): The Environment Directorate does not appear to favor the U.S. approach and is considering only a general statement on IPR. (On a separate track, the Trade Directorate had prepared a much more detailed statement -- quite similar to our own -- but Environment Directorate is not inclined to use it as a basis for further discussion.)

Finance (Member States have competence): Little support for an interpretive statement. U.K. is pushing for a limited statement on funding.

The EC approach will be discussed and possibly solidified at an Environment Minister's meeting later this month. Time is of the essence if we wish to influence this process. Talking points for the EC and Member States are attached.

EC Member States

At EC's request, we have not dealt directly with Member States (with the exception of the U.K.). We understand, however, that:

- o U.K. does not favor a detailed interpretive statement on technology transfer; it does favor a limited statement on funding. We have exchanged papers with the U.K. and are inviting them to meet with us for further technical discussions later this month.
- o Germany is internally split on technology transfer; we are unsure of their commitment to a statement on funding.
- o France is generally sympathetic, but we are unsure of their degree of commitment to an interpretive statement.
- o Denmark is opposed to an interpretive statement.

We should immediately contact all Member States directly. We should urge their support for a more detailed statement on technology transfer (talking points are attached). Again, time is of the essence (see above).

Japan: Japan is prepared to issue a public statement supporting most aspects of our interpretive statement, but will not include the statement in its instrument of ratification. We are grateful for their support.

New Zealand: New Zealand has stated that it supports our efforts to develop an interpretive statement. We should continue to encourage them.

Switzerland: Switzerland, who should be our strongest supporter on technology transfer, replied that it prefers to work through UNEP and the Conference of the Parties; Switzerland initially favored an amendment or protocol to the Convention. We should press them strongly to support our interpretive statement.

Austria: Austria has informally indicated general sympathy for our concerns. We should press them strongly to support our interpretive statement.

Australia: Australia never replied to our proposed statements through diplomatic channels. We understand that they do not support the concept of an interpretive statement, although they may agree with us substantively on certain issues. We have heard reports, however, that Australia has sent our interpretive statement to NGOs and to certain EC member States and is lobbying against us. (When contacted by us concerning these reports, Australia denied leaking our statement). We should press Australia to be publicly supportive of our efforts, even if it cannot join our statement.

Canada: Canada replied that it does not support the concept of our interpretive statement nor does it agree with us substantively on all issues addressed in the statement. We should press Canada to be publicly supportive of our efforts, even if it cannot join our statement.

Biodiversity Convention: Interpretive Statements
Talking Points For EC and Member States

- We were pleased to learn that the EC intends to develop a statement with respect to intellectual property rights. This is a positive step and consistent with the importance we place on IPRs.
- However, we fear that others may attempt to interpret ambiguous provisions in the Convention in a way that undercuts are shared interests.
- We continue to believe that like-minded countries and the EC should issue interpretive statements that specifically address these provisions in our instruments of ratification.
- I would not want to see our ratification process jeopardized by what could be perceived to be a lack of international support for the interpretations of the Convention we seek to advance.
- I therefore urge you to work with us to develop an interpretive statement on the issues of technology transfer and funding and ask you to reconsider your current approach. We look forward to working with you to develop a mutually acceptable statement.



UNITED NATIONS ENVIRONMENT PROGRAMME
PROGRAMME DES NATIONS UNIES POUR L'ENVIRONNEMENT



466-2710

TELEFAX TRANSMISSION

UNEP - WASHINGTON
1889 F STREET, N.W.
WASHINGTON D.C. 20006

FAX (202) 289-4267
PH: (202) 289-8456

DATE: 22 February, 1993

PAGE: 11

TO: Mr. Peter Thomas
U.S. Department of State

TELEFAX NO: (202) 736-7351

FROM: Christina C. Bailey
UNEP/RONA - Washington, D.C.

SUBJECT: Convention on Biological Diversity:
Signatures and Retifications.

Please see the attached pages.

Updates can be gotten
from U.N. Treaty Section
212-963-5048

202-736-7113

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

NOT YET IN FORCE (see article 36 (1))

TEXT: UNEP/Bio.Div/N7-INC.5/4

Note: The Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, was adopted by the Intergovernmental Negotiating Committee for a Convention on Biological Diversity, during its Fifth session, held at Nairobi from 11 to 22 May 1992. The Convention is open for signature at Rio de Janeiro by All States and regional economic integration organizations 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.

Actions effected between 5 June and 31 December 1992 *

<u>Participant</u>	<u>Signature</u>	<u>Ratification, accession (a), acceptance (A) and approval (AA)</u>
	E QD Ador Gj	
*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 1/
11. Republic of Moldova	5 June	1992
12. Nauru	5 June	1992
13. Netherlands	5 June	1992
14. Pakistan	5 June	1992

* Subject to the deposit of outstanding instruments.

SUPPLEMENT TO ST/LEG/SER.E/10

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

<u>Participant</u>	<u>Signature</u>	<u>Ratification, accession (a), acceptance (A) and approval (AA)</u>
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	2/23/93
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. Côte 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	

SUPPLEMENT TO ST/LEG/SER.E/10

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

<u>Participant</u>	<u>Signature</u>	<u>Ratification, accession (a), acceptance (A) and approval (AA)</u>
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
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

SUPPLEMENT TO ST/LEG/SER.E/10

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

<u>Participant</u>	<u>Signature</u>	<u>Ratification, accession (a), acceptance (A) and approval (AA)</u>
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

SUPPLEMENT TO ST/LEG/SER.E/10

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

<u>Participant</u>	<u>Signature</u>	<u>Ratification, accession (a), acceptance (A) and approval (AA)</u>
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
111. Switzerland	12 June	1992 2/
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 3/
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

SUPPLEMENT TO ST/LEG/SER.E/10

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

<u>Participant</u>	<u>Signature</u>	<u>Ratification, accession (a), acceptance (A) and approval (AA)</u>
132. European Economic Community	13 June 1992	
133. France	13 June 1992	4/
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	
158. Libyan Arab Jamahiriya	29 June 1992	
159. Mauritius		4 September 1992
160. Seychelles		22 September 1992
161. Mali	30 September 1992	
162. Marshall Islands		8 October 1992
163. Fiji	9 October 1992	

8/11

SUPPLEMENT TO ST/LEG/SER.E/10

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

<u>Participant/Authority</u>	<u>Signature</u>	<u>Ratification</u> <u>accession (a),</u> <u>acceptance (A) and</u> <u>approval (AA)</u>
164. Maldives		9 November 1992
165. Monaco		20 November 1992
166. Granada	3 December 1992	
167. Canada		4 December 1992
	<i>Ratified</i>	
✓ Ecuador	2/23/93	SLOVAKI 5/19/93 <i>Signed</i>
Fiji	2/25/93	
China	1/5/93	
✓ S. Kitts & Nevis	1/7/93	
✓ Antigua / Barbuda	3/9/93	
Singapore signed	3/10/93	
✓ Mexico	3/11/93	
PN6	3/16/93	
Vanuatu	3/25/93	
Cook Isles	4/20/93	
Syrian Arab	signed 5/3/93	
Ghana	5/7/93	
Armenia	5/14/93	

1/

ITALY

(Original: English)

"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 21.1 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".

2/

SWITZERLAND

(Translation) (Original: French)

The Swiss Government wishes to emphasize particularly the progress made in establishing standard terms for cooperation between States in a very important field: research activities and activities for the transfer of technology relevant to resources from third countries.

The important provisions in question create a platform for even closer cooperation with public research bodies or institutions in Switzerland and for the transfer of technologies available to governmental or public bodies, particularly universities and various publicly-funded research and development centres.

It is our understanding that genetic resources acquired under the procedure specified in article 15 and developed by private research institutions will be the subject of programmes of cooperation, joint research and the transfer of technology which will respect the principles and rules for the protection of intellectual property.

These principles and rules are essential for research and private investment, in particular in the latest technologies, such as modern biotechnology which requires substantial financial outlays. On the basis of this interpretation, the Swiss Government wishes to indicate that it is ready, at the opportune time, to take 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 firms and the private firms and governmental bodies of other Contracting Parties.

With regard to financial cooperation, Switzerland interprets the provisions of articles 20 and 21 as follows: the resources to be committed and the management system will

10/11
3/ 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.

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 resource needed" by the financial mechanism, and that nothing in Article 20 or Article 21 authorises the Conference of the Parties to take decisions concerning the amount, nature, frequency or size of the contributions of the Parties under the Convention.

4/ The French Republic declares, at the time of signing the Convention on Biological Diversity:

- With reference to article 3, that it interprets that 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 no provision of the Convention authorizes the Conference of the Parties to take decisions concerning the amount, nature or frequency of the contributions from Parties to the Convention.

SUPPLEMENT TO ST/LEG/SER.E/11

XXVII.8 CONVENTION ON BIOLOGICAL DIVERSITY

Opened for signature at Rio de Janeiro on 5 June 1992

NOT YET IN FORCE (see article 36 (1))

TEXT: UNEP/Bio.Div/N7-INC.5/4

Note: The Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, was adopted by the Intergovernmental Negotiating Committee for a Convention on Biological Diversity, during its Fifth session, held at Nairobi from 11 to 22 May 1992. The Convention is open for signature at Rio de Janeiro by All States and regional economic integration organizations 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.

Actions effected between 1 January and 18 February 1993 *

<u>Participant</u>	<u>Signature</u>	<u>Ratification, accession (a), acceptance (A) and approval (AA)</u>
1. China		5 January 1993
2. Saint Kitts and Nevis		7 January 1993
3. Rectification of the English text of the certified true copies proposed by the Government of Japan <u>1/</u>		

Note to Katie from David Doniger and Clare Breidenich
Re: Biodiversity Convention
Date: June 11, 1993

Here's the information you requested on the status of the Biodiversity Convention in preparation of your afternoon interview. All information is from Peter Thomas at the State Department. I have attached a State Department Memo on other countries' reaction to the U.S. position.

Biodiversity Convention

- ◆ **170** Countries have **signed** the Convention.
- ◆ **20** countries have **ratified**, including China, Canada and recently Japan. The EC is committed to ratifying by the end of 1993.
- ◆ The **1st Intergovernmental Committee Meeting** to discuss implementation issues will be held in **September**. (Since the Convention has not entered into force, this is not called a Conference of Parties.) Although no formal agenda has been set, **issues to be discussed** will probably include:
 - Finances and financial mechanism
 - Technology Transfer
 - Intellectual Property Rights
 - Biotechnology
 - Biosafety Protocol
- ◆ **UNEP Expert Meetings** held this past year addressed:
 - Priorities for Action on Conservation and Sustainable development
 - Economic Implications of Biodiversity Conservation and Sustainable Development
 - Technology transfer and financial issues
 - Biosafety Protocol
 - UNEP Guidelines for Country Studies of Biodiversity
- The Expert Meetings only established issues and problem areas, no formal negotiations were held. With the exception of the Biosafety Protocol, the panels were non-controversial and consistent with U.S. objectives. The U.S. believes that the Biosafety panel did not give enough weight to the question of whether a Biosafety Protocol is actually warranted.