

**IUCN
Environmental
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Programme**

An Introduction to the African Convention on the Conservation of Nature and Natural Resources



IUCN Environmental Policy and Law Paper No. 56

IUCN
The World Conservation Union

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**IUCN – The World Conservation Union
2004**

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Published by: IUCN, Gland, Switzerland and Cambridge, UK in collaboration with
IUCN Environmental Law Centre, Bonn, Germany



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Citation: (2004). *An Introduction to the African Convention on the Conservation of Nature and Natural Resources*. IUCN, Gland, Switzerland and Cambridge, UK. xii + 60 pp.

ISBN: 2-8317-0817-6

Cover design by: IUCN Environmental Law Centre

Cover photo: Baobab tree, Saadani river, Tanzania, *Dr. Alejandro Iza*

Layout by: Barbara Weiner

Produced by: IUCN Environmental Law Centre

Printed by: medienHaus Plump GmbH, Rheinbreitbach, Germany

Available from: IUCN Publications Services Unit
219c Huntingdon Road, Cambridge CB3 0DL, UK
www.iucn.org/bookstore
or
IUCN Environmental Law Centre
Godesberger Allee 108-112, D-53175 Bonn, Germany
www.iucn.org/themes/law

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Preface

IUCN – The World Conservation Union welcomes the timely publication of this “Introduction to the African Convention on the Conservation of Nature and Natural Resources”. It illustrates the ongoing commitment of IUCN to the successful implementation of this important international instrument.

The Convention was adopted by the Assembly of the African Union on 11 July 2003 in Maputo, and is the result of a thorough revision of the original Convention, adopted in Algiers in 1968. The new text succeeds in making the African Convention a most comprehensive and modern regional treaty on environment and natural resources conservation, and the first to deal with an array of sustainable development matters.

The new Convention covers a wide spectrum of issues, including quantitative and qualitative management of natural resources such as soil and land, air and water, and biological resources. It also considers processes and activities damaging to the environment and natural resources, introduces procedural rights and provides mechanisms to assist its implementation, including an independent secretariat. Last but not least, it requires cooperation whenever this is desirable for the implementation of the Convention, and in particular when transboundary effects may occur.

IUCN played a major role in the preparation of the original convention in the mid-sixties, and again assisted, in partnership with UNEP, the Organization of African Unity (OAU, now the African Union), with technical assistance in the drafting of, and the process which led to, the new Convention.

Decision 4(II) of the African Union Assembly that adopted the text, thanks IUCN and UNEP for their endeavours to update the 1968 Convention and bring it to the level and standard of modern multilateral environmental agreements. It has been said that the cooperation between the African Union, UNEP and IUCN in this task has been exemplary – an observation I share. This is also rewarding to IUCN, and in particular its Environmental Law Programme, which was responsible for this work, with the support of the five IUCN regional offices in Africa.

The new Convention has been updated and improved by Africa’s professionals, and through African institutions, to meet Africa’s needs on environment and development for the future. We believe that, well implemented, the Convention will become an important instrument of ‘good environmental governance’ in Africa. IUCN will continue to assist and support this process, and very much hopes that the Convention will soon enter into force.

Achim Steiner
Director General of IUCN

A Message from IUCN's African Regional Directors

After working with the conservation of biodiversity and the ongoing search for mechanisms to achieve the sustainable use of natural resources in Africa, it is with great enthusiasm that we welcome the adoption of the revised African Convention on the Conservation of Nature and Natural Resources (the African Convention). This revised and contemporary convention takes account of the many changes in attitudes and policy perspectives we have witnessed in Africa towards conservation, and in particular its relationship to people and their livelihoods. It is a convention that reaches across the many aspects of environmental management, being one of the essential pillars of sustainable development.

The African Convention combines many aspects of environment protection in its most modern forms with the long held view that nature, be it of global and local value, should be conserved and used sensibly for the benefit of local people, who should also have a recognizable role in the process. The specific inclusion of management procedures for non-living natural resources, especially water, land and soil, adds to the biodiversity conservation perspectives to make a more rounded and environmentally inclusive convention. Similarly the sections on the recognition of local users' rights, traditional knowledge and community-based natural resource management bring the African Convention into the present century with its recognition of the role of local communities as well as national agencies in biodiversity and environmental management.

But most of all, the African Convention has been updated and improved by Africans for Africa and through African institutions. Its relationship to the African Union is both direct and necessary for its recognition and support. Its support through the African Ministerial Conference on Environment gives it national support and a continuing relationship to the inter-governmental process in Africa. Most recently it has been recognized by the New Partnership for Africa (NEPAD) as an essential vehicle for its Environment Action Plan. This Action Plan brings current issues into a continent-wide view of environmental degradation and promotes modern solutions to maintain and improve environmental quality across Africa. The African Convention provides an excellent framework for the implementation of the NEPAD Plan – at both continental and sub-regional levels.

The African Convention has and will receive enduring support from IUCN through its Global networks, its Regional Programmes in Africa and their developing coalition of African national, sub-regional and regional partners. IUCN will be available to assist with the implementation of the Convention at all levels, with assistance to the Convention Secretariat and Conferences of Parties, and in achieving synergies with other environment-related conventions.

Daniel Ngantou, Regional Director, Central Africa
Eldad Tukahirwa, Regional Director, Eastern Africa
James Murombedzi, Regional Director, Southern Africa
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Acknowledgments

We would like to acknowledge and to express special thanks to everyone who has made this Introduction to the African Convention on the Conservation of Nature and Natural Resources possible. These include in particular:

- the principal authors: Lalaina Ravelomanantsoa, Research Fellow, Centre for Philosophy of Law, Catholic University of Leuven, Belgium and Victor Mosoti, Legal Officer, FAO Legal Office; and
- the editors: Mohamed Ali Mekouar, Chief, Development Law Service, FAO Legal Office and Françoise Burhenne-Guilmin, Senior Counsel, IUCN Environmental Law Centre.

Our thanks also go to Geoffrey Howard, Regional Programme Director, IUCN Eastern Africa Regional Office and John Scanlon, Head, IUCN Environmental Law Programme, for their review and contributions to the work.

We also wish to express our gratitude to those who have contributed resources enabling the idea for this publication to become a reality. These include the IUCN Environmental Law Centre, through the BMZ funded project on the Regionalisation of the Environmental Law Programme, and Ali Mekouar who has generously committed funds received in his capacity as the 2003 Elizabeth Haub Prize laureate to this work.

Finally, IUCN would like to take this opportunity to acknowledge the significant contribution made by several individuals from the OAU (now the African Union), UNEP and IUCN to the drafting of the new African Convention, namely: Prof. C. A. Johnson, Foday Bojang, Dr. Donald Kaniaru, Prof. Charles Okidi, Dr. Wolfgang Burhenne and Dr. Françoise Burhenne-Guilmin.

The involvement of IUCN in the process of the review of the Convention benefited from financial assistance from the International Council for Environmental Law, which it gratefully acknowledges.

*IUCN – The World Conservation Union
IUCN Environmental Law Programme
October 2004*

I. Introduction: A renewed commitment

Environmental and natural resource concerns rank highly in both continental and national priorities in Africa. This is because of its ecological and political history, its exceptional diversity of species and ecosystems¹ and its current economic and social situation.²

African countries have suffered excessive exploitation of natural resources. Although the former colonial authorities promulgated some norms both at the regional and domestic levels in order to reduce the destruction of nature, these norms only addressed specific natural resources sectors and were mostly “use-oriented” and “rule-oriented.”³ They were more focused on the allocation and exploitation of natural resources than management.⁴

The post-independence period has been characterized by continued environmental degradation, along with pockets of political instability and a deficient economic and social background. At independence, African countries invariably inherited the command-and-control and sector-specific characteristics of colonial environmental legislation. Between the 1950s and the 1970s however, this legislation became more “resource oriented”,⁵ in the sense that the focus gradually shifted to the long term management and sustainable use of natural resources.

Since the 1970s, there has been a significant evolutionary and refinement process in African environmental legislation inspired by newly developed international environmental instruments, including the *African Convention for the Conservation of Nature and Natural Resources* of 1968 (the “Algiers Convention”).⁶ In addition, inspiration was drawn from major global events like the Stockholm Conference on the Human Environment of 1972, and two decades later, the United Nations Conference on the Environment and Development in 1992 (the Rio Conference). Quite importantly, African countries also came to realize the potential negative effects of persistent and fast degradation of the environment and natural resources. National conservation strategies were adopted in the mid-1980s, under the impetus of the World Conservation Strategy, and were later

¹ Africa has the second largest tropical rain forest and the second largest freshwater lake in the world. According to Conservation International, Africa hosts 6 of the world’s 25 biodiversity hotspots. See *Conservation Strategies: Hotspots*, available at www.conservation.org (June 2004). The major causes of environmental degradation include loss of habitat resulting from the increasing demand for resources and space combined with an exponential rate of population growth, rising levels of poverty and inappropriate development practices. See UNEP, *Action Plan of the Environment Initiative of the New Partnership for Africa’s Development (NEPAD)*, June 2003.

² Africa accounts for 10% of the world population, 1% of the world gross domestic product and 2% of international trade. 34 out of the 39 least developed countries are African and 40% of the population live below the poverty threshold. For more information, see African Union, *Vision of the African Union and Mission of the African Union Commission*, March 2004.

³ Ogolla, D. Bondi, “Environmental Law in Africa: Status, and Trends”, *International Business Lawyer*, October 1995.

⁴ For instance, this “command-and-control” colonial legislation was enacted to regulate the delivery of hunting and fishing permits, forest exploitation licenses or the allocation of water rights. The implementation of this rule-oriented legislation was the responsibility of forestry or fishery administrative police.

⁵ Ogolla, *supra*, note 3 at 413.

⁶ Adopted on 15 September 1968. The Convention entered into force on 16 June 1969.

followed by national environmental action plans (NEAPs),⁷ especially in the period following the Rio Conference. By 1996, more than half of African countries had drafted or were in the process of drafting their NEAPs.⁸

Further, environmental management and policy-making institutions were created.⁹ A more “system-oriented” legal approach was considered appropriate, taking into consideration a broad view of environmental management.¹⁰ Examples of “rule-oriented” legislation would include environmental codes or “lois-cadres” such as the Burkina Faso *code de l’environnement*, the Congolese *loi sur la protection de l’environnement* or the Malagasy *charte de l’environnement*. Legal and institutional mechanisms have also been established to integrate environmental concerns into socio-economic development plans and projects. Current legislation now focuses on prevention and management, rather than suppression and penalty.

With the creation of the African Union in 2002, African leaders have reiterated their commitment to a united Africa and made a joint and collective commitment to the promotion of socio-economic development. The Constitutive Act of the African Union (the “Constitutive Act”) specifically mentions the promotion of sustainable development as an objective of the Union (Article 3(j)). It also provides that the Executive Council, which is composed of the Ministers of Foreign Affairs or such other Ministers or Authorities as are designated by the Governments of the Parties, shall coordinate and take decisions on policies in areas of common interest to the Parties, including energy, mineral resources, food, agricultural and animal resources, forestry, water resources and environmental protection (Articles 10(1) and 13(1)). Furthermore, it establishes a specialized technical committee on natural resources and environment (Article 14(1)(d)).

The essential significance given to environmental protection and sustainable development has rapidly materialised through the revision of the Algiers Convention and the adoption of the revised African Convention on the Conservation of Nature and Natural Resources¹¹ (the “African Convention”) during the African Union Summit in Maputo, Mozambique in July 2003. Qualified as the “youngest and the most modern amongst the oldest environmental Conventions”¹² and as the “most global amongst the regional”, the Convention brings a new lease of life to regional and national environmental law and policy. This comprehensive instrument is in tune with current

⁷ Burkina Faso, Ghana, Guinea, Lesotho, Madagascar, Mauritius, and Rwanda were the pioneers of national environmental action plans (NEAPs) in Africa (Falloux, F., Talbot, L. and Christoffersen L., *National Environmental Action Plans in Africa: Early Lessons and Future Directions*, AFTEN, 1990). For example, Madagascar’s NEAP is a 15-year plan to be implemented in 3 phases. It provides the substance of environmental protection programmes as well as the institutional, legal and financial mechanisms needed for the implementation of these programmes. To date, most modern Malagasy environmental legislation has been enacted within the framework of the NEAP.

⁸ Kamto, M., *Droit de l’environnement en Afrique*, Edicef, 1996, at 85.

⁹ Such as the *Observatoire national de l’environnement et du développement durable* of Algeria, the *Comité interministériel de l’environnement* of Cameroon, the *Conseil supérieur de l’environnement* of Congo, the *Commission nationale de l’environnement* of Côte d’Ivoire, the National Environment Council of Kenya, the *Office national pour l’environnement* of Madagascar, and the Environmental Council of Zambia.

¹⁰ Ogolla, *supra*, note 3 at 414.

¹¹ Revised African Convention on the Conservation of Nature and Natural Resources, adopted on 11 July 2003.

¹² Mekouar, M. A., “La Convention africaine: petite histoire d’une grande rénovation”, *Environmental Policy and Law*, Volume 34, Number 1, February 2004 at 43.

international environmental thinking, principles and policies and the latest scientific and technological developments. It has been developed by Africans for Africa and reveals a strong commitment to sustainable development, to be achieved as a collective aspiration of the African Union.

This paper seeks to introduce the text of the African Convention. It is divided into three parts. Part I charts out a brief history of the origin of the African Convention. Part II addresses its substantive content and Part III focuses on the Convention's significantly stronger implementation tools.

II. Origins and history of the Convention: the road to Maputo

1. The early origins

1.1 The 1900 London Convention

The initiative for a regional convention to conserve nature and natural resources of the African continent was pioneered by the colonial powers¹³ through the Convention on the Preservation of Wild Animals, Birds, and Fish in Africa signed in London on 19 May 1900 (the "London Convention of 1900"). The agreement aimed at preventing uncontrolled massacre of wild animals and ensuring the conservation of diverse wild animal species.¹⁴ It set up a selective mechanism for the protection of "useful" or rare and endangered wild animal species and the sufficient reduction of "pest" species (Articles II (1), II (13) and II (15)). It also encouraged signatories to engage in the creation of "reserves" (Article II (5)). The Convention never entered into force because most of its signatories did not ratify it. However, this first initiative was not worthless. It helped some signatories to enact legislation related to the protection of wild fauna in their respective colonial territories.

1.2 The 1933 London Convention

Following the failure of the London Convention of 1900, an international congress on the protection of nature was held in Paris in 1931 to propose the convening of an international conference for the adoption of a new text. On 8 November 1933, the *Convention Relative to the Preservation of Fauna and Flora in their Natural State* (the "London Convention") was adopted. It entered into force on 14 January 1936. Compared to its predecessor, the scope of the London Convention was extended to include plant species. While its objective remained utilitarian – to preserve supplies of species which were economically valuable and popular with trophy hunters¹⁵ – it rejected the concept of nuisance species.¹⁶

The London Convention was the very first binding legal instrument to provide for the creation of protected areas in Africa such as national parks and nature reserves. After the Second World

¹³ Belgium, France, Germany, Italy, Portugal, Spain, and the United Kingdom.

¹⁴ Preamble of the London Convention of 1900.

¹⁵ The London Convention provides a list of plant and animal species that were selected whether to receive absolute protection (class A) or a lower level of protection (class B).

¹⁶ Lyster, S., *International Wildlife Law*, IUCN, 1985, at 113.

War, a conference was held in 1953 in Bukavu¹⁷ in order to review the London Convention in light of acquired experience. One of the major recommendations was on the preparation of another Convention that would address the essential elements of a general policy for the protection of nature in Africa, taking into consideration the main interests of the African people.¹⁸ A group of experts met in 1957 to examine the implementation of these recommendations. However, these efforts were overtaken by the process of decolonization in the continent.

2. The Algiers Convention of 1968

As African countries gained independence, the need for a new treaty to address nature conservation issues was expressed in the Arusha Manifesto of 1961. In 1963, the *African Charter for the Protection and the Conservation of Nature*¹⁹ was adopted. In 1964, the United Nations Economic Commission for Africa and UNESCO recommended that the London Convention be revised and that the Organization of African Unity (OAU) request the assistance of IUCN – The World Conservation Union (IUCN), in collaboration with the UN Food and Agriculture Organization (FAO) and UNESCO, in preparing a draft text.²⁰ OAU requested IUCN to take the lead, and after a number of meetings of experts and reviews by OAU member States, the Convention was adopted at the OAU's fifth summit in July 1968 in Algiers.

2.1 A modern approach to the conservation of nature

The Algiers Convention moved away from a concept of natural resources conservation solely centred on utilitarian purposes. It introduced innovative approaches for the conservation of nature. In several ways, it was a precursor to modern international wildlife law²¹ in the sense that it acknowledged, early on, the principle of common responsibility for environmental management by African States. It also called for the conservation and rational use of natural resources for the welfare of present and future generations.

While the Algiers Convention focused on living resources, calling for the creation of protected areas and for specific conservation measures for species that are listed in its Annex, it also provided the grounds for the conservation of other natural resources such as soil and water, for the consideration of environmental concerns in development plans, and for research and education.

2.2 The call for reform

The Algiers convention was signed by 38 and ratified by 30 African States. It served well as a basis for the efforts of newly independent African nations to take steps for the conservation of their environmental and natural resources. The Convention did not, however, provide the institutional structures that would have facilitated its effective implementation by the Parties, neither did it establish mechanisms to encourage compliance and enforcement. The decade following its adoption was characterized by the flourishing of international environmental law.²² Because of all

¹⁷ Konaté, A., *L'Organisation de l'Unité Africaine et la protection juridique de l'environnement*, Thèse de Doctorat en droit, Université de Limoges, 1998, at 73-74.

¹⁸ *Id.*, at 75.

¹⁹ Konaté, *supra*, at 80; Ogundere, J. D., "The Development of International Environmental Law and Policy in Africa", 1972 *Natural Resources Journal*, Vol. 12, at 261.

²⁰ Konaté, *supra*, at 81.

²¹ Kiss, A. & Beurier, J.-P., *Droit international de l'environnement*, Pedone, 2000, at 263.

²² In the 1970's, 4 out of the 5 current main global Conventions on species and ecosystems were adopted.

these, and the rapid progress in scientific knowledge in the environmental field and subsequent legal evolution, it became necessary to revise the Algiers Convention.

3. The Maputo revision of 2003

3.1 Negotiating history

Two governments, Nigeria and Cameroon, requested the OAU to initiate the revision and updating of the 1968 Convention. Upon request of the OAU, IUCN submitted a proposed revision of the Convention in 1981. Meetings and consultations took place up to 1986, but the revision process was not completed. Subsequent continent-wide instruments, however, acknowledged and took account of the continued evolution in environmental management. The 1991 Abuja Treaty Establishing the African Economic Community (Abuja Treaty) called for the adoption of a Protocol on Natural Resources and a Protocol on the Environment (respectively, Articles 57 and 60). The eighties were also marked by the adoption of landmark environmental conventions.²³ All these made it clear that it was necessary to adjust the Algiers Convention to new developments in scientific, legal and institutional knowledge.

In 1996, the government of Burkina Faso requested the OAU to resume the revision process. In 1999, the OAU requested the cooperation of IUCN, UNEP and the United Nations Economic Commission for Africa (UN/ECA) in the preparation of a new text that would be adapted to the current state of international environmental law as well as the current scientific and policy concepts and approaches.²⁴ An interagency process was initiated in 2000, and a draft revision completed the following year. A consultation of all African ministries of the Environment and of Foreign Affairs took place. Its results were considered at a meeting of governmental experts convened by the OAU in Nairobi in January 2002. It discussed the draft, the comments submitted, and produced a revised version.

This draft was then transmitted by the OAU to the 9th session (July 2002) of the African Ministerial Conference on the Environment (AMCEN). AMCEN recommended the conclusion of the revision as soon as possible, with a view to adopting it during the World Summit on Sustainable Development.²⁵ While this timeframe did not prove possible, the *Revised African Convention on the Conservation of Nature and Natural Resources* was adopted one year later, on 11 July 2003 at the second Summit of the African Union in Maputo by the Heads of State and Government.

3.2 Structure and approach

The new African Convention consolidates 30 years of learning and experience in international environmental law and policy. It holds strong international legitimacy as it is in line with the major international conventions and takes account of the latest scientific technical and policy developments. The Convention retains the outline and structure of its predecessor, the Algiers Convention.

²³ Some of the conventions adopted in the eighties include the *United Nations Convention on the Law of the Sea*, 1982; the *International Tropical Timber Agreement*, 1983; the *Vienna Convention for the Protection of the Ozone Layer*, 1985; the *Montreal Protocol on Substances that Deplete the Ozone Layer*, 1987; and the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*, 1989.

²⁴ Burhenne-Guilmin, F., *Revision of the 1968 African Convention for the Conservation of Nature and Natural Resources: A Summary of the Background and Process*, IUCN Environmental Law Programme Newsletter 1/2003.

²⁵ Mekouar, *supra*, note 16 at 45.

This reflects the mandate under which the revision was made: as stated in its preamble, the Convention is the result of a process of amendment of the original Convention.²⁶

The character of the Convention, as a regional agreement for environmental protection in Africa, is also maintained. The purpose of the revision is not, therefore, to integrate the provisions of all existing global Conventions – to which most African countries are committed – but to remain the principal vehicle through which issues of particular concern to the continent may be considered, and concerted action taken. These include African responses to global issues and commitments.²⁷

III. A broader coverage: substantive content of the Convention

1. Conceptual foundation

1.1 General overview

The conservation of nature and natural resources, as indicated in its title, remains the central tenet of the African Convention. However, the wide definition of “natural resources” as renewable resources, tangible and intangible, including soil, water, flora and fauna as well as non renewable resources (Article V (1)), indicates that it has taken a comprehensive and general approach to environmental protection.²⁸ The Convention also addresses economic and social development goals, both in its substantive provisions and its preamble, which recalls the Lagos Plan of Action for the Economic Development of Africa and the Final Act of Lagos as well as the African Charter on Human and Peoples Rights, and stresses the necessity to work closely together towards the implementation of global and regional instruments supporting the goals of the Rio Declaration and Agenda 21. By addressing the three pillars of sustainable development in an integrative manner, the Convention provides a unique tool to advance its implementation in Africa.

1.2 Fundamental provisions

In Article II, the Convention spells out three objectives which also correspond to key elements of a sustainable development approach: the achievement of ecologically rational, economically sound and socially acceptable development policies and programmes. In keeping with these broad objectives of the Convention, the Parties are required to enhance the protection of the environment, foster the conservation and sustainable use of natural resources, and coordinate and harmonize policies in these fields (Article II).

In realizing these objectives, the Parties should be guided by three principles, including the right to a satisfactory environment and the right to development – the so-called “third generation of human rights”.²⁹ These rights are stipulated in the African Charter on Human and Peoples

²⁶ Preamble of the African Convention, stating: “Convinced that the above objectives would be better achieved by amending the 1968 Algiers Convention on the Conservation of Nature and Natural Resources by expanding elements related to sustainable development”.

²⁷ Introductory note to the proposed draft revision, last revised June 2002.

²⁸ The enhancement of the protection of the environment is one of the objectives of the Convention in Article II (1).

²⁹ Ghezali, M., “Les nouveaux droits fondamentaux de l’homme”, in CRIDEAU- CNRS/IRNA, *Vers un nouveau droit de l’environnement*, Université de Limoges, 2003, at 88.

Rights³⁰ and are also embodied in the Constitutions of many African Countries.³¹ However fundamental these texts are, they do not address implementation.³² By characterizing these rights and duties as guiding principles for the implementation of the Convention by the Parties, the Convention imbues them with a concrete and practical meaning. This is reinforced by the consideration of sustainability and equity as the basis of the third principle.

Finally, it is worth noting that unlike its predecessor, the Convention excludes reservations. This reflects the necessity for the Parties to apply common solutions to common problems in order to meet the Convention objectives. If the Parties had the right to make reservations, the asymmetry of obligations would jeopardize the attainment of these objectives.

1.3 Integrating environmental conservation and socio-economic development

The integration of environmental conservation considerations with socio-economic concerns is manifest throughout the provisions of the Convention.

Article XIV on “Sustainable Development and Natural Resources” is particularly relevant. It calls for the Parties to integrate developmental and environmental concerns by treating both as an integral part of national and/or local development plans. It spells out that ecological, social, economic and cultural factors should be given full consideration in their development, with the overall objective to promote sustainable development.

The principle of integration preceded the notion of sustainable development.³³ Principle 13 of the 1972 Stockholm Declaration³⁴ proclaimed that “in order to achieve a more rational management of resources and thus to improve the environment, States should adopt an integrated and coordinated approach to their development planning so as to ensure that development is compatible with the need to protect and improve environment for the benefit of their population.” Later on, in its report “Our Common Future”,³⁵ the Brundtland Commission introduced integration as the main foundation of sustainable development strategies. The notion of integration was further linked to sustainable development in Principle 4 of the Rio Declaration.³⁶

The obligations of Article XIV thus require Parties to ensure, to the maximum extent possible, that development activities and projects are based on environmentally-sound policies and that they

³⁰ “States shall have the duty, individually or collectively, to ensure the exercise of the right to development” – “All peoples shall have the right to a general satisfactory environment favourable to their development.” (Articles 22 (2) & 24 of the African Charter on Human and Peoples Rights.)

³¹ Kamto, *supra*, note 8 at 51.

³² Mekouar M. A., “Le Droit à l’Environnement dans la Charte Africaine des Droits de l’Homme et des Peuples”, *Etude juridique en ligne de la FAO*, No. 16, 2001.

³³ Caudal, S., “Les conditions juridiques de la gestion intégrée de l’environnement” in CRIDEAU-CNRS/IRNA, *Vers un nouveau droit de l’environnement*, Université de Limoges, 2003, at 149.

³⁴ *Declaration of the United Nations Conference on the Human Environment*, adopted on 16 June 1972.

³⁵ *Our Common Future*, Oxford University Press, Oxford (UK), 1987.

³⁶ “In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it” – Principle 4 of the *Rio Declaration on Environment and Development*, adopted on 5 June 1992.

do not adversely impact natural resources and the environment in general. Such an obligation may be fulfilled through environmental impact assessments (EIA), including subsequent environmental monitoring and auditing. The EIA process is one of the key ways through which prevention and precaution may be implemented as it aims at an evaluation of the positive or negative environmental consequences of an activity or a strategy.

Many African countries now have legislation which mandates carrying out EIAs before certain specified activities, projects, plans and programmes are implemented. Generally, an EIA is required *ex ante*, before an environmental permit is given for a proposed development project, or a plan or strategy is adopted. The EIA contains a description of the project as well as of its possible impacts on the environment. It also describes the measures that are proposed to avoid, eliminate or reduce these impacts. Subsequent environmental monitoring is required for the control of the application and the accuracy of measures that were proposed in the EIA. Environmental auditing is an *ex post* evaluation. It occurs at the end of the development project and aims at defining the cost and the bearer of eventual rehabilitation measures.³⁷

2. Conservation and sustainable use of renewable resources

2.1 Land, soil and water

Articles VI, VII and VIII consider fundamental rules for the conservation and sustainable management of land resources. Article VI addresses the issues of land degradation and directs the Parties to take measures for the conservation and sustainable management of land resources, including soil, vegetation and related hydrological processes. The measures are spelt out in some detail and include the implementation of improved agricultural practices and agrarian reforms, particularly on soil conservation, sustainable farming and forestry practices, and pollution control. The commitments in this provision reflect those contained in the *United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa* (the “CCD”).

The CCD was adopted on 17 June 1994 and entered into force on 26 December 1996. It aims at “combating desertification and mitigate the effects of drought in countries experiencing serious drought and/or desertification, particularly in Africa”. It calls for international cooperation in meeting these objectives and focuses particular attention on improving land productivity, rehabilitation of land, conservation and sustainable management of land and water resources.

Article VII of the Convention compels Parties to address the management of water resources, whether underground, surface or rain water, in a way to maintain them at the highest possible quantitative and qualitative levels and to ensure the protection of human health. To this end, it requires that measures be taken to control pollution, water-borne diseases and excessive abstraction. Parties must also ensure that people have access to sufficient and continuous supply of water.

In Article VIII, the Convention directs the Parties to take measures for the conservation, sustainable use and rehabilitation of vegetation cover, and thus to adopt measures to soundly manage forests, woodlands, and wetlands. To this end, States must take concrete steps for the control of forest exploitation and fires, land clearing for cultivation and grazing by domestic and wild animals, as well as invasive species. Forest reserves must also be established, and reforestation

³⁷ A number of other mechanisms are designed to help achieve the integration of environmental concerns and development activities. The Sustainability Impact Assessment (SIA) of the European Commission is particularly relevant.

programmes carried out. Whereas the Convention does not state the exact meaning of forest reserves, Article VIII is important for African countries in which deforestation is increasing, as a result of overharvesting, overgrazing, and slash-and-burn agriculture, as well as de-gazetting of forest reserves for other land-uses.³⁸

2.2 Species and genetic diversity

Article IX deals with species and genetic diversity. It calls for their conservation *in situ* and for the sustainable use of harvestable plants and animals, whether terrestrial, fresh-water or marine. It also requires the Parties to conserve their habitat and to take *ex situ* conservation measures. Moreover, it provides for the preservation of as many cultivated or domestic varieties of animals and plants as possible and the control of both intentional and accidental introductions of exotic species, as well as of genetically modified organisms.

These provisions are in line with commitments in the *Convention on Biological Diversity*³⁹ (the “CBD”). The CBD aims at the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising from the use of genetic resources. These are also consistent with the provisions of the *Cartagena Protocol on Biosafety*⁴⁰ (the “Biosafety Protocol”) which aspires for the safe transfer, handling and use of living modified organisms as well as those of the *International Treaty on Plant Genetic Resources for Food and Agriculture*⁴¹ (the “ITPGRFA”) which aims at the conservation and sustainable use of plant genetic resources for food and agriculture. Regarding access and benefit sharing (ABS),⁴² the African Convention adopts new language by requiring Parties to provide for *fair and equitable access* to genetic resources, on mutually agreed terms. It thus goes a step further than CBD Article 15, while echoing the provisions of CBD Article 19 by requiring Parties to provide for the fair and equitable sharing of benefits arising out of biotechnologies based upon genetic resources and related traditional knowledge with the providers of such resources.

The Convention also compels the Parties to identify and eliminate the factors that are causing the depletion of species that are threatened or that may become so (Article X). Threatened species are defined in Annex 1 and include critically endangered, endangered and vulnerable species.⁴³ These definitions reflect those of the IUCN Red List of Threatened Species version 3.1⁴⁴ which

³⁸ In a joint report by FAO, the African Development Bank and the European Commission, it was reported that “Between 1990 and 2000, the [African] continent lost about 52 million ha of forest, accounting for about 56 percent of the global reduction in forest cover.” FAO, *African Forests: A View to 2020* (2003).

³⁹ *Convention on Biological Diversity*, adopted on 22 May 1992, entered into force on 29 December 1993.

⁴⁰ *Cartagena Protocol on Biosafety*, adopted on 29 January 2000, entered into force on 11 September 2003.

⁴¹ *International Treaty on Plant Genetic Resources for Food and Agriculture*, adopted on 3 November 2001, entered into force on 29 June 2004.

⁴² Article 15(1) & (2) of the *Convention on Biological Diversity* affirms the principle of the sovereign right of States over their natural resources and provides national governments with the authority to determine access to genetic resources through national legislation. In the exercise of this sovereign right, Parties must endeavor to facilitate access by other Parties.

⁴³ Critically endangered species are species that are facing an extremely high risk of extinction in the wild. Endangered species are species that are facing a very high risk of extinction in the wild. Vulnerable species are species that are facing a high risk of extinction in the wild.

⁴⁴ See the *2003 IUCN Red List of Threatened Species* available at www.redlist.org (June 2004).

aims at identifying particular species at risk of extinction. The IUCN Red Lists are prepared by the IUCN Species Survival Commission and are the most comprehensive, apolitical and global effort to provide a scientifically based evaluation of the conservation status of plant and animal species.⁴⁵ The Convention calls upon Parties to enact national legislation for the protection of threatened species and to pay particular attention to the need to develop and maintain concerted protection measures for such species.

A novel feature of the African Convention is the regulation of domestic trade, possession and transport of specimens and products in order to ensure that such specimens⁴⁶ and products⁴⁷ have been taken or obtained in compliance with domestic law and international obligations related to trade in species (Article XI (1)). This provision aims at enabling the implementation and enforcement of the *Convention on International Trade in Endangered Species* (“CITES”),⁴⁸ to which most African countries are Parties. Through a system of lists and permits, CITES ensures that international trade in specimens⁴⁹ of plant and animal species does not threaten their existence. One of the major flaws in the control of trade in species is the lack of adequate national legislation governing the possession and transport of specimens whose trade, whether domestic or international, is regulated. Another weakness is the absence of penal provisions in case of violation of such trade law. In this regard, the Convention requires Parties to provide for appropriate penal sanctions, including confiscation measures for trade, possession and transport of specimens and products taken or obtained in contravention of domestic law or international obligations.⁵⁰ Article XI (2) encourages Parties to cooperate bilaterally or sub-regionally to eliminate illegal trade in species, through the conclusion of agreements such as the *Lusaka Agreement on Co-operative Enforcement Operations Directed at Illegal Trade in Wild Fauna and Flora* concluded on 9 September 1994 under the auspices of UNEP, by six African countries (Kenya, South Africa, Swaziland, Uganda, Tanzania and Zambia). This Agreement entered into force on 10 December 1996 and aims at reducing and eliminating illegal trade in wild fauna and flora and also establishing a permanent task force for this purpose.

2.3 Conservation areas

The importance given to protected areas as a conservation tool remains unchanged from the Algiers Convention. However, the revised text entails important modifications in this regard, attuned to the modern concept of conservation areas.

The African Convention directs the Parties to establish, maintain and extend terrestrial and marine conservation areas to ensure the long term conservation of biological diversity (Article XII (1)). Biological diversity is defined as the variability among living organisms from all sources

⁴⁵ *Id.*

⁴⁶ Specimen is defined as “any animal or plant or micro organism, alive or dead.”

⁴⁷ Product is defined as “any part or derivative of a specimen.”

⁴⁸ CITES was adopted on 3 March 1973, and entered into force on 1 July 1975.

⁴⁹ Under CITES, a “specimen” is defined as “(i) any animal or plant, whether alive or dead; (ii) in the case of an animal: for species included in Appendices I and II, any readily recognizable part or derivative thereof; and for species included in Appendix III, any readily recognizable part or derivative thereof specified in Appendix III in relation to the species; and (iii) in the case of a plant: for species included in Appendix I, any readily recognizable part or derivative thereof; and for species included in Appendices II and III, any readily recognizable part or derivative thereof specified in Appendices II and III in relation to the species”.

⁵⁰ For instance, such measures should include penalties for trade in wildlife taken or obtained in violation of an international legal instrument, and provide for the prosecution of illegal wildlife traders.

including, *inter alia*, terrestrial, marine, or other aquatic ecosystems and the ecological complexes of which they are part; this includes diversity within species, between species and of ecosystems (Article V (7)). Conservation areas are to be dedicated specifically for conservation and management purposes. They are classified according to the six main categories of protected areas that are acknowledged under the *Guidelines for Protected Areas Management Categories* published by IUCN in 1994.⁵¹ Besides the six categories, other conservation areas may be created for the objectives of conservation and sustainable use of natural resources, for which criteria may be adopted by the Conferences of Parties.

In addition to the new categories of conservation areas, a major innovation in the Convention is the requirement that Parties take into account the work of competent international organizations in the identification of critically important areas (Article XII (2)). The Convention does not define “competent international organizations” nor does it plainly distinguish between international non-governmental or inter-governmental organizations.⁵² This article hearkens back to the Article IV requirement to utilize scientific expertise in the implementation of the Convention.

Finally, the Convention requires Parties to promote the creation of conservation areas by local communities that are primarily managed for the conservation and sustainable use of natural resources (Article XII (3)). This provision complements Article XVII (3) which ordains that Parties should involve local communities in the process of planning and management of natural resources.

3. Processes and activities which impact on the environment

To achieve the conservation and sustainable use of natural resources, it is imperative to ensure their sound management, but this is not enough. Processes and activities which affect them and the environment must also be controlled. The African Convention is novel in addressing these issues, in particular control of air, water and soil pollution, waste management, and the protection of the environment from the adverse effects of military and armed conflicts.

3.1 Control of pollution and waste management

Article XIII on “Processes and Activities Affecting the Environment and Natural Resources” commits Parties to take measures to prevent, eliminate and reduce the adverse effects of radioactive, toxic and other hazardous substances and waste. In order to achieve this objective, Parties must harmonize their policies in a manner consistent with their international legal obligations.⁵³ In particular, they should “establish, strengthen and implement national standards,

⁵¹ Document available at www.unep-wcmc.org/protected_areas/categories/eng/index.html (June 2004). The six categories are *strict nature reserves and wilderness areas, national park, natural monument, habitat/species management area, protected landscape/seascape and managed resources protected area*.

⁵² Implicitly, the work of CBD, UNESCO, IUCN, and of Conservation International on “Biodiversity Hotspots” as well as of WWF on the “Global 200 Ecoregion,” would fall into this category.

⁵³ For instance, relevant treaties may include the *Stockholm Convention on Persistent Organic Pollutants (POPs)*, adopted on 22 May 2001, entered into force on 17 May 2004; the *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*, adopted on 22 March 1989, entered into force on 5 May 1992; the *Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa*, adopted on 30 January 1991, entered into force on 22 April 1998.

including for ambient environmental quality, emission and discharge limits, as well as process and production methods and products quality.” They are also required to collaborate with the competent international organizations over this matter.

Ambient standards set the maximum allowable levels of a pollutant in the environment, taking into account the desirable level of environmental safety and health. Emission standards on the other hand set the maximum amount of a pollutant that may be emitted from a particular source, and are determined on the basis of what is achievable with the “Best Available Technology”, the “Best Practicable Technology” or the “Best Available Technology Not Entailing Excessive Cost.”⁵⁴ Regarding process and production methods and products quality, reference can be made to environmental management systems such as ISO 14001 or the Eco-Management and Audit Scheme (EMAS).⁵⁵

The Parties also commit themselves to provide economic incentives and disincentives in order to prevent or abate environmental harm and to restore or enhance environmental quality. The Convention adds that Parties shall implement international Conventions in these regard. Most modern international environmental treaties now refer to economic incentive and disincentive tools in order to achieve their objectives. For instance, the CBD commits the Parties to adopt economically sound measures that act as incentives in order to achieve its objectives. The Parties may also seek the collaboration of international organizations such the Organisation for Economic Cooperation and Development (OECD). The OECD Environment Programme published the “Handbook of Incentive Measures for Biodiversity: Design and Implementation” which may be of help to policy makers in the design and the implementation of incentive measures to encourage the conservation and sustainable use of biological resources.

Finally, Parties must adopt measures for the efficient use of energy, raw materials and non-renewable resources. The term efficient use of energy includes all the technical and economic measures aimed at reducing the specific energy demand of a production system or economic sector.

3.2 Military and hostile activities

Article XV on “Military and Hostile Activities” compels Parties to protect the environment against harm resulting from armed conflicts, to refrain from using methods or means of combat that are intended to, or may cause widespread, long-term and severe harm to the environment as well as the destruction or modification of the environment as a means of combat. Throughout history, the environment has always been affected negatively during war situations.⁵⁶ Africa’s vulnerability to armed conflict makes this an issue of particular relevance.

The Geneva Conventions contain the legal norms relative to wartime actions, including actions causing environmental damage. While the original focus of the Conventions was to prevent parties at war from inflicting unnecessary suffering on people and damaging their property, the scope has gradually broadened to include environmental concerns. The Protocol Additional to the Geneva Conventions and relating to the Protection of Victims of International Armed Conflicts (Protocol I) was the first instrument of this nature to specifically protect the environment against

⁵⁴ The World Bank Group, *Pollution Prevention and Abatement Handbook*, World Bank, 1997 at 27.

⁵⁵ See http://europa.eu.int/comm/environment/emas/index_en.htm.

⁵⁶ For example after the 1991 Gulf War, it was established that pockets of the land had been contaminated by depleted uranium. See Bema, H. & Bou-Rabee, F., “Environmental and Health Consequences of Depleted Uranium Use in the 1991 Gulf War”, *Environment International* 30, 2004, at 129.

harm resulting from armed conflict.⁵⁷ In Article 35 (3), it provides that methods or means of warfare which are intended, or expected, to cause widespread, long-term and severe damage to the natural environment are prohibited. The Convention on the Prohibition of Military or any other Hostile Use of Environmental Modification Techniques⁵⁸ compels Parties not to engage in military or any other hostile use of environmental modification techniques having widespread, long-lasting or severe effects. As for internal armed conflicts, the same provisions are imparted by the Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (protocol II).⁵⁹

The Convention adds that Parties shall cooperate to establish, develop and implement rules and measures to protect the environment during armed conflicts.

4. Empowering people and strengthening national institutions

Empowering people and strengthening institutions are key elements in the progress towards sustainable development. The Convention addresses these issues by providing for procedural rights, research, education and information, technology transfer and the use and protection of traditional knowledge.

4.1 Procedural rights

These rights are recognized under Article XVI. The Convention requires the Parties to adopt legislation and other regulatory measures necessary to enable the public to: have access to environmental information, to participate in decision-making and to recourse to courts of justice in matters relating to environmental actions.

This provision echoes Principle 10 of the Rio Declaration which requires, among other things, that individuals have access to information held by public authorities, have the opportunity to participate in the decision making processes, and have effective access to judicial and administrative proceedings.⁶⁰ These procedural rights have subsequently been addressed in the *Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters* (the “Aarhus Convention”) that entered into force on 30 October 2001.

Procedural rights are generally viewed as a mechanism for ensuring the protection of fundamental rights to a clean environment.⁶¹ Public participation is a means to enable citizens to

⁵⁷ Environmental Law Institute, *Addressing the Environmental Consequences of War: A Background Report*, 1998.

⁵⁸ Adopted on 18 May 1977, entered into force on 5 October 1978.

⁵⁹ Adopted on 8 June 1977, entered into force in 7 December 1978.

⁶⁰ Principle 10 states that: “Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.”

⁶¹ Rehbinder, E., “Democracy, Access to Justice and Environment at the International Level”, in CRIDEAU-CNRS/IRNA, *Vers un nouveau droit de l’environnement*, Université de Limoges, 2003, at 134.

voice their concerns and to obtain information in order to improve the quality of environmental decisions. This can be exemplified by the procedure of public participation in the evaluation of environmental impact statements. For instance in Madagascar, through public hearings or public investigations, the advice of concerned persons must be taken into consideration in the decision-making process relative to the environmental permit for investment projects that may have an adverse effect on the environment. Procedural rights are also considered a tool of expanded democracy in which people take part in decision-making and consequently improve the legitimacy of the resulting decisions. The three rights are inseparable, as public participation presupposes access to information; and both require access to justice for their implementation.

The Convention also enunciates the principle of national treatment in the case of trans-boundary environmental harm. This means that a Party should provide the same rights of access to administrative and judicial procedures to foreign nationals as those it provides to its own citizens.

4.2 Research, education and training

Parties' obligations regarding research, education, capacity-building and training are addressed under Articles XVIII and XX of the African Convention. These provisions develop similar aspirations in the Abuja Treaty.⁶² Parties are required to strengthen their capabilities to undertake scientific and technological research in the field of conservation, sustainable use and management of natural resources and in doing so to pay attention to both ecological and socio-economic factors – and their integration.

The Convention also requires the Parties to promote cooperation amongst themselves and with third parties in research in the areas of technology and science as well as in economic and marketing systems. It calls on Parties to coordinate their research, share their results, and develop joint programmes. This provision is especially important for the implementation of the Convention, which relies for most of its provisions on the use of scientific knowledge as a fundamental tool for implementation measures.

The Convention commits Parties to promote environmental education, training and awareness creation at all levels. For this purpose, Parties must ensure that environmental matters are addressed in all educational and training programmes, that campaigns for environmental awareness are conducted and that the educational and training value of conservation areas are utilized. This provision is consistent with Chapter 36 of Agenda 21.⁶³ The Convention further requires

⁶² For instance, Article 51 of the Abuja Treaty provides that members shall “strengthen existing scientific research institutions and, where they do not exist, establish new institutions” and also in order to promote cooperation in the area of natural resources and energy, the Parties shall “develop a system of transfer of know-how and exchange of scientific, technical and economic data in remote sensing among Member States” and “prepare and implement joint training and further training programmes for cadres in order to develop the human resources and the appropriate local technological capabilities required for the exploration, exploitation and processing of mineral and water resources”.

⁶³ Chapter 36 of Agenda 21 provides *inter alia* that, “both formal and non-formal education is indispensable to changing people’s attitudes so that they have the capacity to assess and address their sustainable development concerns. It is also critical for achieving environmental and ethical awareness, values and attitudes, skills and behaviour consistent with sustainable development and for effective public participation in decision-making. To be effective, environment and development education should deal with the dynamics of both the physical/biological socio-economic environment as well as human (which may include spiritual) development. These should be integrated in all disciplines, and should employ formal and non-formal methods as well as effective means of communication.”

cooperation in these fields, for example through joint training programmes, a continuous exchange of information and experience, and joint libraries and documentation centres.⁶⁴

4.3 Technology transfer and use

In Article XIX, Parties to the Convention agree to “encourage and strengthen the development and use, as well as access and transfer of environmentally sound technologies on mutually agreed terms” (Article XIX). The envisaged transfer of technology is to be achieved through joint research programmes and ventures with the objective of accelerating the transition to sustainable development. The Parties must also adopt laws and regulation on economic incentives for the development, importation, transfer and utilization of environmentally sound technologies in both the public and private sector.

Transfer of technology is defined as the transfer of a systematic body of knowledge for the manufacture of a product, for the application of a process or for the rendering of a service.⁶⁵ The Convention covers only the transfer of environmentally sound technologies and only for the promotion of sustainable development. This implies that Parties will have to undertake technology assessments.⁶⁶ Article XIX also commits Parties to enact legislation that provides economic incentives for the development, importation and transfer of technology. This might mean the protection of intellectual property rights, which is generally considered to serve as an economic incentive to trigger innovation. The existence of an intellectual property protection regime is therefore an incentive for the transfer of technology on mutually agreed terms, which can be interpreted as licensing agreements, joint ventures, foreign direct investment, technical-service arrangements, sales contracts, management contracts, joint research and development.

According to the *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPs),⁶⁷ WTO Members are required to harmonize their intellectual property legislation in order to remove distortions to international trade caused by varying and inadequate forms and levels of protection. The TRIPs agreement prescribes the minimum standards of intellectual property rights protection that Members must translate into national legislations. Article 66 of the TRIPs agreement provides that developed country Members shall provide incentives to enterprises and institutions in their territories for the purpose of promoting and encouraging technology transfer to least-developed country Members in order to enable them to create a sound and viable technological base.

In the context of the ITPGRFA, access to and transfer of technology must be provided to developing countries under fair and most favourable terms, particularly in the case of technology

⁶⁴ Such education and training tools are exemplified by the UNESCO project “Educating for a Sustainable Future” and also UNEP’s PADELIA project. See <http://www.unesco.org/education/esd/> and <http://hq.unep.org/DPDL/Law/Padelia/index.asp>.

⁶⁵ Glowka, L. *et al.*, *A Guide to the Convention on Biological Diversity*, IUCN, 1994.

⁶⁶ These have been defined by the Secretariat of the Convention on Biological Diversity, as a “set of country-driven activities which involve relevant stakeholders in a consultative process to identify and determine the needs of Parties in response to national priorities and policies, with regard to the cooperation and transfer of technology for conservation and sustainable use of biodiversity, or technology that makes use of genetic resources and do not cause significant damage to the environment, and with regard to building or enhancement of scientific, legal and administrative capacity, and training.” See www.biodiv.org/programmes/cross-cutting/technology/assessment.asp.

⁶⁷ Annex 1C of the *Agreement Establishing the World Trade Organization*, adopted on 15 April 1994, entered into force 1 January 1995.

for the benefit of farmers in developing countries, especially in least developed countries and countries with economies in transition.⁶⁸

Finally, the Convention requires Parties to pay special attention to technologies which can be used locally by individuals, local communities and small/medium enterprises.

4.4 Protection of and contributions from traditional knowledge

The Convention addresses the issue relative to the protection of traditional knowledge specifically in Article XVII. Parties must enact legislation and make regulations for the protection of traditional rights, and regarding the intellectual property rights of local communities including farmers' rights. Access to indigenous knowledge must be subject to the prior informed consent of the concerned communities. Parties must also enact specific regulations that recognize these rights as well as their economic value.

Traditional knowledge was one of the critical issues advanced by developing countries during the negotiations of the CBD⁶⁹ and has remained so since its adoption.⁷⁰ The WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore has affirmed the importance of protecting intellectual property associated with traditional knowledge.⁷¹

The African Convention echoes this affirmation. Article XVII supports both the ongoing process in the CBD to develop an ABS system for wild genetic resources as well as the provisions of the ITPGRFA. Article 9, of the ITPGRFA recognizes farmers rights and emphasizes "the enormous contribution that local and indigenous communities and farmers of all regions of the world, particularly those in centres of origin and crop diversity have made and will continue to make for the conservation and development of plant genetic resources which constitute the basis of food and agriculture production throughout the world." It further compels Parties to take measures to protect and promote farmers' rights.

⁶⁸ Article 13.2 (b) (iii) of the ITPGRFA. For instance, the equitable sharing of the benefits arising from the use of genetic resources may be illustrated by the recognition of the farmer's privilege exemption of plant breeder's rights regimes.

⁶⁹ Article 8(j) of the CBD provides that "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".

⁷⁰ Lettington, R. J. L. and Nnadozie, K., *A Review of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore at WIPO*, South Centre Occasional Papers No. 12 (2003) at 4.

⁷¹ The Committee has stated: "...the protection of intellectual property associated with traditional knowledge whether through conventional intellectual property rights, *sui generis* adaptations or extensions of intellectual property rights, or through distinct systems of *sui generis* rights ultimately takes place at the national level. Any general approach to the intellectual property protection of this subject matter, including its international dimension, necessarily entails consideration of what legal tools and mechanisms are required at the national level, how they should operate, and what legal and operational contributions the international dimension can make to protection at the national level." See WIPO, *Traditional Knowledge, Traditional Cultural Expressions and Genetic Resources: the International Dimension*, document prepared by the Secretariat WIPO/GRTKF/IC/6/6 (2003).

Through these provisions, the Convention reinforces the need for harmonized implementation in this field, as exemplified by the African Model Legislation for the Protection of the Rights of Local Communities, Farmers and Breeders, and for the Regulation of Access to Biological Resources which was endorsed by the OAU in 1998. This model legislation is intended to assist African states in their efforts to develop and implement legal instruments for the purpose of fulfilling their obligations under the TRIPs Agreement and the CBD.

On another plane, the use of traditional knowledge and values are promoted throughout the text in the context of the management of land resources, conservation, utilization and management plans for forests, woodlands, rangelands, wetlands and other areas with vegetation cover, and is generally recognized as an important contribution to the implementation of all Convention provisions. Parties must therefore enable the active participation of local communities in the process of planning and management of natural resources and ecosystems, as an incentive for conservation. By requiring Parties to enable the active participation of local communities in the management of natural resources as well as to promote the establishment of conservation areas by local communities (Article XII (3)), the Convention promotes the policy of community based resource management. Echoing Principle 23 of the Rio Declaration which stipulates that “indigenous people and their communities and other local communities have a vital role in environmental management”, this provision strengthens national policies of devolution of management of natural resources to local communities, such as is provided for under the law on local management on natural resources in Madagascar.⁷²

IV. In search of effectiveness: stronger institutional mechanisms

The original Algiers Convention was characterized as one whose implementation is “left to be desired.”⁷³ Indeed, one of its major weaknesses was its failure to provide the administrative, legal, institutional and financial foundations for its implementation and the pragmatic means to honor the international law principle of “*pacta sunt servanda*.”⁷⁴ The revised text addresses this shortcoming by providing the Convention with modern institutional arrangements. A Conference of the Parties (the “COP”), a Secretariat, and Subsidiary Bodies mechanisms are introduced, and a financial mechanism, reporting and information techniques are added as major innovations. In addition, the provisions relative to national authorities and cooperation have been significantly strengthened.

1. Institutional mechanisms of the Convention

1.1 Convention bodies

The African Convention provides for the creation of a COP that will be its decision-making body. To be established at the ministerial level, the COP will hold ordinary meetings at least once every two years, with the first meeting to be held no later than one year after the date of entry into force of the Convention. Extraordinary meetings may be held either at the discretion of the members of

⁷² Loi No. 96-025 du 25 septembre 1996 sur la gestion locale sécurisée des ressources naturelles renouvelables.

⁷³ Kiss, *supra*, note 19 at 89.

⁷⁴ Article 26 of the *Vienna Convention on the Law of Treaties*, adopted on 22 May 1969, entered into force on 27 January 1980 provides that “every treaty in force is binding upon the parties to it and must be performed by them in good faith”.

the COP or at the request of one Party. Decisions shall be made as far as possible by consensus or otherwise by at least a two-third majority of the parties present and voting. Observers such as the representatives of African regional economic communities and African regional or sub-regional communities,⁷⁵ the United Nations, its specialized agencies, non-member States that are parties to the Algiers Convention as well as qualified non-governmental organizations can attend meetings of the COP.

At its first meeting, the COP will be responsible for adopting rules of procedures for itself and for any subsidiary bodies it may create. For instance, such rules may govern the timing and the conduct of COP meetings, the participation of observers, the preparation of the provisional agenda for each meeting, the designation of the representatives of delegations and COP officers. Also the COP will have to determine the rules relative to the funding and the operation of the Secretariat. The major functions of the COP include:

- making recommendations to the Parties on any matters related to the implementation of the Convention
- receiving, considering and making recommendations on the information and reports submitted by the Parties, the subsidiary bodies or the Secretariat
- creating the necessary subsidiary bodies
- promoting and facilitating the exchange of information between Parties
- adopting amendments to the Convention, as well as additional annexes or amendments to annexes
- seeking through the Secretariat cooperation with competent national or international, public or private organizations.

In addition, the COP is also empowered to adopt Annexes to the Convention regarding species in need of protection, as well as define criteria for conservation areas additional to those defined in Article V(6)(a), and which are designated and/or managed primarily for the conservation and sustainable use of natural resources (Article V (6)(b)).

Furthermore, the COP shall designate an organization to carry out the Secretariat functions or appoint its own Secretariat and determine its location (Article XXVI (5)), a new feature of the Convention. An independent Secretariat plays an important role in the implementation of an international treaty.⁷⁶ Secretariat functions for the Convention include:

- arranging the meetings of the COP and executing its decisions
- drawing the attention of COP members to matters related to the objectives and the implementation of the Convention
- gathering and disseminating implementation legislations, regulations and reports from Parties
- administering the budget and the proposed conservation fund
- preparing the studies and activity reports regarding the implementation of the Convention
- coordinating with other Conventions' secretariats
- providing information to the general public concerning the Convention and its objectives.

⁷⁵ Such as the Common Market for Eastern and Southern Africa (COMESA), the Communauté Economique et Monétaire en Afrique Centrale (CEMAC/UDEAC), the East African Cooperation (EAC), the Economic Community of Central African States (ECCAS/CEEAC), the Economic Community of West African States (ECOWAS/CEDEAO), the Indian Ocean Commission (IOC/COI), the Intergovernmental Authority on Development (IGAD), the Southern African Development Community (SADC), the Union du Maghreb Arabe (UMA), and the Union Economique et Monétaire Ouest Africaine (UEMOA/WAEMU).

⁷⁶ Agence Universitaire de la Francophonie, *La mise en œuvre nationale du droit international de l'environnement dans les pays francophones*, Presses Universitaires de Limoges, 2001, at 14.

The Secretariat may also perform other activities and other functions as determined by the COP. Under the Convention, the Secretariat can either be an already existing organization or a new one. In the meantime, the President of the Commission of the African Union is temporarily in charge of carrying out the functions of the Secretariat (Article XLI).

The Convention gives the COP the power to create technical and scientific subsidiary bodies necessary for effective implementation. As the Convention does not specify these subsidiary bodies, the COP will have the full discretion to decide which one to establish. The creation of subsidiary bodies are usually based on the need for harnessing scientific knowledge as a fundamental element of implementation and also on the requirement to take into consideration the work of competent international organizations for certain issues.

1.2 Dispute settlement

The Convention provides for the resolution of disputes regarding its interpretation and application. It favours negotiation or good offices, but it also recognizes the competence of the newly created African Court of Justice of the African Union, as a final resort. The Court of Justice is one of the organs of the African Union,⁷⁷ created by the *Protocol of the Court of Justice of the African Union*, adopted in 11 July 2003. Article 19 (1) (b) assigns the Court's jurisdiction to "the interpretation, application or validity of Union treaties and all subsidiary legal instruments adopted within the framework of the Union."

1.3 Compliance mechanism

The COP is also requested, as soon as possible, to develop and adopt rules, procedures and institutional mechanisms to promote and enhance compliance with the provisions of the Convention (Article XXIII).

1.4 Financial mechanisms

The former Algiers Convention did not provide for financial resources to ensure its implementation, and this was identified as a major shortcoming, addressed by Article XXVIII of the revised Convention, on financial resources.

Recognizing that financing is of central importance to the achievement of its objectives, the Convention provides that each Party, according to its capability, must make every effort to ensure that financial resources are made available for its budget, through direct contributions from the Parties, annual contributions from the African Union and contributions from other institutions. The contribution from the Parties to the budget will be assessed according to a scale approved by the COP at its first meeting. The budget is to cover the administration and management costs of the Convention institutional mechanisms.

The COP may also establish a conservation fund constituted from voluntary contributions of Parties or any other approved sources for the purpose of financing projects and activities pertaining to the objectives of the Convention. Trust funds as well as earmarked contributions are also potential tools of financing. Funds are to be used for the purpose of financing projects and activities relating to the conservation of the environment and natural resources (Article XXVIII (3)).⁷⁸

⁷⁷ Articles 5 and 18 of the Constitutive Act of the African Union.

⁷⁸ Examples of these include the *Montreal Protocol on Substances that Deplete the Ozone Layer*, the *Convention on Biological Diversity*, the *United Nations Framework Convention on Climate Change* or the *Kyoto Protocol*. Both the CBD and the UNFCCC call for the creation

Functioning under the authority of the COP, the Conservation Fund must be only used to finance activities and projects and is not meant to cover the administrative and management costs of the Convention bodies.

Finally, the Parties must seek further financial resources from all national, bilateral and multilateral funding resources and mechanisms, including those of the private sector and non-governmental organizations.

Bilateral sources include cooperation and partnerships, for instance with foreign international development agencies such as, *inter alia*, CIDA (Canada), CF (France), DANIDA (Denmark), GTZ (Germany), JICA (Japan), NORAD (Norway), SIDA (Sweden), SDC (Switzerland), The Netherlands, USAID (United States) as well as the development assistance programme of the European Union⁷⁹ or with private companies or foundations. Besides their function in providing the financial resources for the implementation of projects and activities related to the objectives of conservation of nature and natural resources, the existence and the availability of funding may also act as an incentive for governments and individuals to undertake environmentally-sound activities and comply with their Conventional obligations. This is especially true where eligibility to access funding mechanisms is conditioned by the execution of specific commitments.

2. Implementation mechanisms

In addition to the institutional mechanisms created under the Convention, the African Convention provides for the establishment of implementation mechanisms at the domestic level and requires inter-Parties' cooperation.

2.1 Domestic institutional mechanisms

The existence of coherent structures for environmental protection and management is a crucial element in ensuring national compliance, monitoring and evaluation.⁸⁰ In Article XXI, the Convention commits the Parties to designate a national authority to deal with all matters covered by the Convention or, alternatively, to establish machinery to coordinate the environmental activities of national institutions. This provision is particularly important as most African countries are characterized by unstable and scattered environmental institutions.⁸¹ The Convention ad-

of a financial mechanism managed by the Global Environment Facility (GEF). GEF is an independent financial organization which was created in 1991 to assist developing countries in implementing activities and projects related to biodiversity, climate change, international waters, land degradation, the ozone layer and persistent organic pollutants (POPs). GEF projects are managed by UNEP, UNDP and the World Bank. The *Kyoto Protocol* to the *United Nations Framework Convention on Climate Change*, adopted on 11 December 1997 provides for the creation of a Prototype Carbon Fund which is made of contributions by companies and governments in projects designed to produce emission reductions within the framework of joint implementation and the clean development mechanism.

⁷⁹ See World Commission on Protected Areas (WCPA)/IUCN, *Financing Protected Areas Guidelines for Protected Area Managers*, Best Practice Protected Area Guidelines Series No. 5, IUCN, 2000.

⁸⁰ Romi, R., "Les mécanismes juridiques de contrôle et de suivi des mesures environnementales en droit comparé", in CRIDEAU-CNRS/IRNA, *Vers un nouveau droit de l'environnement*, Université de Limoges, 2003, at 217.

⁸¹ For instance, Decree No. 2002-810 of 7 August 2002 which vests responsibility in the Ministry in charge of the Environment in Madagascar has been modified once in 2003 and twice in 2004.

dresses a number of environmental and development issues that normally fall under the mandates of several ministries and governmental agencies. Coordination is likely to be the preferred option, and is important in order to address situations of overlapping responsibilities, lack of transparency and burdensome bureaucracy.

The Convention also mentions that Parties must designate focal points. These are empowered agencies or institutions whose names must be communicated to the Secretariat (Article XXIX (2) (c)). The focal points will be expected to play a major role in the reporting and information mechanism set up by the Convention at Article XXIX. Reporting systems are essential devices for the implementation of modern international treaties. Indeed, Parties will be expected to submit reports to the COP outlining the mechanisms they have adopted for the implementation of their obligations under the Convention including the legislative and regulatory measures adopted to ensure compliance.

In addition, they will have to include information on the results of the implementation of these measures, including information necessary to provide complete documentation on matters addressed by the Convention, and on related bilateral or multilateral environmental agreements to which they are Parties. The method and timing of the reports are left to the COP's discretion. Furthermore, the Secretariat will have to ensure that reports are adequate and sufficient. This is important to ensure the efficiency of the reporting mechanism as a means to enhance Parties' compliance with the Convention's objectives. Experience shows that the practical difficulty of the reporting system resides in the fact that the report is made by the officials of Member States themselves, hence leaving little practical room for self-criticism.⁸² The empowerment of the Secretariat to review national reports is intended to bring a remedy to this concern.

2.2 Cooperation mechanisms

Cooperation is important for the implementation of national measures to conserve and use natural resources sustainably. Actions undertaken in one state may have an impact on the natural resources of another State. Some species are common to the territory of several countries and therefore conservation programmes must be considered and implemented cooperatively, if not jointly. Traditional knowledge, innovation and practices may be held by communities which belong to a number of States.

The Convention calls on Parties to cooperate between themselves and also with other States, including those that are not Parties to the Convention in order to address transboundary environmental issues, to harmonize and to enhance the effectiveness of their policies and legislations. Cooperation is also mentioned in the context of scientific and technological research,⁸³ of economic and marketing systems, and of the development and use, as well as access to and transfer of, environmentally sound technologies on mutually agreed terms (Article XIX (1)).

V. Conclusion: the road ahead

Based on a global conceptual vision, the African Convention embodies a comprehensive regional regime for environmental protection and sustainable development. Anchored in the African

⁸² Kamto, M., "La mise en oeuvre et le suivi du droit international de l'environnement", in CRIDEAU-CNRS/IRNA, *Vers un nouveau droit de l'environnement*, Université de Limoges, 2003, at 16.

⁸³ Through the undertaking of joint research and development activities, exchange of results and coordination of research programmes (Article XVIII (2) of the African Convention).

values, grounded on the three pillars of sustainability, having an outreaching scope, and providing for stronger institutional tools, the new Convention establishes a wide-ranging and solid legal foundation for the environment continent-wide, crystallizing African responses to global issues and commitments. Furthermore, it reflects a renewed perception of resource management that reconciles nature and culture. Being people-centred, emphasizing people's rights to land and security of tenure, advocating integrated resource management, it provides a landmark for further advancing the role of law to sustainably manage resources among African nations and communities. As such, the African Convention represents a milestone for furthering Africa's environmental laws and institutions nationally, in line with global legal regimes.

Further, the Convention has many novel features, which can be summarized as follows: it has a broader coverage than its predecessor; it seeks to integrate conservation concerns and development aspirations; and it provides for stronger institutional tools. Regarding its broader remit, this paper has explained that the Convention takes a distinctly comprehensive and general approach to environmental protection as one of the three pillars of sustainable development. It defines "natural resources" widely to include renewable, non-renewable, tangible and intangible resources. It seeks to integrate conservation and better environmental management strategies into development plans and projects, through techniques such as Environmental Impact Assessments. Finally, in a clear response to weaknesses of its predecessor, the Convention provides for an independent institutional structure including a COP, a Secretariat, and a financing mechanism to be fed by direct contributions from the Parties, annual contributions from the African Union and contributions from other institutions.

In order to enter into force, the Convention needs the ratification of 15 States (Article XXXVIII). Experience with other African treaties shows that their ratification usually takes a long time.⁸⁴ As of July 2004, 27 States had signed the Convention and two had ratified it.⁸⁵ There is therefore an urgent need to speed up the ratification process so that the Convention enters into force as soon as possible. Promoting ratification can and should be initiated by the interim Secretariat and supported by organisations such as UNEP and IUCN. Such a "campaign" could be linked to outreach activities in the context of the NEPAD environmental action plan, in particular the strategic plan to build Africa's capacity to implement global and regional environmental Conventions. Such a plan includes human resource development, public education and awareness programme, strengthening institution and coordination, improving environmental information systems, advancing the role of scientific communities and promoting cooperation.⁸⁶ The campaign should not only aim at promoting ratification but also at providing tools which may facilitate implementation, such as an explanatory guide to the Convention and guidelines regarding elements of implementing national legislation. The interim Secretariat should also encourage consultations on the different options for the permanent Secretariat to be designated at the first meeting of the COP, as well as for the creation of the financial mechanism. In the meantime, the interim Secretariat may benefit from contributions by NEPAD member countries through the capacity building programme.⁸⁷

Innovative in various respects, the African Convention was designed specifically to address the continent's challenges and opportunities, thus leading the way for a new approach to sustainably manage nature and natural resources in Africa.

⁸⁴ Mekouar, *supra*, note 12 at 48.

⁸⁵ Comoros and Rwanda.

⁸⁶ Annex 1 of the *Action Plan of the Environment Initiative of the New Partnership for Africa's Development* (NEPAD).

⁸⁷ Paragraph 11 of the *Algiers Declaration for a Global Partnership on the Environment Initiative of NEPAD* of 16 December 2003.

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African Convention on the Conservation of Nature and Natural Resources*

PREAMBLE

We, the Heads of State and Government of the Member States of the African Union (AU),

Conscious that the natural environment of Africa and the natural resources with which Africa is endowed are an irreplaceable part of the African heritage and constitute a capital of vital importance to the continent and human-kind as a whole;

Confirming, as we accepted upon declaring our adherence to the Charter of the Organization of African Unity, that it is our duty “to harness the natural and human resources of our continent for the total advancement of our peoples in spheres of human endeavour”;

Conscious of the ever-growing importance of natural resources from economic, social, cultural and environmental points of view;

Affirming that the conservation of the global environment is a common concern of human kind as a whole, and the conservation of the African environment a primary concern of all Africans;

Re-affirming that States have, in accordance with the Charter of the United Nations and the principles of international law, a sovereign right to exploit their own resources pursuant to their 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;

Re-affirming further that States are responsible for protecting and conserving their environment and natural resources and for using

* Text as adopted in Maputo, 11 July 2003.

Convention Africaine sur la Conservation de la Nature et des Ressources Naturelles*

PREAMBULE

Nous, Chefs d’Etat et de gouvernement des Etats membres de l’Union africaine (UA),

Conscients de ce que l’environnement naturel de l’Afrique et les ressources naturelles dont elle est dotée sont une part irremplaçable du patrimoine africain et constituent un capital d’une importance vitale pour le continent et l’humanité tout entière;

Réitérant, comme nous l’avons déclaré lors de notre adhésion à la Charte de l’Organisation de l’unité africaine, que notre devoir est de “mettre les ressources naturelles et humaines de notre continent au service du progrès général de nos peuples dans tous les domaines de l’activité humaine”;

Conscients de l’importance toujours grandissante des ressources naturelles du point de vue économique, social, culturel et environnemental;

Affirmant que la conservation de l’environnement mondial est une préoccupation commune à l’humanité tout entière, et celle de l’environnement africain, une préoccupation majeure de tous les africains;

Réaffirmant que les Etats ont, conformément à la Charte des Nations Unies et aux principes du droit international, le droit souverain d’exploiter leurs propres ressources selon leur politique en matière d’environnement et de développement, et le devoir de faire en sorte que les activités exercées dans les limites de leur juridiction ou sous leur contrôle ne causent pas de dommages à l’environnement dans d’autres Etats ou dans des zones ne relevant d’aucune juridiction nationale;

Réaffirmant également que les Etats ont la responsabilité de protéger et conserver leur environnement et leurs ressources naturelles, et

* Texte tel qu’adopté à Maputo le 11 juillet 2003.

them in a sustainable manner with the aim to satisfy human needs according to the carrying capacity of the environment;

Conscious of the dangers which threaten some of these irreplaceable assets;

Desirous of undertaking individual and joint action for the conservation, utilization and development of these assets by establishing and maintaining their sustainable use;

Recalling the Lagos Plan of Action for the Economic Development of Africa and the Final Act of Lagos as well as the African Charter on Human and Peoples Rights;

Taking note of the Charter of Economic Rights and Duties of States and of the World Charter for Nature adopted by the General Assembly of the United Nations;

Conscious of the need to continue furthering the principles of the Stockholm Declaration, to contribute to the implementation of the Rio Declaration and of Agenda 21, and to work closely together towards the implementation of global and regional instruments supporting their goals;

Considering the principles and objectives stated in the Treaty Establishing the African Economic Community and the Constitutive Act of the African Union;

Convinced that the above objectives would be better achieved by amending the 1968 Algiers Convention on the Conservation of Nature and Natural Resources by expanding elements related to sustainable development;

Have agreed as follows:

Article I SCOPE

This Convention shall apply

1. to all areas which are within the limits of national jurisdiction of any Party; and
2. to the activities carried out under the jurisdiction or control of any Party within the

de les utiliser de manière durable, dans le but de répondre aux besoins de l'homme en accord avec les capacités limites de l'environnement;

Conscients des dangers qui menacent ce capital irremplaçable;

Désireux d'entreprendre une action individuelle et collective en vue de la conservation, de l'utilisation et du développement de ce capital par l'établissement et le maintien de son utilisation durable;

Se référant au Plan d'action de Lagos pour le développement économique de l'Afrique et à l'Acte final de Lagos, ainsi qu'à la Charte africaine des droits de l'homme et des peuples;

Prenant note de la Charte des droits et des devoirs économiques des Etats, et de la Charte mondiale de la nature, adoptées par l'Assemblée générale des Nations Unies;

Conscients de la nécessité de continuer à promouvoir les principes contenus dans la Déclaration de Stockholm, de contribuer à la mise en œuvre de la Déclaration de Rio et du Programme Action 21, et de coopérer étroitement à la mise en œuvre d'instruments mondiaux et régionaux conformes à ces objectifs;

Considérant les principes et objectifs énoncés dans le Traité instituant la Communauté économique africaine et l'Acte constitutif de l'Union africaine;

Convaincus que les objectifs susmentionnés seront plus facilement réalisés par l'amendement de la Convention de 1968 d'Alger pour la conservation de la nature et des ressources naturelles et au renforcement de ses éléments ayant trait au développement durable;

Sommes convenus de ce qui suit:

Article I CHAMP D'APPLICATION

La présente Convention s'applique:

1. à toutes les zones qui se trouvent à l'intérieur des limites de la juridiction nationale de toute Partie; et
2. aux activités entreprises sous la juridiction ou le contrôle de toute Partie que ce soit à

area of its national jurisdiction or beyond the limits of its national jurisdiction.

Article II OBJECTIVES

The objectives of this Convention are:

1. to enhance environmental protection;
2. to foster the conservation and sustainable use of natural resources; and
3. to harmonize and coordinate policies in these fields with a view to achieving ecologically rational, economically sound and socially acceptable development policies and programmes.

Article III PRINCIPLES

In taking action to achieve the objectives of this Convention and implement its provisions, the Parties shall be guided by the following:

1. the right of all peoples to a satisfactory environment favourable to their development;
2. the duty of States, individually and collectively to ensure the enjoyment of the right to development;
3. the duty of States to ensure that developmental and environmental needs are met in a sustainable, fair and equitable manner.

Article IV FUNDAMENTAL OBLIGATION

The Parties shall adopt and implement all measures necessary to achieve the objectives of this Convention, in particular through preventive measures and the application of the precautionary principle, and with due regard to ethical and traditional values as well as scientific knowledge in the interest of present and future generations.

l'intérieur de la zone relevant de sa juridiction nationale ou en dehors des limites de sa juridiction nationale.

Article II OBJECTIFS

La présente Convention a pour objectifs de:

1. améliorer la protection de l'environnement;
2. promouvoir la conservation et l'utilisation durable des ressources naturelles;
3. harmoniser et coordonner les politiques dans ces domaines en vue de mettre en place des politiques et des programmes de développement qui soient écologiquement rationnels, économiquement sains et socialement acceptables.

Article III PRINCIPES

En prenant des mesures pour réaliser les objectifs de la présente Convention et mettre en œuvre ses dispositions, les Parties seront guidées par:

1. le droit de tous les peuples à un environnement satisfaisant qui favorise leur développement;
2. le devoir des Etats, individuellement et collectivement, d'assurer l'exercice du droit au développement;
3. le devoir des Etats de veiller à ce que les besoins en matière de développement et d'environnement soient satisfaits de manière durable, juste et équitable.

Article IV OBLIGATION FONDAMENTALE

Les Parties prennent et mettent en œuvre toutes les mesures nécessaires pour réaliser les objectifs de la présente Convention, notamment par des mesures de prévention et l'application du principe de précaution, et en tenant compte des valeurs éthiques et traditionnelles ainsi que des connaissances scientifiques dans l'intérêt des générations présentes et futures.

**Article V
USE OF TERMS**

For purposes of this Convention:

1. “Natural Resources” means renewable resources, tangible and non tangible, including soil, water, flora and fauna and non renewable resources. Whenever the text of the Convention refers to non renewable resources this will be specified.

2. “Specimen” means any animal or plant or micro organism, alive or dead.

3. “Product” means any part or derivative of a specimen.

4. “Species” means any species, sub species, or geographically separate population thereof.

5. “Threatened Species” means any species of fauna or flora which is considered critically endangered, endangered, or vulnerable, for which definitions are contained in Annex 1 to this Convention, and for which criteria may be adopted and from time to time reviewed by the Conference of the Parties, taking into consideration the work of competent international organisations in this field.

6. “Conservation area” means

a) any protected area designated and managed mainly or wholly for one of the following purposes:

i) science or wilderness protection (Strict Nature Reserve/Wilderness Areas);

ii) ecosystem protection and recreation (National Parks);

iii) conservation of specific natural features (National Monuments);

iv) conservation through management interventions (Habitat/Species Management Areas);

v) landscape/seascape conservation and recreation (Protected Landscapes/Seascapes);

vi) the sustainable use of natural ecosystems (Managed Resource Protected Areas);

**Article V
EMPLOI DES TERMES**

Aux fins de la présente Convention on entend par:

1. “ressources naturelles”: les ressources naturelles renouvelables, tangibles et non tangibles, notamment les sols, les eaux, la flore et la faune, ainsi que les ressources non renouvelables. Chaque fois que le texte de la Convention se réfère aux ressources non renouvelables, cela est précisé.

2. “spécimen”: tout animal, ou toute plante ou tout micro-organisme, vivants ou morts.

3. “produit”: toute partie ou dérivé d’un spécimen.

4. “espèce”: toute espèce, sous-espèce ou une de leurs populations géographiquement isolée.

5. “espèce menacée”: toute espèce de faune ou de flore considérée comme en danger critique d’extinction, en danger ou vulnérable, conformément aux définitions figurant dans l’annexe 1 à la présente Convention et pour lesquelles des critères peuvent être adoptés, et de temps à autre révisés, par la Conférence des Parties, compte tenu des travaux des organisations internationales compétentes dans ce domaine.

6. “aire de conservation”:

a) toute aire protégée, désignée et gérée principalement ou entièrement dans un des buts suivants:

i) protection à des fins scientifiques ou protection des ressources sauvages (réserve naturelle intégrale/zone de nature sauvage);

ii) protection d’écosystèmes et à des fins récréatives (parcs nationaux);

iii) conservation d’éléments naturels spécifiques (monuments naturels);

iv) conservation avec interventions au niveau de la gestion (aires de gestion des habitats/des espèces);

v) conservation de paysages terrestres ou marins et à des fins récréatives (paysages terrestres ou marins protégés);

vi) utilisation durable des écosystèmes naturels (aires protégées de ressources naturelles gérées);

for which definitions and management objectives are contained in Annex 2 to this Convention, as well as

- b) other areas designated and/or managed primarily for the conservation and sustainable use of natural resources, for which criteria may be adopted and from time to time reviewed by the Conference of the Parties.

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

8. “Original Convention” means the African Convention on the Conservation of Nature and Natural Resources, adopted in 1968 in Algiers.

Whenever a specific term not defined in this Convention has been defined in global conventions it can be construed as defined in those conventions. Where an African regional or sub regional convention exists that defines such terms, these definitions shall prevail.

Article VI LAND AND SOIL

1. The Parties shall take effective measures to prevent land degradation, and to that effect shall develop long-term integrated strategies for the conservation and sustainable management of land resources, including soil, vegetation and related hydrological processes.

2. They shall in particular adopt measures for the conservation and improvement of the soil, to, *inter alia*, combat its erosion and misuse as well as the deterioration of its physical, chemical and biological or economic properties.

3. To this end:

- a) they shall establish land-use plans based on scientific investigations as well as local knowledge and experience and, in particular, classification and land-use capability;

pour lesquelles les définitions et les objectifs de gestion sont contenus dans l’annexe 2 à la présente Convention; ainsi que

- b) d’autres zones désignées et/ou gérées principalement aux fins de la conservation et de l’utilisation durable de ressources naturelles, pour lesquelles des critères peuvent être adoptés, et de temps à autre révisés par la Conférence des Parties.

7. “diversité biologique”: la variabilité des organismes vivants de toute origine, y compris, entre autres, les écosystèmes terrestres, marins et autres écosystèmes aquatiques et les complexes écologiques dont ils font partie; cela comprend la diversité au sein des espèces et entre espèces ainsi que celle des écosystèmes.

8. “Convention initiale”: la Convention africaine pour la conservation de la nature et des ressources naturelles, adoptée à Alger en 1968.

Chaque fois qu’un terme particulier non défini dans la présente Convention a été défini dans des conventions mondiales, il peut être interprété tel qu’il est défini dans ces conventions. Lorsqu’il existe une convention africaine régionale ou sous-régionale dans laquelle ces termes sont définis, ces définitions prévalent.

Article VI TERRES ET SOLS

1. Les Parties prennent des mesures pour prévenir la dégradation des terres, et, à cet égard, adoptent des stratégies intégrées à long terme de conservation et de gestion durable des ressources en terres, y compris les sols, la végétation et les processus hydrologiques connexes.

2. En particulier, elles adoptent des mesures de conservation et d’amélioration des sols, entre autres pour combattre l’érosion et la mauvaise utilisation des sols, ainsi que la dégradation de leurs propriétés physiques, chimiques, biologiques ou économiques.

3. A ces fins elles:

- a) adoptent des plans d’utilisation des terres fondés sur des études scientifiques, ainsi que sur les connaissances et l’expérience locales et, en particulier, sur des classifications et la capacité d’utilisation des terres;

- b) they shall, when implementing agricultural practices and agrarian reforms,
 - i) improve soil conservation and introduce sustainable farming and forestry practices, which ensure long-term productivity of the land,
 - ii) control erosion caused by land misuse and mismanagement which may lead to long-term loss of surface soils and vegetation cover,
 - iii) control pollution caused by agricultural activities, including aquaculture and animal husbandry;
 - c) they shall ensure that non-agricultural forms of land use, including but not limited to public works, mining and the disposal of wastes, do not result in erosion, pollution, or any other form of land degradation;
 - d) they shall, in areas affected by land degradation, plan and implement mitigation and rehabilitation measures.
- b) veillent, lors de l'application des pratiques agricoles et des réformes agraires, à:
 - i) améliorer la conservation des sols et à introduire des méthodes d'exploitation agricole et forestière durables et de nature à assurer la productivité des terres à long terme;
 - ii) lutter contre l'érosion causée par le mésusage et la mauvaise gestion des terres susceptibles de provoquer, à long terme, une perte des sols de surface et de couvert végétal;
 - iii) lutter contre la pollution causée par les activités agricoles, notamment l'aquaculture et la zootechnie;
 - c) veillent également à ce que les formes non agricoles d'utilisation des terres, telles que les travaux publics, l'extraction minière et l'élimination des déchets, ne favorisent pas l'érosion, la pollution ou toute autre forme de dégradation des terres;
 - d) planifient et mettent en œuvre des mesures d'atténuation et de réhabilitation des zones touchées par la dégradation des terres.

4. Parties shall develop and implement land tenure policies able to facilitate the above measures, *inter alia* by taking into account the rights of local communities.

4. Les Parties élaborent et mettent en œuvre des politiques foncières susceptibles de faciliter les mesures ci-dessus, entre autre en tenant compte des droits des communautés locales.

Article VII WATER

Article VII EAUX

1. The Parties shall manage their water resources so as to maintain them at the highest possible quantitative and qualitative levels. They shall, to that effect, take measures designed to:

- a) maintain water-based essential ecological processes as well as to protect human health against pollutants and water-borne diseases,
- b) prevent damage that could affect human health or natural resource in another State by the discharge of pollutants, and
- c) prevent excessive abstraction, to the benefit of downstream communities and States.

1. Les Parties gèrent leurs ressources en eau de manière à maintenir la quantité et la qualité de ces ressources aux plus hauts niveaux possibles. A cette fin, elles prennent des mesures destinées à:

- a) maintenir les processus hydro-écologiques essentiels et à protéger la santé humaine contre les polluants et les maladies d'origine hydrique;
- b) prévenir les dommages qui pourraient avoir des effets nocifs sur la santé humaine ou les ressources naturelles dans un autre Etat du fait de rejets de polluants;
- c) empêcher le prélèvement excessif de ces ressources, au bénéfice des communautés et Etats situés en aval.

2. The Parties shall establish and implement policies for the planning, conservation, management, utilization and development of underground and surface water, as well as the harvesting and use of rain water, and shall

2. Les Parties instituent et mettent en œuvre des politiques de planification, de conservation, de gestion, d'utilisation et de mise en valeur des eaux souterraines et de surface, ainsi que de collecte et d'utilisation des eaux

endeavour to guarantee for their populations a sufficient and continuous supply of suitable water, taking appropriate measures with due regard to:

- a) the study of water cycles and the investigation of each catchment area,
- b) the integrated management of water resources,
- c) the conservation of forested and other catchment areas and the co-ordination and planning of water resources development projects,
- d) the inventory and management of all water resources, including the administration and control of all water utilization, and
- e) the prevention and control of water pollution through, *inter alia*, the establishment of effluent and water quality standards.

3. Where surface or underground water resources and related ecosystems, including wetlands, are transboundary to two or more of the Parties, the latter shall act in consultation, and if the need arises, set up inter-State Commissions for their rational management and equitable utilization and to resolve disputes arising from the use of these resources, and for the cooperative development, management and conservation thereof.

4. The Parties undertake, individually or within sub-regional arrangements, to cooperate in rational water husbandry and conservation in irrigated agriculture for improved food security and sustainable agro-based industrialization.

Article VIII VEGETATION COVER

1. The Parties shall take all necessary measures for the protection, conservation, sustainable use and rehabilitation of vegetation cover. To this end they shall:

- a) adopt scientifically-based and sound traditional conservation, utilization and management plans for forests, woodlands, rangelands, wetlands and other areas with vegetation cover, taking into account the social and economic needs of the peoples concerned, the importance of the vegetation cover for the maintenance of the water

de pluie, et s'efforcent de garantir aux populations un approvisionnement suffisant et continu en eau appropriée, en prenant les mesures appropriées eu égard:

- a) à l'étude des cycles de l'eau et aux inventaires par bassin versant;
- b) à la gestion intégrée des ressources en eau;
- c) à la conservation des zones forestières et autres aires des bassins versants ainsi qu'à la coordination et planification des projets de mise en valeur des ressources en eau;
- d) à l'inventaire et à la gestion de toutes les ressources en eau, y compris l'administration et le contrôle de toutes les formes d'utilisation des eaux;
- e) à la prévention et au contrôle de leur pollution, grâce, entre autres, à l'établissement de normes en matière d'effluents et de qualité de l'eau.

3. Lorsque les ressources en eau de surface ou souterraines et les écosystèmes qui y sont liés, notamment les terres humides, sont transfrontières à deux ou plusieurs Parties, celles-ci se consultent et, le cas échéant, constituent des Commissions inter-Etatiques, chargées de leur gestion rationnelle et de leur utilisation équitable, du règlement des différends afférents à l'utilisation de ces ressources et de leur mise en valeur, gestion et conservation en coopération.

4. Les Parties s'engagent, individuellement ou dans le cadre d'arrangements sous-régionaux, à coopérer dans la gestion rationnelle et la conservation des eaux dans l'agriculture irriguée, en vue d'assurer une plus grande sécurité alimentaire et une agro-industrialisation durable.

Article VIII COUVERT VEGETAL

1. Les Parties prennent toutes les mesures nécessaires de protection, de conservation, d'utilisation durable et de restauration du couvert végétal. A cette fin, elles:

- a) adoptent des plans scientifiquement établis et qui s'appuient sur une tradition judicieuse pour la conservation, l'utilisation et l'aménagement des forêts, terres boisées, pâturages, zones humides et autres zones de couvert végétal, en tenant compte des besoins sociaux et économiques des populations concernées, de l'importance

balance of an area, the productivity of soils and the habitat requirements of species;

- b) take concrete steps or measures to control fires, forest exploitation, land clearing for cultivation, grazing by domestic and wild animals, and invasive species;
- c) establish forest reserves and carry out afforestation programmes where necessary;
- d) limit forest grazing to season and intensities that will not prevent forest regeneration.

Article IX SPECIES AND GENETIC DIVERSITY

1. The Parties shall maintain and enhance species and genetic diversity of plants and animals whether terrestrial, fresh-water or marine. They shall, for that purpose, establish and implement policies for the conservation and sustainable use of such resources; particular attention shall be paid to socially, economically and ecologically valuable species, which are threatened and species which are only represented in areas under the jurisdiction of one Party.

2. The Parties shall ensure the conservation of species and their habitats within the framework of land-use planning and of sustainable development. Management of species and their habitats shall be based on the results of continued scientific research and Parties shall:

- a) manage plant and animal populations inside conservation areas according to the objectives of such areas;
- b) manage harvestable populations outside such areas in a sustainable manner, compatible with and complementary to other sustainable land uses;
- c) establish and/or strengthen existing facilities for ex situ conservation to perpetuate animal or plant species of particular interest;
- d) manage and protect aquatic environments, whether in fresh, brackish or marine water, with a view to minimising deleterious effects of any water and land use practice

du couvert végétal pour le maintien de l'équilibre hydrologique d'une région, pour la productivité des sols et pour conserver les habitats des espèces;

- b) prennent des mesures concrètes en vue de contrôler les feux, l'exploitation des forêts, le défrichement, le pâturage par les animaux domestiques et sauvages, et les espèces envahissantes;
- c) créent des réserves forestières et appliquent des programmes de reboisement là où ils s'avèrent nécessaires;
- d) limitent le pâturage en forêt à des saisons et à une intensité qui n'empêche pas la régénération forestière.

Article IX ESPECES ET DIVERSITE GENETIQUE

1. Les Parties maintiennent et favorisent la diversité en espèces et la diversité génétique des plantes et des animaux, qu'elles soient terrestres, d'eau douce ou marines. A cette fin, elles instituent et mettent en œuvre des politiques de conservation et d'utilisation durable de ces ressources; une attention particulière est accordée aux espèces présentant une valeur sociale, économique et écologique, à celles qui sont menacées, et à celles qui se trouvent uniquement dans des zones sous la juridiction d'une Partie.

2. Les Parties assurent la conservation des espèces et de leurs habitats dans le cadre d'un plan d'utilisation des terres et du développement durable. La gestion des espèces et de leurs habitats s'appuie sur les résultats de la recherche scientifique continue et est adaptée, de façon appropriée, en fonction des résultats des contrôles continus. A ces fins, les Parties:

- a) gère les populations animales et végétales à l'intérieur des aires de conservation, en fonction des objectifs assignés à ces aires;
- b) gèrent les ressources exploitables en dehors de ces aires de manière durable, compatible et complémentaire avec les autres formes d'utilisation des terres;
- c) créent et/ou renforcent les structures existantes de conservation ex situ en vue de perpétuer les espèces animales ou végétales présentant un intérêt particulier;
- d) procèdent à l'aménagement et à la protection des milieux aquatiques, qu'ils soient d'eau douce, d'eau saumâtre ou d'eau marine, en vue d'atténuer au maximum les

- which might adversely affect aquatic habitats;
- e) undertake inventories of species of fauna and flora and prepare maps of their distribution and abundance, and conduct regular reviews to facilitate the monitoring of the status of such species and their habitats with a view to:
 - i) providing the appropriate scientific basis for decisions pertaining to their conservation and use,
 - ii) identifying species that are threatened or may become so, and providing them accordingly with appropriate protection, and
 - iii) identifying species that are migratory or congregatory and therefore confined to specific areas at particular seasons, and providing them with appropriate protection;
 - f) identify areas of critical importance for the survival of species of fauna and flora which are threatened;
 - g) preserve as many varieties as possible of domestic or cultivated species and their wild relatives, as well as of other economically valuable species, including forest trees and micro-organisms;
 - h) strictly control the intentional and, in as far as possible, accidental introduction, in any area, of species which are not native to that area, including modified organisms, and endeavour to eradicate those already introduced where the consequences are detrimental to native species or to the environment in general;
 - i) take appropriate measures to control pests and eradicate animal and plant diseases;
 - j) provide for fair and equitable access to genetic resources, on terms mutually agreed between the providers and users of such resources; and
 - k) provide for the fair and equitable sharing of benefits arising out of biotechnologies based upon genetic resources and related traditional knowledge with the providers of such resources.
- effets néfastes des pratiques d'utilisation des eaux et des terres pouvant avoir une incidence sur les habitats aquatiques;
- e) procèdent à des inventaires des espèces animales et végétales, établissent des cartes de leur distribution et abondance, et procèdent régulièrement à leur révision, dans le but de faciliter la surveillance continue du statut de ces espèces et de leurs habitats, en vue de:
 - i) fournir une base scientifique appropriée pour les décisions à prendre sur leur conservation et utilisation;
 - ii) identifier les espèces qui sont menacées, ou qui risquent de l'être, et de leur assurer en conséquence une protection appropriée;
 - iii) identifier les espèces qui sont migratrices ou qui sont grégaires et sont par conséquent regroupées dans des zones spécifiques à des saisons particulières et leur assurer une protection appropriée.
 - f) identifient les aires d'importance critique pour la survie des espèces animales et végétales qui sont menacées;
 - g) préservent un nombre aussi élevé que possible de variétés d'espèces domestiques ou cultivées et des espèces sauvages qui leur sont apparentées, ainsi que d'autres espèces d'importance économique, y compris les arbres forestiers et les micro-organismes;
 - h) assurent un contrôle rigoureux de l'introduction délibérée et, dans la mesure du possible, de l'introduction accidentelle, dans toute aire, d'espèces non-indigènes à l'aire considérée, y compris d'organismes modifiés, et s'efforcent d'éradiquer les espèces déjà introduites si leur présence a des conséquences nuisibles pour les espèces indigènes ou pour l'environnement d'une façon générale;
 - i) prennent des mesures appropriées de lutte contre les organismes nuisibles et d'éradication des maladies animales et végétales;
 - j) assurent un accès juste et équitable aux ressources génétiques dans des conditions convenues d'un commun accord entre les fournisseurs et les utilisateurs de ces ressources; et
 - k) assurent un partage juste et équitable des avantages résultant des biotechnologies fondées sur les ressources génétiques et les connaissances traditionnelles connexes, avec les fournisseurs de ces ressources.

3. Parties shall adopt legislation regulating all forms of taking, including hunting, capture and fishing and collection of whole or parts of plants under which:

- a) the conditions and procedures for issue of permits are appropriately regulated;
- b) taking is regulated with a view to ensuring that the use of any population is sustainable. Measures to that effect shall include:
 - i) closed seasons,
 - ii) temporary or local prohibitions of exploitation, as needed to restore satisfactory population levels,
 - iii) the prohibition of the use of all indiscriminate means of taking and of the use of all means capable of causing mass destructions, as well as local disappearance of, or serious disturbance to, populations of a species, in particular the means specified in Annex 3;
- c) with a view to as rational use as possible, the products of hunting and fishing, the use and abandonment of such products, and plant collection are regulated;
- d) operations carried out by, or under the control of, the competent authority for management purposes may nevertheless be exempted from specific restrictions.

Article X PROTECTED SPECIES

1. The Parties undertake to identify the factors that are causing the depletion of animal and plant species which are threatened or which may become so, with a view to their elimination, and to accord a special protection to such species, whether terrestrial, freshwater or marine, and to the habitat necessary for their survival. Where a species is represented only in areas under the jurisdiction of one Party, that Party has a particular responsibility for its protection.

2. The Parties shall adopt legislation on the protection of species referred to in paragraph 1 above, taking into particular account the need to develop or maintain throughout the African continent concerted protection measures for

3. Les Parties adoptent une législation réglementant toutes les formes de prélèvement, y compris la chasse, la capture et la pêche ainsi que la collecte de plantes ou de parties de plantes, par laquelle:

- a) les conditions et procédures de délivrance des permis sont définies de manière appropriée;
- b) les prélèvements sont réglementés afin d'assurer l'utilisation durable de toute population. Les mesures prises à cet effet comprennent:
 - i) des périodes de fermeture;
 - ii) des interdictions temporaires ou locales d'exploitation, le cas échéant pour restaurer des niveaux de population satisfaisants;
 - iii) l'interdiction d'utilisation de toutes méthodes de prélèvement non-sélectives et de toutes méthodes susceptibles de causer des destructions massives ainsi que la disparition locale ou la perturbation sérieuse des populations d'une espèce, en particulier les méthodes spécifiées à l'annexe 3;
- c) aux fins d'assurer une utilisation aussi rationnelle que possible, les produits de la chasse et de la pêche, l'utilisation et l'abandon de ces produits, ainsi que la collecte des plantes, sont réglementés;
- d) les opérations effectuées par ou sous le contrôle des autorités compétentes à des fins de gestion peuvent, néanmoins, être exemptées de restrictions spécifiques.

Article X ESPECES PROTEGEES

1. Les Parties s'engagent à identifier, en vue de les éliminer, les facteurs qui sont les causes de l'appauvrissement des espèces animales et végétales menacées ou qui seraient susceptibles de le devenir, et à accorder une protection spéciale à ces espèces, qu'elles soient terrestres, d'eau douce ou marines, ainsi qu'à l'habitat nécessaire à leur survie. Dans le cas où l'une de ces espèces ne serait représentée que sur le territoire d'une seule Partie, une responsabilité toute particulière pour sa protection incombe à cette Partie.

2. Les Parties adoptent une législation sur la protection des espèces visées au paragraphe 1 ci-dessus, en tenant particulièrement compte du besoin de développer et de maintenir, sur l'ensemble du continent africain, des mesures

such species. One or several Annexes to this Convention may be adopted by the Conference of the Parties to that effect.

**Article XI
TRADE IN SPECIMENS AND
PRODUCTS THEREOF**

1. The Parties shall:
 - a) regulate the domestic trade in, as well as the transport and possession of specimens and products to ensure that such specimens and products have been taken or obtained in conformity with domestic law and international obligations related to trade in species;
 - b) in the measures referred to under a) above, provide for appropriate penal sanctions, including confiscation measures.
2. The Parties shall, where appropriate, cooperate through bilateral or sub-regional agreements with a view to reducing and ultimately eliminating illegal trade in wild fauna and flora or their specimens or products.

**Article XII
CONSERVATION AREAS**

1. The Parties shall establish, maintain and extend, as appropriate, conservation areas. They shall, preferably within the framework of environmental and natural resources policies, legislation and programmes, also assess the potential impacts and necessity of establishing additional conservation areas and wherever possible designate such areas, in order to ensure the long term conservation of biological diversity, in particular to:
 - a) conserve those ecosystems which are most representative of and peculiar to areas under their jurisdiction, or are characterized by a high degree of biological diversity;
 - b) ensure the conservation of all species and particularly of those which are:
 - i) only represented in areas under their jurisdiction;
 - ii) threatened, or of special scientific or aesthetic value;
- and of the habitats that are critical for the survival of such species.

concertées de protection de ces espèces. Une ou plusieurs annexes à la présente Convention peuvent être adoptées par la Conférence des Parties à cet effet.

**Article XI
COMMERCE DE SPECIMENS ET DE
LEURS PRODUITS**

1. Les Parties:
 - a) réglementent le commerce intérieur ainsi que le transport et la détention de spécimens et produits pour faire en sorte que les spécimens et produits concernés aient été prélevés ou obtenus en conformité avec la législation nationale et les obligations internationales relatives au commerce des espèces;
 - b) dans le cadre des mesures visées à l'alinéa a) ci-dessus, prévoient des sanctions pénales appropriées, y compris des mesures de confiscation.
2. Les Parties contractantes, le cas échéant, coopèrent, dans le cadre d'accords bilatéraux ou sous-régionaux, en vue de réduire et, à terme, d'éliminer le commerce illicite de faune et de flore, et de leurs spécimens ou produits.

**Article XII
AIRES DE CONSERVATION**

1. Les Parties créent, maintiennent et, si besoin, agrandissent les aires de conservation. Elles évaluent aussi, de préférence dans le cadre de politiques, législations et programmes relatifs à l'environnement et aux ressources naturelles, les impacts potentiels et la nécessité d'en créer de nouvelles et les désignent, dans toute la mesure du possible, en vue d'assurer la conservation à long terme de la diversité biologique, en particulier afin:
 - a) de conserver les écosystèmes les plus représentatifs et, spécialement, ceux qui sont particuliers à des zones relevant de leur juridiction, ou qui sont caractérisés par une diversité biologique importante;
 - b) d'assurer la conservation de toutes les espèces et plus particulièrement, de celles:
 - i) qui ne sont représentées que dans des zones relevant de leur juridiction;
 - ii) qui sont menacées ou qui présentent une valeur scientifique ou esthétique spéciale;
- et des habitats critiques à leur survie.

2. The Parties shall seek to identify areas critically important to the goals referred to in sub paragraph 1 (a) and 1(b) above which are not yet included in conservation areas, taking into consideration the work of competent international organisations in this field.

3. The Parties shall promote the establishment by local communities of areas managed by them primarily for the conservation and sustainable use of natural resources.

4. The Parties shall, where necessary and if possible, control activities outside conservation areas which are detrimental to the achievement of the purpose for which the conservation areas were created, and establish for that purpose buffer zones around their borders.

Article XIII
PROCESSES AND ACTIVITIES
AFFECTING THE
ENVIRONMENT AND NATURAL
RESOURCES

1. The Parties shall, individually or jointly, and in collaboration with the competent international organizations concerned, take all appropriate measures to prevent, mitigate and eliminate to the maximum extent possible, detrimental effects on the environment, in particular from radioactive, toxic, and other hazardous substances and wastes. For this purpose, they shall use the best practicable means and shall endeavour to harmonize their policies, in particular within the framework of relevant conventions to which they are Parties.

2. To that effect, Parties shall

- a) establish, strengthen and implement specific national standards, including for ambient environmental quality, emission and discharge limits as well as process and production methods and product quality;
- b) provide for economic incentives and disincentives, with a view to preventing or abating harm to the environment, restoring or enhancing environmental quality, and implementing international obligations in these regards; and

2. Les Parties cherchent à identifier les aires d'importance critique pour les buts visés aux alinéas a) et b) du paragraphe 1 ci-dessus qui ne sont pas encore comprises dans des aires de conservation, en tenant compte des travaux des organisations internationales compétentes dans ce domaine.

3. Les Parties favorisent l'établissement par les communautés locales d'aires gérées par elles principalement aux fins de la conservation et de l'utilisation durable de ressources naturelles.

4. Les Parties, là où cela s'avère nécessaire et dans la mesure du possible, réglementent les activités qui, bien qu'entreprises en dehors des aires de conservation, compromettent la réalisation des objectifs pour lesquels ces aires ont été créées, et établissent à cette fin des zones tampons autour de telles aires.

Article XIII
PROCESSUS ET ACTIVITES AYANT
UNE INCIDENCE SUR
L'ENVIRONNEMENT ET LES
RESSOURCES NATURELLES

1. Les Parties individuellement et collectivement et en collaboration avec les organisations internationales compétentes concernées, prennent toutes les mesures appropriées pour prévenir, atténuer et éliminer, le plus possible, les effets nuisibles sur l'environnement, notamment ceux causés par les substances radioactives, toxiques et autres substances et déchets dangereux. A cette fin, elles mettent en œuvre les meilleures pratiques disponibles et s'efforcent d'harmoniser leurs politiques, en particulier dans le cadre des conventions pertinentes – qu'elles soient mondiales, régionales ou sous-régionales – auxquelles elles sont Parties.

2. A cet effet, les Parties:

- a) adoptent, renforcent et mettent en oeuvre des normes nationales spécifiques, y compris en matière de qualité de l'environnement, d'émission et de rejets, de procédés et méthodes de production, et de produits;
- b) prennent des mesures d'incitation économique destinées à prévenir ou à réduire les dommages à l'environnement, à restaurer ou à améliorer la qualité de l'environnement, et à mettre en oeuvre les obligations internationales qui leur incombent dans ces domaines;

- c) adopt measures necessary to ensure that raw materials, non-renewable resources, and energy, are conserved and used as efficiently as possible, and that used materials are reused and recycled to the maximum extent possible while nondegradable materials are disposed of in the most effective and safe way.

**Article XIV
SUSTAINABLE
DEVELOPMENT AND NATURAL
RESOURCES**

1. The Parties shall ensure that
- a) conservation and management of natural resources are treated as an integral part of national and/or local development plans;
 - b) in the formulation of all development plans, full consideration is given to ecological, as well as to economic, cultural and social factors
in order to promote sustainable development.
2. To this end, the Parties shall:
- a) to the maximum extent possible, take all necessary measures to ensure that development activities and projects are based on sound environmental policies and do not have adverse effects on natural resources and the environment in general;
 - b) ensure that policies, plans, programmes, strategies, projects and activities likely to affect natural resources, ecosystems and the environment in general are the subject of adequate impact assessment at the earliest possible stage and that regular environmental monitoring and audit are conducted;
 - c) monitor the state of their natural resources as well as the impact of development activities and projects upon such resources.

**Article XV
MILITARY AND HOSTILE
ACTIVITIES**

1. The Parties shall:
- a) take every practical measure, during peri-

- c) adoptent les mesures nécessaires afin de faire en sorte que les matières premières, les ressources non renouvelables et les ressources énergétiques soient conservées et utilisées aussi efficacement que possible, que les matières utilisées soient réutilisées et recyclées dans toute la mesure du possible, et que les matières non-dégradables soient éliminées de la façon la plus efficace et la plus sûre possible.

**Article XIV
DEVELOPPEMENT
DURABLE ET RESSOURCES
NATURELLES**

1. Les Parties veillent à ce que:
- a) la conservation et la gestion des ressources naturelles soient traitées comme une partie intégrante des plans de développement nationaux et/ou locaux;
 - b) dans la formulation de ces plans de développement, il soit pleinement tenu compte tant des facteurs écologiques que des facteurs économiques, sociaux et culturels;
en vue de promouvoir un développement durable.
2. A ces fins, les Parties:
- a) dans toute la mesure du possible, prennent les mesures nécessaires pour que les activités et projets de développement soient fondés sur des politiques écologiquement rationnelles et n'aient pas d'effets nuisibles sur les ressources naturelles et sur l'environnement en général;
 - b) font en sorte que les politiques, plans, programmes, stratégies, projets et activités susceptibles d'affecter les ressources naturelles, les écosystèmes et l'environnement en général fassent l'objet d'études d'impact adéquates à un stade aussi précoce que possible, et que la surveillance et le contrôle continus des effets sur l'environnement soient régulièrement opérés;
 - c) surveille de façon continue l'état de leurs ressources naturelles ainsi que l'impact des activités et projets de développement sur ces ressources.

**Article XV
ACTIVITES MILITAIRES ET
CONFLITS ARMES**

1. Les Parties:
- a) prennent toutes les mesures pratiques re-

ods of armed conflict, to protect the environment against harm;

- b) refrain from employing or threatening to employ methods or means of combat which are intended or may be expected to cause widespread, long-term, or severe harm to the environment and ensure that such means and methods of warfare are not developed, produced, tested or transferred;
- c) refrain from using the destruction or modification of the environment as a means of combat or reprisal;
- d) undertake to restore and rehabilitate areas damaged in the course of armed conflicts.

2. The Parties shall cooperate to establish and further develop and implement rules and measures to protect the environment during armed conflicts.

Article XVI PROCEDURAL RIGHTS

1. The Parties shall adopt legislative and regulatory measures necessary to ensure timely and appropriate

- a) dissemination of environmental information;
- b) access of the public to environmental information;
- c) participation of the public in decision-making with a potentially significant environmental impact; and
- d) access to justice in matters related to protection of environment and natural resources.

2. Each Party from which a transboundary environmental harm originates shall ensure that any person in another Party affected by such harm has a right of access to administrative and judicial procedures equal to that afforded to nationals or residents of the Party of origin in cases of domestic environmental harm.

quises, pendant les périodes de conflit armé, pour protéger l'environnement contre tout effet néfaste;

- b) s'abstiennent d'employer ou de menacer d'employer des méthodes ou moyens de combat visant ou de nature à causer une détérioration systématique, de longue durée ou grave de l'environnement, et font en sorte que de tels méthodes et moyens de combat ne soient pas développés, produits et ne fassent pas l'objet d'essais ou de transferts;
- c) s'abstiennent de recourir à la destruction ou à la modification de l'environnement en tant que moyen de combat ou de représailles;
- d) s'engagent à restaurer et à réhabiliter les zones détériorées au cours des conflits armés.

2. Les Parties contractantes coopèrent dans l'élaboration, l'amélioration et la mise en œuvre de règles et mesures visant à protéger l'environnement pendant les périodes de conflit armé.

Article XVI DROITS PROCEDURAUX

1. Les Parties contractantes adoptent les mesures législatives et réglementaires nécessaires pour assurer à temps et de manière appropriée:

- a) la diffusion d'informations sur l'environnement;
- b) l'accès du public aux informations sur l'environnement;
- c) la participation du public à la prise des décisions pouvant avoir un impact important sur l'environnement;
- d) l'accès à la justice en ce qui concerne les questions liées à la protection de l'environnement et des ressources naturelles.

2. Toute Partie contractante à l'origine d'un dommage environnemental transfrontière, veille à ce que les personnes affectées par un tel dommage dans une autre Partie contractante aient un droit d'accès à ses procédures administratives et judiciaires, égal à celui accordé à ses nationaux ou résidents en cas de dommage à l'environnement dans les limites de ses frontières.

**Article XVII
TRADITIONAL RIGHTS
OF LOCAL COMMUNITIES AND
INDIGENOUS KNOWLEDGE**

1. The Parties shall take legislative and other measures to ensure that traditional rights and intellectual property rights of local communities including farmers' rights are respected in accordance with the provisions of this Convention.

2. The Parties shall require that access to indigenous knowledge and its use be subject to the prior informed consent of the concerned communities and to specific regulations recognizing their rights to, and appropriate economic value of, such knowledge.

3. The Parties shall take the measures necessary to enable active participation by the local communities in the process of planning and management of natural resources upon which such communities depend with a view to creating local incentives for the conservation and sustainable use of such resources.

**Article XVIII
RESEARCH**

1. The Parties shall strengthen their capabilities to carry out scientific and technological research in conservation, sustainable utilization and management of natural resources paying particular attention to ecological and socio-economic factors as well as their integration, and shall ensure the application of research results to the development and implementation of their environmental conservation policies.

2. The Parties shall promote cooperation in scientific and technological research, as well as in economic and marketing systems, between themselves and with third parties in the field of environmental conservation and sustainable use of natural resources.

To that end, they shall in particular:

- a) coordinate their research programmes with a view to achieving maximum synergy and complementarity;

**Article XVII
DROITS TRADITIONNELS DES
COMMUNAUTES LOCALES ET
CONNAISSANCES TRADITIONNELLES**

1. Les Parties prennent des mesures législatives et autres pour faire en sorte que les droits traditionnels et de propriété intellectuelle des communautés locales, y compris les droits des agriculteurs, soient respectés, en accord avec les dispositions de la présente Convention.

2. Les Parties font en sorte que l'accès aux connaissances traditionnelles et leur utilisation soient subordonnés au consentement préalable, en toute connaissance de cause, des communautés concernées ainsi qu'aux réglementations spécifiques reconnaissant les droits de ces communautés à ces connaissances et leur véritable valeur économique.

3. Les Parties prennent les mesures nécessaires pour permettre une participation active des communautés locales au processus de planification et de gestion des ressources naturelles dont elles dépendent en vue de susciter des incitations, sur le plan local, à la conservation et à l'utilisation durable de ces ressources.

**Article XVIII
RECHERCHE**

1. Les Parties renforcent leurs capacités à entreprendre la recherche scientifique et technologique en matière de conservation, d'utilisation durable et de gestion des ressources naturelles, en accordant une attention particulière aux facteurs écologiques et socio-économiques et à leur intégration, et veillent à ce que les résultats de la recherche soient appliqués à l'élaboration et à la mise en œuvre de leurs politiques de conservation de l'environnement.

2. Les Parties contractantes œuvrent à la promotion de la coopération, entre elles et avec des Parties tierces, en matière de recherche scientifique et technologique, ainsi qu'en matière de systèmes économiques et de régimes de commercialisation dans le domaine de la conservation de l'environnement et de l'utilisation durable des ressources naturelles.

A cette fin et en particulier, elles:

- a) coordonnent leurs programmes de recherche pour réaliser le maximum de synergie et de complémentarité;

- b) promote the exchange of research results; and
- c) promote the development of joint research activities and programmes in the fields covered by this Convention.

**Article XIX
DEVELOPMENT AND TRANSFER OF
TECHNOLOGY**

1. The Parties shall encourage and strengthen cooperation for the development and use, as well as access to and transfer of, environmentally sound technologies on mutually agreed terms, with a view to accelerating the transition to sustainable development, in particular by establishing joint research programmes and ventures.

2. To that effect the Parties shall adopt legislative and regulatory measures which provide for, *inter alia*, economic incentives for the development, importation, transfer and utilization of environmentally sound technologies in the private and public sectors.

In implementing paragraphs 1 and 2 above, attention shall be paid to technologies which can be used locally by individuals, local communities and small/medium enterprises.

**Article XX
CAPACITY BUILDING, EDUCATION
AND TRAINING**

- 1.
 - a) The Parties shall promote environmental education, training and awareness creation at all levels in order to enhance their peoples' appreciation of their close dependence on natural resources and their understanding of the reasons and rules for the sustainable use of these resources.
 - b) For this purpose they shall ensure that environmental matters:
 - i) are included in educational and training programmes at all levels, and

- b) procèdent à l'échange des résultats de la recherche; et
- c) œuvrent à la promotion d'activités et de programmes conjoints de recherche dans les domaines régis par la présente Convention.

**Article XIX
DEVELOPPEMENT ET
TRANSFERT DES TECHNOLOGIES**

1. Les Parties contractantes favorisent et renforcent la coopération en matière de développement et d'utilisation de technologies respectueuses de l'environnement, ainsi qu'en matière d'accès à ces technologies et à leur transfert, dans des conditions mutuellement convenues, en vue d'accélérer la transition au développement durable, en particulier en établissant des programmes conjoints de recherche et des co-entreprises.

2. A cette fin, les Parties contractantes adoptent des mesures législatives et réglementaires qui mettent en place des incitations pour le développement, l'importation, le transfert et l'utilisation de technologies respectueuses de l'environnement, dans les secteurs privé et public.

Dans la mise en œuvre des paragraphes 1 et 2 ci-dessus, l'attention sera accordée aux technologies qui peuvent être utilisées localement par les particuliers, les communautés locales et les petites et moyennes entreprises.

**Article XX
RENFORCEMENT DES CAPACITES,
EDUCATION ET FORMATION**

- 1.
 - a) Les Parties œuvrent à la promotion de l'éducation, de la formation et de la sensibilisation des populations à tous les niveaux en matière d'environnement, afin qu'elles prennent mieux conscience de l'étroite dépendance dans laquelle elles se trouvent vis-à-vis des ressources naturelles et comprennent mieux les raisons et les règles de l'utilisation durable de ces ressources.
 - b) A ces fins, elles veillent à ce que les questions d'environnement:
 - i) soient prises en compte dans les programmes d'éducation et de formation à tous les niveaux;

- ii) form the object of information campaigns capable of acquainting the public with, and winning it over to, the concepts of conservation and sustainable use of natural resources.
- c) In order to put into effect paragraphs a) and b) above, the Parties shall make maximum use of the educational and training value of conservation areas and the experience of local communities.

2. Parties shall develop their capacities in the field of education and training relating to environmental and natural resources conservation and use, in particular through the promotion and development of:

- a) training of trainers programmes;
- b) appropriate teaching and training materials ;
- c) available and accessible educational and training opportunities at all levels.

3. In order to facilitate the implementation of paragraphs 1 and 2 above, the Parties shall cooperate among themselves, in particular with a view to strengthening or establishing

- a) regional or sub-regional training institutions;
 - b) joint training programmes;
 - c) libraries and documentation centres; and
 - d) a continuous exchange of information and experience
- in the fields covered by this convention.

Article XXI NATIONAL AUTHORITIES

Each Party shall establish or designate, if it has not already done so, a national authority empowered to deal with all matters covered by this Convention, and/or, where appropriate, establish a co-ordinating machinery between existing national institutions.

Article XXII CO-OPERATION

1. The Parties shall co-operate between themselves and, where appropriate and possible, with other States:

- a) to give effect to the provisions of this Convention;

- ii) fassent l'objet de campagnes d'information destinées à sensibiliser le public et à obtenir son adhésion aux concepts de conservation et d'utilisation durable des ressources naturelles.
- c) Pour la réalisation des alinéas a) et b) du paragraphe (1) ci-dessus, les Parties utilisent au maximum la valeur éducative et formatrice des aires de conservation, ainsi que l'expérience des communautés locales.

2. Les Parties développent leurs capacités dans le domaine de l'éducation et de la formation liées à la conservation de l'environnement et des ressources naturelles, en particulier par la promotion et le développement:

- a) de programmes de formation des formateurs;
- b) de matériels appropriés d'enseignement et de formation;
- c) de possibilités et d'accès à l'éducation et à la formation à tous les niveaux appropriés.

3. Pour faciliter la mise en œuvre des paragraphes 1 et 2 ci-dessus, les Parties contractantes coopèrent entre elles, en particulier en vue du renforcement ou de la création:

- a) d'institutions régionales ou sous-régionales de formation;
 - b) de programmes conjoints de formation;
 - c) de bibliothèques et de centres de documentation; et
 - d) de l'échange continu d'informations et d'expériences;
- dans les domaines régis par la présente Convention.

Article XXI AUTORITES NATIONALES

Chaque Partie crée ou désigne, s'il ne l'a déjà fait, une autorité nationale ayant dans ses attributions toutes les matières traitées par la présente Convention et/ou, lorsque cela s'avère approprié, met en place un mécanisme de coordination entre les institutions existantes.

Article XXII COOPERATION

1. Les Parties coopèrent entre elles et, si cela s'avère approprié et nécessaire, avec d'autres Etats:

- a) pour donner plein d'effet aux dispositions de la présente Convention;

- b) whenever any national measure is likely to affect the environment or natural resources of any other State or areas beyond national jurisdiction;
 - c) in order to enhance the individual and combined effectiveness of their policies and legislations, as well as measures adopted under this Convention and under other international conventions in the fields of environmental protection and natural resources conservation and use; and
 - d) in order to harmonize their policies and laws at the continental or regional levels, as appropriate.
2. In particular:
- a) whenever an environmental emergency or natural disaster occurring in a Party is likely to affect the natural resources of another State, the latter shall be provided with all relevant available data by the former as early as practicable;
 - b) when a Party has reasons to believe that a programme, activity or project to be carried out in areas under its jurisdiction may have adverse effects on the natural resources of another State, it shall provide that other State with relevant information on the proposed measures and their possible effects, and shall consult with that State;
 - c) whenever a Party objects to an activity referred to in sub-paragraph b) above, they shall enter into negotiations;
 - d) Parties shall develop disaster preparedness, prevention and management programmes, and as the need arises hold consultations towards mutual assistance initiatives;
 - e) whenever a natural resource or an ecosystem is transboundary, the Parties concerned shall undertake to cooperate in the conservation, development and management of such resource or ecosystem and if the need arises, set up interstate commissions for their conservation and sustainable use;
 - f) the Parties shall, prior to the export of hazardous substances, or of alien or modi-
- b) chaque fois qu'une mesure nationale est susceptible d'affecter l'environnement ou les ressources naturelles d'un autre Etat ou des zones en dehors de toute juridiction nationale;
 - c) pour promouvoir l'efficacité individuelle et conjointe de leurs politiques et législations, ainsi que de mesures adoptées en vertu de la présente Convention et d'autres conventions internationales dans les domaines de la protection de l'environnement et de la conservation et de l'utilisation des ressources naturelles;
 - d) pour harmoniser leurs politiques et législations au niveau du continent africain ou au niveau régional, selon le cas.
2. En particulier:
- a) lorsqu'une situation critique en matière d'environnement ou une catastrophe naturelle survenue dans une Partie est susceptible d'affecter les ressources naturelles d'un autre Etat, la Partie concernée fournit dès que possible à cet Etat toutes les données pertinentes disponibles;
 - b) lorsqu'une Partie a des raisons de croire qu'un programme, une activité ou un projet projetés dans une zone relevant de sa juridiction peut avoir un impact négatif sur les ressources naturelles d'un autre Etat, elle fournit à cet autre Etat les informations pertinentes sur les mesures projetées et ses effets possibles, et tient des consultations avec ledit Etat;
 - c) lorsqu'une Partie est opposée à une activité visée à l'alinéa b) ci-dessus, elle engage des négociations avec l'Etat concerné;
 - d) les Parties élaborent des programmes d'alerte rapide, de prévention et de gestion des catastrophes et tiennent des consultations, lorsque le besoin s'en fait sentir, en vue d'adopter des initiatives d'assistance mutuelle;
 - e) lorsqu'une ressource naturelle ou un écosystème sont répartis de part et d'autre de frontières communes, les Parties concernées s'engagent à coopérer en vue de la conservation, mise en valeur et gestion d'une telle ressource ou d'un tel écosystème et, si le besoin s'en fait sentir, elles établissent des commissions inter-Etats pour leur conservation et leur utilisation durable;
 - f) les Parties s'engagent, pour toute exportation de substances dangereuses ou d'orga-

fied organisms, undertake to secure the prior informed consent of the importing, and where appropriate, transit States;

- g) the Parties shall take concerted action regarding the transboundary movement, management and processing of hazardous wastes, with a view to supporting, individually and jointly, international accords in this field, and to implementing African instruments related thereto;
- h) the Parties shall exchange information bilaterally or through competent international agencies on activities and events likely to affect the natural resources and the environment of areas beyond national jurisdiction.

Article XXIII COMPLIANCE

The Conference of the Parties shall, as soon as possible, develop and adopt rules, procedures and institutional mechanisms to promote and enhance compliance with the provisions of this Convention.

Article XXIV LIABILITY

The Parties shall, as soon as possible, adopt rules and procedures concerning liability and compensation of damage related to matters covered by this Convention.

Article XXV EXCEPTIONS

1. The provisions of this Convention shall not affect the responsibilities of Parties concerning:

- a) "force majeure"; and
- b) defence of human life.

2. The provisions of this Convention shall not prevent Parties:

- a) in time of declared emergencies arising from disasters; and
- b) for the protection of public health;

from adopting precisely defined measures derogatory to the provisions of the Convention,

nismes non-indigènes ou modifiés, à solliciter le consentement préalable de l'Etat importateur et, le cas échéant, de l'Etat ou des états de transit;

- g) les Parties prennent des mesures concertées en matière de mouvements transfrontières, de gestion et de traitement des déchets dangereux, afin d'appuyer, individuellement et collectivement, les accords internationaux dans ce domaine, et de mettre en œuvre les instruments africains pertinents;
- h) les Parties échangent des informations sur le plan bilatéral ou par l'intermédiaire des institutions internationales compétentes sur les activités et événements susceptibles d'affecter les ressources naturelles et l'environnement de zones situées au-delà de toute juridiction nationale.

Article XXIII RESPECT DES DISPOSITIONS DE LA CONVENTION

La Conférence des Parties élabore et adopte, le plus tôt possible, des procédures et mécanismes institutionnels pour oeuvrer à la promotion et à l'amélioration du respect des dispositions de la présente Convention.

Article XXIV RESPONSABILITE

Les Parties élaborent et adoptent, le plus tôt possible, les règles et les procédures concernant la responsabilité et l'indemnisation des dommages liés aux questions couvertes par la présente Convention.

Article XXV DEROGATIONS

1. Les dispositions de la présente Convention n'affectent pas les responsabilités des Parties en ce qui concerne:

- a) la force majeure;
- b) la défense de la vie humaine.

2. Les dispositions de la présente Convention n'empêchent pas les Parties:

- a) en cas de situation d'urgence déclarée résultant d'une catastrophe;
- b) pour la protection de la santé publique;

d'adopter des mesures dérogatoires, clairement définies, aux dispositions de la présente

provided their application is limited in respect of aim, duration and place.

3. The Parties who take action in accordance with paragraphs 1 and 2 undertake to inform the Conference of the Parties without delay, through the Secretariat, of the nature and circumstances of these measures.

Article XXVI CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established at ministerial level, as the decision-making body of this Convention. The first meeting of the Conference of the Parties shall be convened by the Chairperson of the Commission of the African Union not later than one year after the entry into force of the Convention. Thereafter ordinary meetings shall be convened at least once every two years, unless the Conference decides otherwise.

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. At its first meeting, the Conference of the Parties shall adopt rules of procedure for itself and for any subsidiary body it may establish, as well as determine the rules governing the funding and operation of the Secretariat; Parties shall make every effort to reach these decisions by consensus; if all efforts at consensus have been exhausted, and no agreement reached, the decisions shall as a last resort be adopted by a two-third majority of the Parties present and voting.

4. At each of its ordinary meetings, the Conference of the Parties shall adopt a programme and budget for the financial period until the next ordinary meeting.

5. The Conference of the Parties shall keep under review and promote the effective imple-

Convention, à condition qu'elles soient limitées quant à leur objet, leur durée et leur lieu d'application.

3. Les Parties qui prennent des mesures conformément aux paragraphes 1 et 2 du présent article s'engagent à informer la Conférence des Parties sans délai, par l'intermédiaire du Secrétariat, de la nature de ces mesures et des circonstances qui ont conduit à leur adoption.

Article XXVI CONFERENCE DES PARTIES

1. Il est institué une Conférence des Parties, au niveau ministériel, en tant qu'organe de décision de la présente Convention. La première réunion de la Conférence des Parties est convoquée par le Président de la Commission de l'Union africaine, un an au plus tard après l'entrée en vigueur de la Convention. Par la suite, les réunions ordinaires sont convoquées au moins une fois tous les deux ans, à moins que la Conférence n'en décide autrement.

2. Des réunions extraordinaires de la Conférence des Parties se tiennent chaque fois que la Conférence le juge nécessaire, ou à la demande écrite de toute Partie, à condition que cette demande soit appuyée par un tiers au moins des Parties dans les six mois qui suivent sa communication aux Parties par le Secrétariat.

3. A sa première réunion, la Conférence des Parties adopte son propre règlement intérieur ainsi que celui de tout autre organe subsidiaire qu'elle peut créer et détermine les règles devant régir le financement et le fonctionnement du Secrétariat. Les Parties n'épargnent aucun effort pour adopter ces décisions par consensus; si tous les efforts en ce sens sont demeurés vains et qu'aucun accord n'est réalisé, les décisions sont prises, en dernier recours, à la majorité des deux tiers des Parties présentes et votantes.

4. La Conférence des Parties, à chacune de ses réunions ordinaires, adopte un programme et un budget pour l'exercice allant jusqu'à la réunion ordinaire suivante.

5. La Conférence des Parties examine et encourage la mise en œuvre effective de la pré-

mentation of this Convention, and, for this purpose, shall:

- a) make recommendations to the Parties on any matters related to the implementation of this Convention;
- b) receive and consider information and reports presented by the Secretariat or by any Party and make recommendations thereto;
- c) establish such subsidiary bodies as are deemed necessary for the implementation of this Convention, in particular to provide scientific and technical advice;
- d) review reports submitted by any subsidiary body and provide guidance to them;
- e) promote and facilitate the exchange of information on measures proposed or adopted by the Parties;
- f) consider and undertake any additional action that may be required for the achievement of the purposes of this Convention;
- g) consider and adopt, as required, amendments to this Convention;
- h) consider and adopt, as required, additional Annexes and amendments to the Annexes to this Convention;
- i) seek, through the Secretariat, the co-operation of, and utilize the services of and information provided by, competent bodies or agencies, whether national or international, governmental or non-governmental, and strengthen the relationship with other relevant conventions; and
- j) consider any other matter within the scope of this Convention.

6. African Regional Economic Communities, as well as African regional and sub-regional intergovernmental organizations may be represented at meetings of the Conference of the Parties without the right to vote. The United Nations, its specialized agencies and any State Party to the original Convention not party to this Convention, may be represented at meetings of the Conference of the Parties and participate as observers. Any non-governmental organization, whether national, continental, regional or sub-regional, or international, which is qualified in matters covered by the Convention, and which has informed the Secretariat of its wish to be represented at a meeting of the Conference of the Parties as an

sente Convention et, à cet effet:

- a) fait des recommandations aux Parties concernant toute question liée à la mise en œuvre de la présente Convention;
- b) reçoit et examine les informations et les rapports présentés par le Secrétariat ou par toute Partie, et fait des recommandations à leur sujet;
- c) crée les organes subsidiaires qu'elle juge nécessaires à la mise en œuvre de la présente Convention, en particulier pour donner des avis scientifiques et techniques;
- d) examine les rapports soumis par les organes subsidiaires et donne des directives à ces organes;
- e) encourage et facilite l'échange d'informations sur les mesures proposées ou adoptées par les Parties;
- f) examine et entreprend toute autre action requise pour la réalisation des objectifs de la présente Convention;
- g) examine et adopte les amendements à la présente Convention;
- h) examine et adopte les annexes supplémentaires et les amendements aux annexes à la présente Convention;
- i) sollicite, par l'intermédiaire du Secrétariat, la coopération des institutions et organes compétents, nationaux ou internationaux, gouvernementaux ou non gouvernementaux, utilise les services et informations fournis par ces institutions et organes, et renforce les relations avec les autres conventions pertinentes;
- j) examine toute autre question entrant dans le champ d'application de la présente Convention.

6. Les communautés économiques régionales africaines, ainsi que les organisations intergouvernementales régionales et sous-régionales africaines, peuvent être représentées aux réunions de la Conférence des Parties, sans droit de vote. L'Organisation des Nations Unies, ses institutions spécialisées et tout Etat Partie à la Convention initiale, mais non Partie à la présente Convention, peuvent être représentés aux réunions de la Conférence des Parties et y assister en qualité d'observateurs. Toute organisation non gouvernementale nationale, continentale, régionale, sous-régionale ou internationale compétente dans les domaines visés par la Convention et qui a informé le Secrétariat de son souhait d'être

observer, may be so admitted unless at least one third of the Parties present object. The participation of Observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

Article XXVII THE SECRETARIAT

1. A Secretariat to this Convention is hereby established.

2. At its first meeting, the Conference of the Parties shall designate an organisation to carry out the Secretariat functions under the Convention or shall appoint its own Secretariat and determine its location.

3. The functions of the Secretariat shall be:

- a) to arrange for and service meetings of the Conference of the Parties and of its subsidiary bodies;
- b) to execute the decisions addressed to it by the Conference of the Parties;
- c) to draw the attention of the Conference of the Parties to matters pertaining to the objectives of this Convention and its implementation;
- d) to gather and disseminate among the Parties the texts of laws, decrees, regulations and instructions in force which are intended to ensure the implementation of this Convention, as well as reports pertaining to such implementation;
- e) to administer the budget for the Convention and if established, its conservation fund;
- f) to enter into such administrative and contractual arrangements as may be required for the effective discharge of its functions;
- g) to prepare studies and reports on its activities carried out in the implementation of its functions under this Convention and present them to the Conference of Parties;
- h) to coordinate its activities with the secretariats of other relevant international bodies and conventions;
- i) to provide information for the general public concerning the Convention and its objectives; and
- j) to perform such other functions as may be

représentée à une réunion de la Conférence des Parties en tant qu'observateur peut y être admise, à moins qu'un tiers au moins des Parties présentes n'y fassent objection. La participation d'observateurs est régie par le règlement intérieur adopté par la Conférence des Parties.

Article XXVII SECRETARIAT

1. Il est institué un Secrétariat de la présente Convention.

2. La Conférence des Parties, à sa première réunion, désigne une organisation pour exercer les fonctions de Secrétariat aux termes de la Convention, ou désigne son propre Secrétariat et détermine son siège.

3. Les fonctions du Secrétariat sont les suivantes:

- a) organiser les réunions de la Conférence des Parties et de ses organes subsidiaires, et leur fournir les services voulus;
- b) appliquer les décisions qui lui sont adressées par la Conférence des Parties;
- c) attirer l'attention de la Conférence des Parties sur les questions liées aux objectifs de la présente Convention et à sa mise en œuvre;
- d) rassembler et diffuser auprès des Parties les textes des lois, décrets, règlements et instructions en vigueur, destinés à assurer la mise en œuvre de la présente Convention, ainsi que les rapports sur cette mise en œuvre;
- e) gérer le budget de la Convention ainsi que le fonds de conservation, dès sa création;
- f) conclure les arrangements administratifs et contractuels qui pourraient lui être nécessaires pour s'acquitter efficacement de ses fonctions;
- g) préparer des études et des rapports sur les activités menées dans l'exercice des fonctions qui lui sont dévolues par la Convention, et les présenter à la Conférence des Parties;
- h) coordonner ses activités avec celles des secrétariats des autres conventions et organes internationaux pertinents;
- i) informer le grand public sur la Convention et ses objectifs;

assigned to it by this Convention, or determined by the Conference of the Parties.

Article XXVIII FINANCIAL RESOURCES

1. Given the central importance of financing to the achievement of the purposes of this Convention, each Party, taking into account its capability, shall make every effort to ensure that adequate financial resources are available for the implementation of this Convention.

2. Financial resources towards the budget of the Convention shall consist of assessed contributions from Parties, annual contributions by the African Union, and contributions from other institutions. Contributions of the Parties to the budget of the Convention shall be in accordance with the scale of assessment approved by the Conference of the Parties at its first meeting.

3. The Conference of the Parties may establish a conservation fund constituted from voluntary contributions of Parties or from any other source accepted by the Conference for the purpose of financing projects and activities relating to the conservation of the environment and natural resources. The fund shall function under the authority of, and be accountable to, the Conference of the Parties.

4. The Parties, individually or jointly, shall seek to mobilize further financial resources and to that effect seek full use and continued qualitative improvement of all national, bilateral and multilateral funding resources and mechanisms, using consortia, joint programmes and parallel financing, and shall seek to involve private sector funding resources and mechanisms, including those of non-governmental organizations.

Article XXIX REPORTS AND INFORMATION

1. The Parties shall present, through the Secretariat, to the Conference of the Parties reports on the measures adopted by them in the implementation of this Convention and the results thereof in applying its provisions in such form

j) s'acquitter de toutes autres fonctions qui lui sont dévolues par la Convention ou qui pourraient lui être assignées par la Conférence des Parties.

Article XXVIII RESSOURCES FINANCIERES

1. Etant donné l'importance capitale du financement pour la réalisation des objectifs de la présente Convention, chaque Partie doit, compte tenu de ses capacités, tout mettre en œuvre pour faire en sorte que des ressources financières adéquates soient mises à disposition pour la mise en œuvre de la Convention.

2. Les ressources financières au titre du budget de la Convention comprennent les contributions des Parties, les contributions annuelles de l'Union africaine et les contributions d'autres institutions. Les contributions des Parties au budget de la Convention sont fixées conformément au barème des contributions approuvé par la Conférence des Parties à sa première réunion.

3. La Conférence des Parties peut instituer un fonds de conservation, alimenté par des contributions volontaires des Parties ou toute autre source acceptée par la Conférence, aux fins de financement de projets et activités concernant la conservation de l'environnement et des ressources naturelles. Le Fonds fonctionne sous l'autorité de la Conférence des Parties et lui rend compte.

4. Les Parties, individuellement ou collectivement, s'efforcent de mobiliser des ressources financières additionnelles et, à cet effet, veillent à la pleine utilisation et à l'amélioration qualitative continue de tous les mécanismes et sources de financement nationaux, bilatéraux et multilatéraux, y compris les consortiums, les programmes conjoints et les sources de financement parallèles, et s'efforcent également d'associer les mécanismes et sources de financement du secteur privé, y compris ceux des organisations non gouvernementales.

Article XXIX RAPPORTS ET INFORMATIONS

1. Les Parties, par l'intermédiaire du Secrétariat, présentent à la Conférence des Parties des rapports sur les mesures qu'elles auront adoptées dans le cadre de la mise en œuvre de la

and at such intervals as the Conference of the Parties may determine. This presentation shall be accompanied by the comments of the Secretariat, in particular regarding failure to report, adequacy of the report and of the measures described therein.

2. The Parties shall supply the Secretariat with:

- a) the texts of laws, decrees, regulations and instructions in force which are intended to ensure the implementation of this Convention;
- b) any other information that may be necessary to provide complete documentation on matters dealt with by this Convention;
- c) the names of the agencies or coordinating institutions empowered to be focal points in matters under this Convention; and
- d) information on bilateral or multilateral agreements relating to the environment and natural resources to which they are parties.

Article XXX SETTLEMENT OF DISPUTES

1. Any dispute between the Parties regarding the interpretation or the application of the provisions of this Convention shall be amicably settled through direct agreement reached by the parties to the dispute directly or through the good offices of a third party. If the parties concerned fail to settle such dispute, either party may, within a period of twelve months, refer the matter to the Court of Justice of the African Union.

2. The decisions of the Court of Justice shall be final and shall not be subject to appeal.

Article XXXI AMENDMENTS OF THE CONVENTION

1. Any Party may propose amendments to this Convention.

2. The text of any proposed amendment to this Convention shall be communicated to the Parties by the Secretariat at least six months before the meeting of the Conference of the Parties at which it is proposed for approval.

Convention et sur les résultats de l'application des dispositions de la Convention, sous une forme et à des intervalles que la Conférence peut déterminer. Ces rapports sont accompagnés des observations du Secrétariat, en particulier en ce qui concerne la non-présentation de rapports, la pertinence des rapports et les mesures qu'ils décrivent.

2. Les Parties fournissent au Secrétariat:

- a) les textes des lois, décrets, règlements et instructions en vigueur, destinés à assurer la mise en œuvre de la présente Convention;
- b) toute autre information nécessaire pour disposer d'une documentation complète sur les questions dont traite la présente Convention;
- c) les noms des organismes ou institutions de coordination devant servir de correspondants pour les questions relevant de la Convention;
- d) des informations sur les accords bilatéraux ou multilatéraux relatifs à l'environnement et aux ressources naturelles auxquelles elles sont Parties.

Article XXX REGLEMENT DES DIFFERENDS

1. Tout différend entre les Parties concernant l'interprétation ou l'application des dispositions de la présente Convention est réglé à l'amiable par voie d'accord direct entre les parties au différend ou grâce aux bons offices d'une tierce partie. Si les Parties concernées ne parviennent pas à régler le différend, chacune d'entre elles peut, dans un délai de douze mois, renvoyer la question à la Cour de l'Union africaine.

2. Les décisions de la Cour de justice sont définitives et sans appel.

Article XXXI AMENDEMENTS A LA CONVENTION

1. Toute Partie peut proposer des amendements à la présente Convention.

2. Le texte de toute proposition d'amendement à la présente Convention est communiqué aux Parties par le Secrétariat six mois au moins avant la réunion de la Conférence des Parties

The Secretariat shall also communicate proposed amendments to the signatories to this Convention at least three months before the meeting.

3. The Parties shall make every effort to reach agreement on any proposed amendment to this Convention 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 present and voting.

4. The Depository shall communicate the adoption of the amendment to all Parties and signatories to this Convention.

5. Ratification, acceptance or approval of amendments shall be notified to the Depository in writing. Amendments 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. 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.

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

Article XXXII ADOPTION AND AMENDMENTS OF ANNEXES

1. The annexes to this Convention shall form an integral part of the convention. Such annexes shall be restricted to scientific, technical, financial and administrative matters.

2. The following procedure shall apply to the proposal, adoption and entry into force of additional annexes to this Convention:

- a) any Party may propose an additional annex to this Convention;
- b) the text of any proposed additional annex to this Convention shall be communicated

à laquelle il est présenté pour adoption. Le Secrétariat communique également les propositions d'amendement aux signataires de la présente Convention, au moins trois mois avant la réunion.

3. Les Parties mettent tout en œuvre pour parvenir à un accord par consensus sur toute proposition d'amendement à la présente Convention. Si tous les efforts en ce sens sont demeurés vains et qu'aucun accord n'est réalisé, l'amendement est adopté en dernier recours par un vote à la majorité des deux tiers des Parties présentes et votantes.

4. Le dépositaire communique l'adoption des amendements à toutes les Parties à la présente Convention et aux signataires.

5. La ratification, l'acceptation ou l'approbation des amendements est notifiée au dépositaire par écrit. Les amendements entrent en vigueur à l'égard des Parties qui les ont acceptés le quatre-vingt-dixième jour suivant le dépôt des instruments de ratification, d'acceptation ou d'approbation par au moins deux tiers des Parties contractantes à la présente Convention. Par la suite, les amendements entrent en vigueur, à l'égard de toute autre partie, le quatre-vingt-dixième jour suivant le dépôt, par ladite partie, de son instrument de ratification, d'acceptation ou d'approbation des amendements.

6. Aux fins du présent article, "Parties présentes et votantes" s'entend des Parties présentes qui émettent un vote affirmatif ou négatif.

Article XXXII ADOPTION ET AMENDEMENT DES ANNEXES

1. Les annexes à la présente Convention font partie intégrante de la Convention. Ces annexes ont exclusivement trait à des questions scientifiques, techniques, financières et administratives.

2. La proposition, l'adoption et l'entrée en vigueur d'annexes supplémentaires à la Convention sont régies par la procédure suivante:

- a) toute Partie peut proposer une annexe supplémentaire à la présente Convention;
- b) le texte de toute proposition d'annexe sup-

to the Parties by the Secretariat at least six months before the meeting of the Conference of the Parties at which it is proposed for adoption. The Secretariat shall also communicate the text of any proposed additional annex to the signatories to this Convention at least three months before the meeting;

- c) the Parties shall make every effort to reach agreement on any proposed additional annex to this Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the additional annex shall as a last resort be adopted by a two-third majority vote of the Parties present and voting;
 - d) the Depository shall communicate the adoption of the Annex to all Parties and signatories to this Convention;
 - e) any Party that is unable to accept an additional annex to this Convention shall notify the Depository, in writing, within six months from the date of the communication of the adoption by the Depository. The Depository shall without delay notify all Parties of any such notification received. A Party may at any time substitute an acceptance for a previous declaration of objection and the annexes shall thereupon enter into force for that Party;
 - f) upon expiration of six months from the date of the circulation of the communication by the Depository, the annex shall enter into force for all Parties to this Convention, which have not submitted a notification in accordance with the provisions of subparagraph e) above.
3. The proposal, adoption and entry into force of amendments to annexes to this Convention shall be subject to the same procedure as for the proposal, adoption and entry into force of additional annexes to the Convention.
4. If an additional annex or an amendment to an annex is related to an amendment to this Convention, the additional annex or amended annex shall not enter into force until such time as the amendment to this Convention enters into force.
- plémentaire à la présente Convention est communiqué aux Parties par le Secrétariat, au moins six mois avant la réunion de la Conférence des Parties à laquelle il est présenté pour adoption. Le Secrétariat communique également le texte de toute annexe supplémentaire proposée aux signataires de la présente Convention, au moins trois mois avant la réunion;
- c) les Parties n'épargnent aucun effort pour parvenir à un accord par consensus sur toute proposition d'annexe supplémentaire à la présente Convention. Si tous les efforts en ce sens sont demeurés vains et qu'aucun accord n'a pu être réalisé, l'annexe supplémentaire est adoptée, en dernier recours, par un vote à la majorité des deux tiers des Parties présentes et votantes;
 - d) le dépositaire communique l'adoption de l'annexe à toutes les Parties à la présente Convention et aux signataires;
 - e) toute Partie qui n'est pas en mesure d'accepter une annexe supplémentaire à la présente Convention en notifie le dépositaire, par écrit, dans un délai de six mois à compter de la date de la communication de l'adoption par le dépositaire. Celui-ci informe sans délai toutes les Parties de toute notification reçue. Une Partie peut, à tout moment, remplacer une déclaration d'objection par une acceptation, et les annexes entrent alors en vigueur à l'égard de cette Partie;
 - f) à l'expiration d'un délai de six mois à compter de la date de sa communication par le dépositaire, l'annexe entre en vigueur à l'égard de toutes les Parties à la présente Convention qui n'ont pas communiqué de notification conformément aux dispositions de l'alinéa e) ci-dessus.

3. La proposition, l'adoption et l'entrée en vigueur d'amendements aux annexes à la présente Convention sont soumises à la même procédure que la proposition, l'adoption et l'entrée en vigueur d'annexes supplémentaire à la Convention.

4. Lorsqu'une annexe supplémentaire ou un amendement à une annexe se rapporte à un amendement à la présente Convention, ladite annexe supplémentaire ou l'amendement n'entre en vigueur que lorsque l'amendement à la Convention entre lui-même en vigueur.

**Article XXXIII
RIGHT TO VOTE**

Each Party to this Convention shall have one vote.

**Article XXXIV
RELATIONSHIP BETWEEN
PARTIES TO THE REVISED
CONVENTION AND PARTIES
BOUND BY THE 1968 ALGIERS
CONVENTION**

1. Between Parties which are bound by this Convention, only this Convention shall apply.
2. The relationships between Parties to the original Convention and Parties to this Convention shall be governed by the provisions of the original Convention.

**Article XXXV
RELATIONSHIP WITH
OTHER INTERNATIONAL
CONVENTIONS**

The provisions of this Convention do not affect the rights and obligations of any Party deriving from existing international treaties, conventions or agreements.

**Article XXXVI
SIGNATURE AND RATIFICATION**

1. This Convention shall be open for signature immediately after being adopted by the Assembly of the African Union.
2. The Convention shall be subject to ratification, acceptance or approval by each of the States referred to in paragraph 1 above. The instruments of ratification, acceptance or approval shall be deposited with the Depositary.

**Article XXXVII
ACCESSION**

1. This Convention shall be open to accession by Member States of the African Union from the date on which it is closed for signature.
2. The instruments of accession shall be deposited with the Depositary.

**Article XXXIII
DROIT DE VOTE**

Chaque Partie à la présente Convention dispose d'une voix.

**Article XXXIV
RELATIONS ENTRE LES PARTIES
CONTRACTANTES A LA
CONVENTION REVISEE ET LES
PARTIES A LA CONVENTION
D'ALGER DE 1968**

1. Les relations entre les Parties à la présente Convention ne sont régies que par celle-ci.
2. Les relations entre les Parties à la Convention initiale et les Parties à la présente Convention sont régies par les dispositions de la Convention initiale.

**Article XXXV
RELATIONS AVEC LES
AUTRES CONVENTIONS
INTERNATIONALES**

Les dispositions de la présente Convention n'affectent pas les droits et les obligations des Parties aux termes des traités, conventions ou accords internationaux existants.

**Article XXXVI
SIGNATURE ET RATIFICATION**

1. La présente Convention est ouverte à la signature immédiatement après son adoption par la Conférence de l'Union africaine.
2. Elle est soumise à ratification, acceptation ou approbation par chaque Etat visé au paragraphe 1. Les instruments de ratification, d'acceptation ou d'approbation sont déposés auprès du dépositaire.

**Article XXXVII
ADHESION**

1. La présente Convention est ouverte à l'adhésion de tous les Etats membres de l'Union africaine à compter de la date à laquelle elle cesse d'être ouverte à la signature.
2. Les instruments d'adhésion sont déposés auprès du dépositaire.

**Article XXXVIII
ENTRY INTO FORCE**

1. This Convention shall come into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification, acceptance, approval or accession with the Depositary, who shall inform the States referred to in Articles XXXVI and XXXVII accordingly.

2. For each State which ratifies, accepts or approves this Convention or accedes thereto after the depositing of the fifteenth instrument of ratification, acceptance, approval or accession, this Convention shall come into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

3. Any State that becomes a party to the present Convention that was not a party to the 1968 Algiers Convention shall take the necessary steps to withdraw from the London Convention of 1933 on the Conservation of Flora and Fauna in their Natural state.

4. No instrument of accession to the 1968 Algiers Convention may be deposited after the adoption of this Convention.

**Article XXXIX
RESERVATIONS**

No reservation may be made to this Convention.

**Article XL
WITHDRAWAL**

1. Any Party may withdraw from this Convention by notification in writing addressed to the Depositary.

2. Such withdrawal shall take effect, for such a Party, one year after the date of receipt of its notification by the Depositary.

3. No withdrawal shall, however, be made before the expiry of a period of five years from the date at which this Convention comes into force for the Party concerned.

**Article XXXVIII
ENTREE EN VIGUEUR**

1. La présente Convention entre en vigueur le trentième jour suivant la date du dépôt du quinzième instrument de ratification, d'acceptation, d'approbation ou d'adhésion auprès du dépositaire, qui en informe les Etats visés aux articles XXXVI et XXXVII.

2. A l'égard des Etats qui ratifient, acceptent ou approuvent la Convention ou y adhèrent après le dépôt du quinzième instrument de ratification, d'acceptation, d'approbation ou d'adhésion, la Convention entre en vigueur le trentième jour suivant la date du dépôt par ces Etats de leur instrument de ratification, d'acceptation, d'approbation ou d'adhésion.

3. Tout Etat non Partie à la Convention d'Alger de 1968 qui devient Partie à la présente Convention prend les mesures nécessaires pour dénoncer la convention de Londres de 1933 relative à la conservation de la faune et de la flore à l'état naturel.

4. Aucun instrument d'adhésion à la Convention d'Alger de 1968 ne peut être déposé après l'adoption de la présente Convention.

**Article XXXIX
RESERVES**

Aucune réserve se peut être faite à la présente Convention.

**Article XL
RETRAIT**

1. Toute Partie peut dénoncer la présente Convention, par notification écrite adressée au dépositaire.

2. La dénonciation prend effet, pour ladite Partie, un an après la date de réception de la notification par le dépositaire.

3. Toutefois, aucune dénonciation ne prend effet avant l'expiration d'une période de cinq ans à compter de la date de l'entrée en vigueur de la présente Convention pour la Partie concernée.

**Article XLI
SECRETARIAT INTERIM
ARRANGEMENTS**

The Secretariat functions referred to in Article XVII.3 shall be carried out on an interim basis by the Chairperson of the African Union until the decision of the Conference of the Parties referred to in Article XXVII.2 has been taken.

**Article XLII
DEPOSITARY**

The Chairperson of the African Union shall be the Depositary of this Convention.

**Article XLIII
AUTHENTIC TEXTS**

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

Adopted by the 2nd Ordinary Session of the Assembly of Heads of State and Government of the African Union in Maputo, Mozambique, on 11th July 2003.

**Article XLI
ARRANGEMENTS INTERIMAIRES
POUR LE SECRETARIAT**

Les fonctions du Secrétariat décrites au paragraphe 3 de l'article XXVII sont exercées à titre intérimaire par le Président de la Commission de l'Union africaine jusqu'à l'adoption de la décision de la Conférence des Parties mentionnée au paragraphe 2 de l'article XXVII.

**Article XLII
DEPOSITAIRE**

Le Président de la Commission de l'Union africaine est le dépositaire de la présente Convention.

**Article XLIII
TEXTES FAISANT FOI**

L'original de la présente Convention, dont les textes anglais, arabe, français et portugais font également foi, est déposé auprès du dépositaire.

Adoptée par la deuxième session ordinaire de la Conférence des Chefs d'Etat et de gouvernement de l'Union africaine tenue a Maputo (Mozambique), le onzième jour de juillet, deux mille trois.

**ANNEX 1
THREATENED SPECIES DEFINITION**

A threatened species is a species which is either:

- a) Critically Endangered:
A taxon is “critically endangered” when the best available evidence indicates that it is considered to be facing an extremely high risk of extinction in the wild.
- b) Endangered:
A taxon is “endangered” when the available evidence indicates that it is considered to be facing a very high risk of extinction in the wild.
- c) Vulnerable:
A taxon is “vulnerable” when the best available evidence indicates that it is considered to be facing a high risk of extinction in the wild.

**ANNEXE 1
ESPECES MENACEES – DEFINITION**

Une espèce menacée est une espèce qui est, soit:

- a) En danger critique d’extinction:
Un taxon est dit “en danger critique d’extinction” lorsque les meilleures données disponibles indiquent qu’il est confronté à un risque extrêmement élevé d’extinction à l’état sauvage.
- b) En danger:
Un taxon est dit “en danger” lorsque les meilleures données disponibles indiquent qu’il est confronté à un risque très élevé d’extinction à l’état sauvage.
- c) Vulnérable:
Un taxon est dit “vulnérable” lorsque les meilleures données disponibles indiquent qu’il est confronté à un risque élevé d’extinction à l’état sauvage.

ANNEX 2 CONSERVATION AREAS

Definitions and Management Objectives

Strict Nature Reserve: protected area managed mainly for science

Definition

Area of land and/or sea possessing some outstanding or representative ecosystems, geological or physiological features and/or species, available primarily for scientific research and/or environmental monitoring.

Objectives of Management

- to preserve habitats, ecosystems and species in as undisturbed a state as possible;
- to maintain genetic resources in a dynamic and evolutionary state;
- to maintain established ecological processes;
- to safeguard structural landscape features or rock exposures;
- to secure examples of the natural environment for scientific studies, environmental monitoring and education, including baseline areas from which all avoidable access is excluded;
- to minimise disturbance by careful planning and execution of research and other approved activities; and
- to limit public access.

Wilderness Area: protected area managed mainly for wilderness protection

Definition

Large area of unmodified or slightly modified land, and/or sea, retaining its natural character and influence, without permanent or significant habitation, which is protected and managed so as to preserve its natural condition.

Objectives of Management

- to ensure that future generations have the opportunity to experience understanding and enjoyment of areas that have been largely undisturbed by human action over a long period of time;

ANNEXE 2 AIRES DE CONSERVATION

Définitions et objectifs de gestion

Réserve naturelle intégrale: aire protégée gérée principalement à des fins scientifiques

Définition

Espace terrestre et/ou marin comportant des écosystèmes, des caractéristiques géologiques ou physiologiques et/ou des espèces remarquables ou représentatifs, géré principalement à des fins de recherche scientifique et/ou de surveillance continue de l'environnement.

Objectifs de la conservation

- préserver des biotopes, des écosystèmes et des espèces dans des conditions aussi peu perturbées que possible;
- maintenir des ressources génétiques dans un état dynamique et évolutif;
- maintenir des processus écologiques établis;
- sauvegarder des éléments structures du paysage ou des formations rocheuses;
- conserver des milieux naturels exemplaires à des fins d'étude scientifique, de surveillance continue de l'environnement et d'éducation à l'environnement, y compris des sites de référence, en excluant tout accès évitable;
- réduire au minimum les perturbations, en planifiant et en menant avec circonspection les activités autorisées, de recherche et autres;
- limiter l'accès au public.

Zone de nature sauvage: aire protégée gérée principalement à des fins de protection des ressources sauvages

Définition

Vaste espace terrestre et/ou marin, intact ou peu modifié, ayant conservé son caractère et son influence naturels, dépourvu d'établissements permanents ou important, protégé et géré aux fins de préserver son état naturel.

Objectifs de gestion

- garantir aux générations futures la possibilité de connaître et de jouir de régions demeurées largement à l'abri des activités humaines, pendant une longue période;

- to maintain the essential natural attributes and qualities of the environment over the long term;
- to provide for public access at levels and of a type which will serve best the physical and spiritual well-being of visitors and maintain the wilderness qualities of the area for present and future generations; and

to enable local communities living at low density and in balance with the available resources to maintain their life style.

National Park: protected area managed mainly for ecosystem protection and recreation

Definition

Natural area of land and/or sea, designated to (a) protect the ecological integrity of one or more ecosystems for present and future generations, (b) exclude exploitation or occupation inimical to the purposes of designation of the area and (c) provide a foundation for spiritual, scientific, educational, recreational and visitor opportunities, all of which must be environmentally and culturally compatible.

Objectives of Management

- to protect natural and scenic areas of national and international significance for spiritual, scientific, educational, recreational or tourist purposes;
- to perpetual, in as natural a state as possible, representative examples of physiographic regions, biotic communities, genetic resources, and species, to provide ecological stability and diversity;
- to manage visitor use for inspirational, educational, cultural and recreational purposes at a level which will maintain the area in a natural or near natural state;
- to eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation;
- to maintain respect for the ecological, geomorphologic, sacred or aesthetic attributes which warranted designation; and
- to take into account the needs of local communities, including subsistence re-

- conserver, à long terme, les qualités et éléments naturels essentiels de l'environnement;
- prévoir l'accès du public, de manière à garantir le bien-être physique et spirituel des visiteurs, tout en conservant les qualités naturelles sauvages de la région pour les générations actuelles et futures;

pour permettre à des communautés locales, de faible densité et vivant en harmonie avec les ressources disponibles, de conserver leur mode de vie.

Parc national: aire gérée principalement dans le but de protéger les éco-systèmes et à des fins récréatives

Définition

Zone naturelle, terrestre et/ou marine, désignée (a) pour protéger l'intégrité écologique dans un ou plusieurs écosystèmes dans l'intérêt des générations actuelles et futures, (b) pour exclure toute exploitation ou occupation incompatible avec les objectifs de la désignation et (c) pour offrir des possibilités de visite, à des fins spirituelles, scientifiques, éducatives, récréatives et touristiques, dans le respect du milieu naturel et de la culture des communautés locales.

Objectifs de gestion

- protéger des régions naturelles et des paysages d'importance nationale et internationale, à des fins spirituelles, scientifiques, éducatives, récréatives ou touristiques;
- perpétuer, dans des conditions aussi naturelles que possible, des exemples représentatifs de régions physiographiques, de communautés biologiques, de ressources génétiques et d'espèces de manière à garantir une stabilité et une diversité écologique;
- limiter le nombre de visiteurs aux motivations spirituelles, éducatives, culturelles ou récréatives, afin que l'aire reste dans un état naturel ou quasi-naturel;
- éliminer et, ultérieurement, prévenir toute forme d'exploitation ou d'occupation incompatible avec les objectifs de la désignation;
- garantir le respect des éléments écologiques, géomorphologiques, sacrés ou esthétiques justifiant la désignation;
- tenir compte des besoins des communau-

source use, in so far as these will not adversely affect the other objectives of management.

Natural Monument: protected area managed mainly for conservation of specific natural features

Definition

Area containing one, or more, specific natural or natural/cultural feature which is of outstanding or unique value because of its inherent rarity, representative or aesthetic qualities or cultural significance.

Objectives of Management

- to protect or preserve in perpetuity specific outstanding natural features because of their natural significance, unique or representational quality, and/or spiritual connotations;
- to an extent consistent with the foregoing objective, to provide opportunities for research, education, interpretation and public appreciation;
- to eliminate and thereafter prevent exploitation or occupation inimical to the purpose of designation; and
- to deliver to any resident population such benefits as are consistent with the other objectives of management.

Habitat/Species Management Area: protected area managed mainly for conservation through management intervention

Definition

Area of land and/or sea subject to active intervention for management purposes so as to ensure the maintenance of habitats and/or to meet the requirements of specific species.

Objectives of Management

- to secure and maintain the habitat conditions necessary to protect significant species, groups of species, biotic communities or physical features of the environment where these require specific human manipulation for optimum management;
- to facilitate scientific research and environmental monitoring as primary activi-

tés locales, y compris l'utilisation des ressources à des fins de subsistance, dans la mesure où ceux-ci n'ont aucune incidence négative sur les autres objectifs de gestion.

Monument naturel: aire protégée gérée principalement dans le but de préserver des éléments naturels spécifiques

Définition

Aire contenant un ou plusieurs éléments naturels ou naturels/culturels particuliers, d'importance exceptionnelle ou unique, méritant d'être protégée du fait de sa rareté de sa représentativité, de ses qualités esthétiques ou de son importance culturelle intrinsèque.

Objectifs de gestion

- protéger ou préserver, à jamais, des éléments naturels particuliers, exceptionnels du fait de leur importance naturelle et/ou caractère unique ou représentatif, et/ou de leur connotation spirituelle;
- dans une mesure compatible avec l'objectif susmentionné, offrir des possibilités de recherche, d'éducation, d'interprétation et de loisirs;
- éliminer et, ultérieurement, prévenir toute forme d'exploitation ou d'occupation incompatible avec l'objectif de la désignation;
- offrir à la population résidente des avantages compatibles avec les autres objectifs de gestion.

Aire de gestion des habitats ou des espèces: aire protégée gérée principalement à des fins de conservation, avec intervention au niveau de la gestion

Définition

Aire terrestre et/ou marine faisant l'objet d'une intervention active au niveau de la gestion, de façon à garantir le maintien des habitats et/ou à satisfaire aux exigences d'espèces particulières.

Objectifs de gestion

- garantir et maintenir les conditions d'habitat nécessaires à la préservation d'espèces, de groupes d'espèces, de communautés biologiques ou d'éléments physiques important du milieu naturel, lorsqu'une intervention humaine s'impose pour optimiser la gestion;
- privilégier les activités de recherche et de

- ties associated with sustainable resource management;
- to develop limited areas for public education and appreciation of the characteristics of the habitats concerned and of the work of wildlife management;
- to eliminate and thereafter prevent exploitation or occupation inimical to the purposes of designation; and
- to deliver such benefits to people living within the designated area as are consistent with the other objectives of management.

Protected Landscape/Seascape: protected area managed mainly for landscape/seascape conservation and recreation

Definition

Area of land, with coast and sea as appropriate, where the interaction of people and nature over time has produced an area of distinct character with significant aesthetic, ecological and/or cultural value, and often with high biological diversity. Safeguarding the integrity of this traditional interaction is vital to the protection, maintenance and evolution of such an area.

Objectives of Management

- to maintain the harmonious interaction of nature and culture through the protection of landscape and/or seascape and the continuation of traditional land uses, building practices and social and cultural manifestations;
- to support lifestyles and economic activities which are in harmony with nature and the preservation of the social and cultural fabric of the communities concerned;
- to maintain the diversity of landscape and habitat, and of associated species and ecosystems;
- to eliminate where necessary, and thereafter prevent, land uses and activities which are inappropriate in scale and/or character;
- to provide opportunities for public enjoyment through recreation and tourism appropriate in type and scale to the essential qualities of the areas;
- to encourage scientific and educational activities which will contribute to the long term well-being of resident populations

- surveillance continue de l'environnement parallèlement à la gestion durable des ressources;
- consacrer des secteurs limités à l'éducation du public, afin de le sensibiliser aux caractéristiques des habitats concernés et au travail de gestion des espèces sauvages;
- éliminer et, ultérieurement, prévenir toute exploitation ou occupation incompatible avec les objectifs de la désignation;
- offrir aux communautés vivant il l'intérieur de l'aire des avantages compatibles avec les autres objectifs de gestion.

Paysage terrestre ou marin protégé: aire protégée gérée principalement dans le but d'assurer la conservation de paysages terrestres ou marins et à des fins récréatives

Définition

Zone terrestre, comprenant parfois le littoral et les eaux adjacentes, ou l'interaction entre l'homme et la nature a, au fil du temps, modelé le paysage aux qualités esthétiques, écologiques et/ou culturelles particulières et exceptionnelles, et présentant souvent une grande diversité biologique. Préserver l'intégrité de cette interaction traditionnelle est essentiel à la protection, au maintien et à l'évolution d'une telle aire.

Objectifs de gestion

- maintenir l'interaction harmonieuse de la nature et de la culture, en protégeant le paysage terrestre et/ou marin et en garantissant le maintien des formes traditionnelles d'occupation du sol et de construction, ainsi que l'expression des faits socio-culturels;
- encourage les modes de vie et les activités économiques en harmonie avec la nature, ainsi que la préservation du tissu socio-culturel des communautés concernées;
- maintenir la diversité du paysage et de l'habitat, ainsi que des espèces et écosystèmes associés;
- éliminer le cas échéant, et ultérieurement, prévenir toute forme d'occupation du sol et activité incompatibles avec les objectifs visés, du fait de leur ampleur ou nature;
- offrir au public toute une gamme de loisirs de plein air respectant les qualités essentielles de l'aire;
- encourager les activités scientifiques et pédagogiques contribuant au bien-être à

and to the development of public support for the environmental protection of such areas; and

- to bring benefits to, and to contribute to the welfare of, the local community through the provision of natural products (such as forest and fisheries products) and services (such as clean water or income derived from sustainable forms of tourism).

Managed Resource Protected Area: protected area managed mainly for the sustainable use of natural ecosystems

Definition

Area containing predominantly unmodified natural systems, managed to ensure long term protection and maintenance of biological diversity, while providing at the same time a sustainable flow of natural products and services to meet community needs.

Objectives of Management

- to protect and maintain the biological diversity and other natural values of the area in the long term;
- to promote sound management practices for sustainable production purposes;
- to protect the natural resource base from being alienated for other land-use purposes that would be detrimental to the area's biological diversity; and to contribute to regional and national development;
- to contribute to regional and national development.

long terme des communautés résidentes tout en sensibilisant le public à la protection de tels paysages;

- offrir des avantages à la communauté locale et contribuer à son bien-être, sous forme de produits naturels (par exemple forestiers ou de la pêche) et de services (eau potable ou revenus tirés de formes durables de tourisme).

Aire protégée de ressources naturelles gérée: aire protégée gérée principalement à des fins d'utilisation durable des écosystèmes naturels

Définition

Aire contenant des systèmes naturels, en grande partie non modifiés, gérée aux fins d'assurer la protection et le maintien à long terme de la diversité biologique, tout en garantissant la durabilité des fonctions et produits naturels nécessaires au bien-être de la communauté.

Objectifs de gestion

- assurer la protection et le maintien à long terme de la diversité biologique et des autres valeurs naturelles du site;
- promouvoir des pratiques rationnelles de gestion afin d'assurer une productivité durable;
- protéger le capital de ressources naturelles contre toute forme d'aliénation engendrée par d'autres formes d'utilisations du sol susceptible de porter préjudice à la diversité biologique de la région;
- contribuer au développement régional et national.

ANNEX 3
Prohibited means of taking

- Snares
- Live animals used as decoys which are blind or mutilated
- Tape recorders
- Electrical devices capable of killing and stunning
- Artificial light sources
- Mirrors and other dazzling devices
- Devices for illuminating targets
- Sighting devices for night shooting comprising an electronic image magnifier or image converter
- Explosives
- Fire
- Nets (except as specified by the Conference of the Parties)
- Traps
- Poison and poisoned or anaesthetic bait

- Gassing or smoking out
- Semi-automatic or automatic weapons with a magazine capable of holding more than two rounds of ammunition
- Aircraft
- Motor vehicles in motion

ANNEXE 3
Moyens de prélèvement interdits

- Collets
- Animaux vivants utilisés comme appâts aveuglés ou mutilés
- Enregistreurs
- Appareils électriques capables de tuer ou d'assommer
- Sources lumineuses artificielles
- Miroirs et autres objets aveuglants
- Dispositifs pour éclairer les cibles
- Dispositifs de visée comportant un convertisseur d'image ou un amplificateur d'image électronique pour tir de nuit
- Explosifs
- Feu
- Filets (excepté dans les cas spécifiés par la Conférence des Parties)
- Pièges-trappes
- Poison et appâts empoisonnés ou tranquillisants
- Gazage et enfumage
- Armes semi-automatiques dont le chargeur peut contenir plus de deux cartouches

- Avions
- Véhicules automobiles en déplacement