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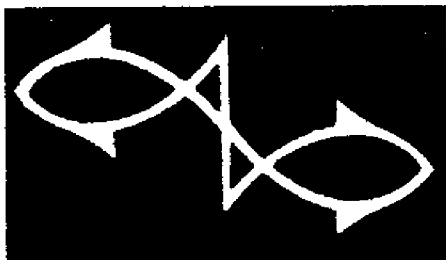
**INTRODUCTION TO A CONVENTION
ON THE
INTERNATIONAL ENVIRONMENT PROTECTION AGENCY**

by

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and

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INTRODUCTION

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A

PROPOSAL

PREFACE

This is a preview publication. It has a dual purpose: (1) to stimulate discussion and thought, and (2) to generate criticism and comment. A final version of the proposed Convention and a full discussion and commentary supporting the form and basic elements of the Convention will be published as a monograph later this year by the Woodrow Wilson International Center for Scholars. Meanwhile, the authors would be grateful for any comments and suggestions. These should be addressed to Messrs. E. W. Seabrook Hull and Albert W. Koers, W.W.I.C.S., Smithsonian Institution Building, Washington, D.C., 20560, Tel.: (202) 381-6380.

It is worth noting that this study began as an effort to develop a regime for controlling ocean pollution. An analysis, however, of the causes, routes and mechanisms of ocean pollution quickly showed that the majority of the most serious forms of ocean pollution originate ashore within the national territory of States and are transported beyond territorial limits by the atmosphere and by rivers. Therefore, there can be no such thing as effective control solely of marine pollution, and consequently protection of the marine environment can be effective only if it is treated as part of the global environment, which in point of scientific fact and according to mankind's use it is. In that the oceans are the ultimate receivers of nearly all forms of pollution, however, a global pollution control regime remains more than anything else an ocean pollution control regime. In that sense, the study is primarily concerned with the protection of the oceans against pollution.

BASIC OBJECTIVES

It may be stating the obvious that life and the fulfillment of the expectations of men and States depend on a natural global environment which is not only capable of providing the bare minimum requirements of life support but which is also enjoyable and supportive of the needs of man's technico-economic activities. Still, in too many respects mankind seems to ignore this simple truth. Not only are the pollution effects of human activities degrading the quality of the environment--both locally and globally--but in some cases they threaten its most basic functions.

Measurements show that some pollutants are accumulating in the ocean and the atmosphere more rapidly than natural processes remove them. Because some of these rises are measured on a global scale and exhibit a high degree of persistence, they must be considered perturbations of significance. The full potential of their adverse impact is only imperfectly known. While extreme forecasts of environmental doom usually cannot be supported scientifically, conversely not all can be conclusively discounted. Thus, environmental catastrophe has to be counted among the possibilities of a failure to take effective steps to protect the global environment.

Briefly, unless the world community of States resolves this conflict between man and his environment, the quality of life will be eroded, economic progress will be slowed and become more costly, and--in the final analysis--the basic ability of the planet to support life could be compromised. The range of options for effective international pollution control and the social, economic and political costs of that control vary adversely as pollution levels rise. Thus, in an era of rising pollution the least-cost and least-

adverse-impact time to act will always be the present. Indeed, if effective action should never be taken, the range of options would diminish to zero, and the cost thereof would approach infinity.

The proposed International Environment Protection Agency indicates one way in which the world community of States may be able to bring the processes of major environmental degradation, and particularly of the oceans, under effective control. It should be said at the outset that this study makes no claim whatsoever that it formulates either best or final answers. Its primary objective is to present new approaches, raise questions and stimulate thought. It is suggested, however, that the Convention as elaborated herein constitutes one rather detailed approach to the problem. Some may feel that some of the details are based on rather arbitrary choices. There is no reason, however, why this should undermine the basic purposes of this study to contribute to productive discussion.

The structure of the Convention should not be taken as evidence that this study particularly favors establishment of such a wholly new agency at the exclusion of participation by the existing specialized agencies of the United Nations or, conversely, the assignment of any or all of the proposed functions among those specialized agencies. The device of a single, "new" institutional structure is employed in this paper mainly as the simplest means of demonstrating the nature and interrelationship of the political, legal and administrative functions believed to be necessary to effective international pollution control. It should not be taken as specific advocacy of such an institutional arrangement.

In this effort the main concern was not political acceptability. The International Environment Protection Agency is an idealized regime. Many of the regime's characteristics might not be acceptable under the present conditions prevailing in the community of States. However, it was decided not to begin with compromise, preferring, instead, to stress what is considered to be an idealized solution to the environmental problem. Political considerations will become key elements in the discussion on their own strength. This does not mean that the proposal, as advanced herein, bears no relationship to political realities. They were given careful consideration, but while they influenced, they were not exclusively decisive factors in formulating the regime.

BASIC ASSUMPTIONS

The most important basic assumption underlying the Convention is that States are, or should be made, "environmentally responsible" and that this responsibility should be upheld not only with respect to other States, but also with respect to the world community as a whole. This is not a revolutionary thought but rather an extension of existing and developing custom. The history of the Trail Smelter Arbitration between Canada and the United States¹ and the development and form of the several major international river basin arrangements² are logical precursors to many aspects of the proposed Convention.

¹3 RIAA, 1905.

²See, e.g., Garretson; et. al.; The Law of International Drainage Basins, Dobbs Ferry, 1967.

In the Trail Smelter Case, Canada was held environmentally responsible for fumes discharged by a smelter operation within its national territory which had caused damage to crops located within United States territory. While this case serves as a precedent, it also points up two basic weaknesses in the existing structures and procedures. First, they deal primarily with the consequences of pollution after the fact and with the recovery of damages. Prevention of pollution is much lower on their scale of priorities. Second, in this and comparable cases it is necessary that a State acts in order to recover damages. This also means that if a specific type of pollution affects an area or a resource which is not subject to the jurisdiction of any State (such as the high seas)—even though the source of that pollution can be identified—there is no way in law by which the polluting State can be made environmentally responsible, except in a few cases covered by international agreements.

In other words, existing structures of international law provide for a certain degree of environmental responsibility at the inter-State level and after the fact, but they are seriously lacking in respect of responsibility to the world community as a whole and they deal in only a very limited way with the matter of prevention. For these reasons the high seas in particular and to a lesser degree the global atmosphere are in danger of becoming dumping grounds for everything that is considered unacceptable on land. There is simply no adequate mechanism for the enforcement of the environmental responsibility of States with regard to the world community as a whole.

In major river basin compacts, however, and in some of the more recent regional arrangements, the concept of both prevention and individual State responsibility to the common good begins to appear. While admittedly the effectiveness of some of these arrangements is compromised, if not largely abrogated by political considerations, lack of consensus on terms and standards, etc., the fact remains that on a regional basis at least groups of States have recognized their shared interest in a single environmental resource. They have admitted the limitations of that resource and the necessity of imposing restrictions in the interests of the common regional international good on the activities within individual States as the effects of those activities may extend adversely beyond individual boundaries. The extension of these concepts to a global scale and the introduction of more effective regulatory procedures are next logical phases of this evolutionary process and are the main matters with which the Convention is concerned.

A second assumption, basic to the development of the Convention, is that States are responsible for all effects of pollution which are felt outside their territory, whether those effects are the result (1) of pollution produced within and escaping beyond their national territory, or (2) of pollution produced outside the national territory of any State which is the result of the activities of their nationals or of activities subject to their jurisdiction. Thus, from the international point of view what States do entirely within their territory is strictly their own concern, as long as whatever they do has no unacceptable repercussions outside their territory. In other words, within any State nationals, from an international point of view, have absolute freedom to decide among themselves how much pollution they are willing to tolerate, as long as the effects beyond the national territory of such pollution do not exceed internationally agreed-to standards. How such nationals pollute, however, in areas not subject to the jurisdiction

of any State--resulting, for example, from ocean mining, oil spills, dumping, etc., on the high seas--cannot be allowed such freedom of individual option. Since the origin of the pollution is already extra-territorial it is immediately subject to international control.

There are basically two mechanisms for transporting polluting agents beyond national boundaries. These are: (1) "international water", and (2) "international air". As developed by the authors these are comparatively new concepts and an appreciation of their meaning is fundamental to an understanding of the workings of the proposed International Environmental Protection Agency.

International water is: "the substance of all water circulating in the planetary hydrologic cycle". International air is defined as: "the substance of all gases of the atmosphere which envelope the earth". It must be emphasized that these terms do not refer to an area, but to a substance. Further the reference is one of totality and timelessness--the substance of all the water and the substance of all the atmosphere of the global environment. These substances are called "international" because they are shared by all States. All States use international water and international air--either within their territory or by activities outside their territory but subject to their control. This use is of a temporary nature, and after such use the international water or the international air is used by other States. It may go to the territory of another State or it may go to an area which is not subject to the territorial sovereignty of any State. If the viability of the global environment is to be preserved, States which have used international water or international air must assume responsibility for the quality of the international water or the international air as it leaves their national territory or is disposed of outside their national territory by their nationals or as a part of activities subject to their jurisdiction. Obviously, the waters of the world ocean constitute the bulk of "international water".

The quality of international water or air can be defined in terms of the concentration of polluting agents in such water or air. A "polluting agent" is defined as: "any substance which degrades the quality, quantity or the usefulness of the natural environment, including heat other than geothermal or contemporary solar". These latter two forms are excluded because they do not disturb the thermal energy balance (average planetary temperature). Forms of heat energy which may disturb the thermal energy balance of the planet now or in the future are those which were put into storage over long periods of geological time and/or which went into storage at the time of the planet's formation, e.g., fossil and nuclear fuels, and which are now being released at high and rising rates over comparatively short periods of time. It is important to realize that reference is made not only to the waste heat generated in power production, but also to the total energy released--all of which dissipates eventually as heat, whether its initial form be electrical, mechanical or whatever. Heat, thus, poses special problems for which special provision is made in the regulatory provisions of the Convention.

In addition to heat, examples of polluting agents are: mercury, lead, other toxic heavy metals, DDT, other persistent chlorinated pesticides, other persistent biocides, polychlorinated biphenyls, petroleum products, radionuclides, atmospheric particulates, nitrogen and sulfur oxides, photochemical products, carbon dioxide and carbon monoxide, miscellaneous hydrocarbons, and such other materials as may be determined to result in unac-

ceptable environmental impacts. The use of international water or air by States inevitably results in the addition of a certain number and a certain level of concentration of polluting agents to the international water or air. Under the regulatory measures of the proposed Agency, however, no State would be permitted free of cost to introduce such concentrations in "unacceptable" amounts--unacceptable to be defined by the Agency.

This brings us to two other basic assumptions of a more scientific nature which were employed in the development of the Convention: (1) the natural environmental processes of the planet set absolute limits on the safe quantities of various polluting agents which can be released over given periods of time, and (2) by dividing such limits by the total number of States, the total population of the planet or some combination of both, the "maximum safe limits of the inherent right of individuals to pollute" can be determined. Admittedly, in the majority of cases the knowledge does not now exist which would permit such limits to be accurately determined. In the case of each polluting agent, however, some knowledge exists, and it is possible to equate individual pollutant discharge rates to varying degrees of severe environmental risk. It is thus possible to agree on a range of acceptable limits.

A further assumption underlying the Convention is as follows: since the concentration of some polluting agents is building up in the global environment--particularly in the oceans--it is clear that the rate of input of these polluting agents exceeds maximum safe levels. Further, since some States, i.e., the majority of the developing States, are at most minor polluters, it follows then that the developed States as a whole are excessive polluters. This brings us to a fundamental political consideration which must be recognized and accommodated in any pollution control regime that is expected to be successful.

The developed States realized their greatest period of economic growth under conditions of completely free, laissez faire access to international water and international air. This provided them with a decided cost advantage. Now, if environmental constraints are to be imposed on all States, the developing States during their period of major economic growth will not enjoy that cost advantage. Indeed, it can be and is argued that their future economic growth will be penalized by the earlier economic growth of the developed States, and that, therefore, a situation of an abuse of rights may be extant. Regardless of the legal niceties, however, political reality demands that if developing States are to be asked to order their economic growth within established environmental limits, they should be compensated for the economic handicap thus imposed.

As a final assumption, since it is economic activity that produces pollution and since therefore short-term economic advantage at least is gained from polluting, a primary element in the imposition of pollution control standards should be economic pressure. Ideally, this economic pressure should be proportional to the extent to which acceptable release limits are exceeded and directly equate to the economic advantage gained by the failure to adhere to acceptable limits. This approach is a key element to the design of the regulatory system envisaged in the Convention.

These are the basic assumptions on which the proposed Agency is built. Essentially, they boil down to the simple statement that no State has the right to abuse international water or international air, either by activities

occurring within its national territory or by those activities outside its territory which are subject to its jurisdiction. From this statement four basic regulatory situations can be derived:

- (1) pollution of international water within national territories;
- (2) pollution of international air within national territories;
- (3) pollution of international water outside national territories;
- (4) pollution of international air outside national territories.

The regulatory system designed to cope with these four basic situations will be discussed shortly in the following paragraphs.

REGULATORY STRUCTURE

The regulatory structure must be able to cope with the four basic pollution situations described above. Further, it must address itself to these problems at both the global and regional levels. Article XVIII deals with the global situation by providing for adoption of Global Control Measures. These are concerned, first of all, with the maximum safe levels of concentration at which polluting agents originating within the territories of member States may be found in international water and international air wherever such international water or air leaves the national territory. This reflects the principle that each member State is free to do within its territory whatever is acceptable to the nationals of such State but is subject to international pollution regulation to the extent that the effects outside its territory of internally produced pollution exceed acceptable levels.

With respect to pollution originating at locations beyond the territorial sovereignty of any State, the Global Control Measures provide for maximum safe levels at which polluting agents may be discharged by nationals of the member States or as a result of activities subject to their jurisdiction. Thus, a Global Control Measure may include a maximum safe level at which oil or other polluting agents may be discharged on the high seas or as a result of mining operations on the continental shelf beyond national jurisdiction.

Article XIX covers the regional aspects of the same four basic situations. It is based on the community of interest that is characteristic of regions. For that reason, it is assumed that initially at least States within a region are best suited, and should attempt, to bring the situation under control. In this sense, a region--just like a State--should be free to set whatever standards are acceptable within that region, so long as the effects of pollution felt outside the region do not exceed the standards provided for under Global Control Measures.

Even in a regional pollution control situation, however, the world community has a general and final interest. For this reason the Agency plays a specific role in the adoption and administration of Regional Control Measures. The Agency determines that it is necessary for a region to undertake the control of one or more polluting agents. The procedures for this determination are laid down in Article XVII and are discussed in greater detail below. Next, the Agency sets guidelines to which the States within

the region must adhere. Thus it is possible to bring broadly-based political pressure to bear on the States to control polluting agents and to control them regionally in a way which is acceptable to the world community as a whole. In brief, regional arrangements may be more rigorous than global standards, but they may never be less rigorous. A third and final way in which the Agency may become involved in regional pollution problems occurs when States within the region cannot reach agreement on the measures to be taken. In this case the Agency may decide to deal with the regional problem as though it were a global problem, in which case the Agency assumes direct control.

This structure envisaged for global and regional control would be incomplete if dumping--i.e., the intentional discharge of large and usually concentrated amounts of polluting agents in international water (usually the waters of the high seas or air)--were not subject to the regulatory structure of the Agency. Otherwise it would be possible for States to meet the maximum safe levels of concentration or discharge simply by collecting the offending materials inside their national territories, transporting them to some point not subject to national jurisdiction and by dumping these materials there.

Major concerns of the regulatory structure are: (1) the ease and certainty with which Control Measures decisions can be reached within the Agency, and (2) the highest level of acceptance among the member States of the decisions of the Agency. Political reality requires careful attention to these two matters--that reality being that under present conditions prevailing in the world community no State can be bound against its will. For this reason the Convention is designed to make it as attractive as possible to reach a decision within the Agency, while conversely, failure to reach a decision is made as unattractive as possible. This same principle is applied to the acceptance or non-acceptance by States of decisions reached within the Agency. In order to achieve this certain provisions are included in both the organizational and regulatory structure of the Agency. The provisions in the organizational structure are discussed below and are designed primarily to make the various organs of the Agency as effective as possible. The provisions in the regulatory structure fall under two headings: (1) phased decision-making, and (2) incentives to accept the decisions.

The process of phased decision-making is essentially the same for Global Control Measures and for Regional Control Measures. First, the Agency identifies its priorities and in a sense commits itself to act. This is achieved by the provisions in Articles XVI and XVII whereby within certain specified time periods the Agency must draw up official lists of both global and regional priorities. The inclusion of a specific polluting agent in these lists has several direct consequences. The most important is that within a specified time period the Agency must formulate a proposal for a Control Measure. Further, after a certain period the dumping control provisions of the Convention become effective under the terms of Article XX, and, also after a certain period, the data collection provisions of Article XXIII become operative. By first identifying the priorities, the Agency accepts responsibility. Failure to reach the necessary decisions, thus, will stand out clearly as a failure of the Agency to live up to its responsibility.

Incentives to accept Agency decisions are found in Articles XXI and XXII which deal, respectively, with the levy system and the Capital Fund. Beginning with the levy system, adoption of a maximum safe level of concentration or of discharge does not result in an absolute prohibition against exceeding it. Rather, member States must pay a levy to the Agency which will vary according to the extent by which maximum safe levels are exceeded. The objective is to remove the profit-incentive from polluting. Thus, levies would be proportional to the extent by which acceptable standards are exceeded. If this principle is applied equally to all States, there is no a priori reason why the levy system in itself should disturb relative competitive bases among the States, except insofar as competitive advantage may be based on the discharge of polluting agents beyond acceptable levels. The amounts paid under the levy system for exceeding maximum safe levels should vary according to: (1) the degree by which those levels are exceeded, (2) individual States' ability to pay, and (3) the elapsed time during which a State continues to exceed these levels. The precise formula for setting levies would be worked out by the Agency.

Since industry more than any other segment of the economy is responsible for pollution and since it is also industry which must take pollution control action, it is the intent of the Convention that levies charged to States be passed on by these States to the offending portions of their economies, i.e., the industries which are responsible. The intent of this provision is to remove the incentive to pollute at its source.

The levy system should be attractive to the member States in several ways: (1) it does not disturb the relative competitive bases among States, (2) it provides industry with an incentive to take corrective action, (3) it is not an expense to the taxpayer, (4) it removes the political onus for pollution control from the government of the member State, and (5) it allocates the costs where they belong: industry and/or the consumer.

The Capital Fund is also part of the system of incentives to accept Control Measures. States which do not accept these measures are not entitled to any of the benefits derived from the Capital Fund. These can take the form both of loans on favorable terms and, in some cases, straight grants. The Capital Fund originally will be made up of subscriptions by member States to an assigned number of shares. The number of shares required of each member State must reflect to the extent possible the relative interest of each State in controlling pollution.

The three basic functions of the Capital Fund are to: (1) serve as an environmental disaster fund, (2) to smooth initial financial hardships brought on by acceptance of Control Measures, and (3) to function as an incentive not to start polluting in the first place. The basis for the last point is the principle that the added costs of pollution-free economic growth should be subject to compensation. Specifically, as the developing States undertake economic expansion programs it is in the interest of the world community that these programs be so ordered as to be as pollution-free as may be reasonably possible. This, in the majority of cases, will involve additional costs. The provisions of the Convention empower the Agency to make grants to the extent it deems necessary to either partially or totally offset these added costs.

However, all incentives may fail. Thus, paragraph 11 of Article XVIII enables the Agency to organize world public opinion against a State or States refusing to accept Control Measures. It also authorizes the Board

to call for sanctions against such States. If this seems extreme, it should be realized that Article XVIII deals with Global Control Measures which are concerned with very serious matters indeed, namely the fundamental capacity of the planetary environment to support life.

ORGANIZATIONAL STRUCTURE

Development of a new organizational structure for the Agency was not given the same priority of effort as were the regulatory provisions. However, insofar as the organization of the Agency is a factor in determining its effectiveness in realizing its objectives, certain elements of that organizational structure were nevertheless given close attention. Some discussion of the background of these provisions is, therefore, in order.

The General Conference is more or less a traditional body comparable to similar bodies of other international organizations. There is, however, one radical departure from existing patterns: the voting arrangements. Article VIII would give each State 200 votes plus one additional vote for each million of its population. To give a few examples, the U.S. would have 401 votes; the U.S.S.R., 437 votes; mainland China, 930 votes, the United Kingdom, 255 votes; etc. It is believed that this or a comparable system would have advantages in translating the interest of States in the work of the Agency into political realities. After all, human beings and not legal constructions, such as States, suffer from the degradation of the environment.

A smaller break from existing routine is that States are required to appoint as a delegate a high-ranking official with responsibility within the State in question for environmental affairs. The objective of this provision is to endow the General Conference with technical as well as political expertise, and to have delegates with political influence in their respective States.

The Board is a much more unusual body. It is appointed by staggered elections by the General Conference. It is, however, a body of international officials who owe their duty to the Agency and not to the State of their nationality. Further, the Board itself has a certain control over who will be appointed to it. Under Article IX, paragraph 2 (c), the sitting members of the Board must approve the qualifications of those persons nominated for appointment.

The primary role of the Board is to prepare the decisions of the General Conference, primarily by making recommendations to that body. In this respect, the General Conference remains in seat of authority. However, the Board is--or can become--in some ways rather independent of the General Conference.

The first and most important example of the independence of the Board is found in a situation where the General Conference is unable to act or unable to act in time. Under such circumstances the Board may make decisions and take actions which will remain valid until such time as the General Conference may oppose such action by a two-thirds majority. This brings pressure on the General Conference to act and at the same time reduces the possibility that the Agency will become powerless because of an insurmountable deadlock in the General Conference. Under such circumstances the Agency in a

sense can by-pass the politicians and act on the basis of the opinions of experts. This should act to bring additional pressure on States to take effective action. It also enables the Board to mobilize world public opinion against those States which refuse to accept Control Measures.

Another example of the Board's potential independence is the authority found in Article XXXIII to go out on its own and to collect pollution, environmental and other data. Where polluting agents leave one State and enter another State via international water or air, data provided by the emitting State can be checked against those provided by the receiving State. However, this is not the case when a polluting agent enters or leaves an area which is not subject to the territorial sovereignty of any other State. The opportunity to check the data of one State against those of another State is also lacking when polluting agents are discharged or dumped in areas not subject to State sovereignty. In each case the Board can decide independently to assign staff personnel to collect the necessary information. The Board under Article XXII, paragraph 10 (c) has its own funds for these purposes.

A last example of the independent position of the Board can be found in the financial arrangements. The income of the Capital Fund, as distinguished from the subscribed capital itself, may be used by the Board at its discretion according to the provisions of Article XXII, paragraph 10. Part of this income may be used by the Board to make grants to those States which do not exceed maximum safe levels of concentration or of discharge. This provides substance to the Board's bargaining position.

The Convention provides that the Staff of the Agency must be kept as small as possible. The function of the Agency is regulatory; it is not intended to become a major research operation. However, scientific data are needed for this regulatory function. For this reason the Agency should have a small staff which has as its primary function the collection and evaluation of what information is already available from the States and other international bodies. If the necessary information is not available, the research staff itself may undertake to develop the necessary data, or the Agency may provide funds to other organizations for that purpose. It should be stressed that the staff consists not only of scientists but also of economists, lawyers and other social scientists and technicians. The reasoning behind this is that pollution is a total human problem and not one of science and technology alone. Further, the Convention provides for economic and political matters to be considered in the determination and administration of Control Measures, levies and the Capital Fund.

PREAMBLE

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CONVENTION ON THE INTERNATIONAL ENVIRONMENT PROTECTION AGENCY

The States parties to this Convention:

Recognizing that a livable earth environment is fundamental to human life and expectations;

Recognizing that basic environmental resources, including but not restricted to the hydrosphere, the atmosphere and the planetary temperature balance, are essential factors in a livable earth environment;

Recognizing that these basic environmental resources are endangered by the activities of man;

Recognizing that most, but not all, of these activities occur within the national territory of States;

Recognizing that States are responsible not only to other States, but also to the world community as a whole for all activities occurring within their territory or subject to their control which endanger the basic environmental resources;

Recognizing that the earth environment can be enhanced and protected only by international cooperation among States;

Have agreed as follows:

ARTICLE I - ESTABLISHMENT

1. The States parties to this Convention establish the International Environment Protection Agency (hereinafter referred to as "the Agency") upon the terms and conditions hereinafter set forth.

ARTICLE II - DEFINITION OF TERMS

1. For the purpose of this Convention the following terms shall be used:
 - (a) polluting agent: any substance which degrades the quality, quantity or the usefulness of the natural environment, including heat other than that of geothermal or contemporary solar origin;
 - (b) international air: the substance of all the gases of the atmosphere which envelopes the earth;
 - (c) international water: the substance of all water circulating in the planetary hydrologic cycle;
 - (d) maximum safe level of concentration: the maximum level in which a polluting agent may be found in international water or international air without unacceptably degrading the quality, quantity or usefulness of such international water or air;

- (e) dumping: an intentional operation by which concentrated quantities of a polluting agent are introduced into international water or into international air;
- (f) maximum safe level of discharge: the maximum level at which a polluting agent may be released into international water or international air incidental to other human activities without unacceptably degrading the quality, quantity, or usefulness of such international water or air.

ARTICLE III - OBJECTIVES AND FUNCTIONS OF THE AGENCY

1. The objectives of the Agency shall be:

- (a) to make provision for the adoption by States of the highest practicable standards for the protection of the natural environment in accordance with the provisions of this Convention;
- (b) to provide machinery for cooperation among States relating to all matters affecting the natural environment;
- (c) to encourage and stimulate research with respect to all aspects of pollution and pollution control, including the scientific, technological, economic, social and legal aspects.

2. The functions of the Agency shall be:

- (a) to draft Pollution Control Measures in accordance with the provisions of this Convention;
- (b) to administer the Pollution Control Measures which have entered into force in accordance with the provisions of this Convention;
- (c) to conduct research with respect to pollution and pollution control in accordance with the provisions of this Convention;
- (d) to participate to the extent practical in the work of other governmental, intergovernmental or non-governmental organizations in accordance with the provisions of this Convention.

ARTICLE IV - HEADQUARTERS

1. The headquarters of the Agency shall be established at such a site as the General Conference may decide. The General Conference may by a two-thirds majority vote decide to change the site of the headquarters of the Agency.
2. For reasons of administrative convenience the Board may decide to establish regional offices in the territory of any State which is a party to this Convention.

ARTICLE V - MEMBERSHIP

1. The original members of the Agency shall be those States which are members of the United Nations or of any of the specialized agencies of the United Nations which have signed this Convention within ninety days after it was opened for signature, and which have subsequently ratified the Convention.
2. Upon a recommendation of the Board the General Conference shall adopt standard requirements which must be fulfilled by any other States which wish to become members of the Agency. Such other States may notify their acceptance of these standard requirements to the Board and shall be considered members if the Board decides that such States meet the standard requirements, unless the General Conference opposes membership of any such State by a two-thirds majority vote.
3. No member State may withdraw from the Agency without giving notice of its intention to do so to the Board. Such withdrawal shall not take effect within two years after the original notice of withdrawal has been received by the Board and then shall take effect only upon submission of a final notice of withdrawal to the Board stating the reasons for such withdrawal, provided that such State at that time has fulfilled all financial obligations arising out of the provisions of this Convention.

ARTICLE VI - ORGANIZATION OF THE GENERAL CONFERENCE

1. There shall be a General Conference consisting of representatives of all member States. Each member State shall be represented at the meetings of the General Conference by one delegate who shall be a high ranking official of such member State with responsibility for environmental affairs. Each delegate may be accompanied by alternates and advisers who may participate in the meetings of the General Conference but who shall have no vote, except when such alternate or adviser temporarily serves as a delegate.
2. The General Conference shall have a regular annual meeting and may have such extraordinary meetings as shall be convened by the Board or by one-third of the member States. The meetings of the General Conference shall take place at the headquarters of the Agency unless decided otherwise by the General Conference. A majority of the member States shall constitute a quorum for the meetings of the General Conference.
3. The General Conference shall elect at the beginning of each meeting a Chairman and such other officers as may be required. They shall hold office until the next meeting of the General Conference. Subject to the provisions of this Convention the General Conference shall adopt its own rules of procedure.
4. The General Conference may establish temporary subsidiary bodies. Upon a recommendation of the Board it may establish permanent subsidiary bodies. When a polluting agent has been placed in accordance with Article XVII on the official list of regional priorities of the Agency, the General Conference shall establish a permanent regional commission composed of the member States situated in such region.

5. International and national organizations with an interest in environmental affairs may send observers to the meetings of the General Conference. They shall not address the General Conference except with the permission of the Chairman.
6. The Agenda of the meetings of the General Conference shall be drawn up by the Board. Each member State may submit items for inclusion in the Agenda to the Board which shall decide concerning their inclusion. If more than five member States submit jointly an item for inclusion in the Agenda, the Board shall include such item. The definite Agenda shall be circulated to the member States well in advance of the meetings of the General Conference.

ARTICLE VII - POWERS AND DUTIES OF THE GENERAL CONFERENCE

1. The powers of the General Conference shall be:
 - (a) to exercise all authority given to it under the provisions of this Convention;
 - (b) to make such recommendations to the Board or to member States as it deems necessary;
 - (c) to deal with any matter within the scope of the Agency not specifically assigned to the Board;
 - (d) to delegate such authority to the Board as it deems desirable and to revoke or modify such delegation of authority at any time.
2. The duties of the General Conference shall be:
 - (a) to perform all functions required by the provisions of this Convention;
 - (b) to consider any item included in the Agenda of its meetings;
 - (c) to consider the annual reports concerning the activities of the Agency submitted to it by the Board;
 - (d) to do everything within its powers to achieve the objectives of the Agency.

ARTICLE VIII - VOTING IN THE GENERAL CONFERENCE

1. Each member State shall have two hundred votes plus one additional vote for each million people, or part thereof, of its population.
2. The General Conference shall decide by a majority of the votes cast, unless the provisions of the Convention require a two-thirds majority vote.
3. For the purposes of this Convention the phrase "votes cast" means the affirmative or negative votes of the member States. Member States which abstain from voting shall be considered as not having voted.

ARTICLE IX - ORGANIZATION OF THE BOARD

1. There shall be a Board of 12 persons who shall be officials of the Agency and who owe their duty entirely to the Agency and to no other authority. Each member State shall respect the international character of this duty and shall refrain from all attempts to influence the Board in the discharge of its duties.
2. The Board shall be elected by the General Conference in accordance with the following provisions:
 - (a) at its first meeting the General Conference shall elect four members of the Board who shall hold office for two years, four other members of the Board who shall hold office for three years, and a last group of four members of the Board who shall hold office for four years. After the expiration of these terms of office the General Conference shall appoint from the list of nominees provided for in paragraph 2 (c) of this Article successors who shall hold office for three years;
 - (b) in electing the members of the Board the General Conference shall give paramount consideration to securing the highest standards of efficiency and competence, provided that due regard shall be paid to the importance of electing the members of the Board on as wide a geographical basis as possible;
 - (c) in order to meet the requirements of paragraph 2 (b) of this Article each member State shall nominate every two years persons whom it considers qualified to serve on the Board and who may or may not be nationals of such State. The members of the Board holding office at the time of such nomination shall approve the technical qualifications of the persons so nominated;
 - (d) members of the Board may be re-elected after the expirations of their terms of office;
 - (e) if the office of a member of the Board becomes vacant before the term of such member has expired, the General Conference shall appoint as soon as practicable a successor who shall serve for the remainder of the term of office of his predecessor.
3. The Board shall function in continuous session at the headquarters of the Agency and shall meet as often as the business of the Agency may require. Seven members of the Board shall constitute a quorum for the meetings of the Board.
4. Each State shall appoint a permanent liaison officer who shall be responsible for keeping the government of such member State informed of the work of the Board. Such permanent liaison officer shall have the right to attend all meetings of the Board except when the Board decides to meet in camera, but shall have no vote.
5. The members of the Board shall elect one of the members of the Board as the President of the Agency. The President shall cease to hold office when his term of office as a member of the Board expires or when the other members of the Board so decide. He shall be Chairman

of the meetings of the Board. He may participate in such meetings but he shall have no vote, except a deciding vote in case of an equal division of votes.

6. The Board may establish from among its members such subsidiary bodies as it deems necessary. The Board shall subject to the provisions of this Convention adopt its own rules of procedure.

ARTICLE X - POWERS AND DUTIES OF THE BOARD

1. The powers of the Board shall be:
 - (a) to exercise all authority given to it under the provisions of this Convention;
 - (b) to make such recommendations to the General Conference and to the member States as it deems necessary;
 - (c) to deal with any matter within the scope of the Agency not specifically assigned to the General Conference.
2. The duties of the Board shall be:
 - (a) to perform all functions required by the provisions of this Convention;
 - (b) to carry out to the extent practicable all directives of the General Conference;
 - (c) to submit to the annual meetings of the General Conference a report concerning the activities of the Agency;
 - (d) to do everything within its powers to achieve the objectives of the Agency.

ARTICLE XI - VOTING IN THE BOARD

1. The Board shall decide by a majority of votes of all members of the Board, unless the provisions of this Convention require a two-thirds majority vote.

ARTICLE XII - ORGANIZATION OF THE ADMINISTRATIVE SECRETARIAT AND RESEARCH STAFF

1. The Agency shall have an administrative secretariat and a permanent internationally recruited research staff.
2. The paramount consideration in the recruitment of the secretariat and of the research staff and in the determination of the conditions of service shall be to secure employees of the highest standards of efficiency, technical competence and integrity. Subject to these considerations due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

3. The Agency shall be guided by the principle that the administrative secretariat and the research staff shall be kept as small as possible.
4. The administrative secretariat and the research staff shall be headed by a General Secretary who shall be appointed by the General Conference upon a nomination by the Board. His term of office shall be six years but he may be re-appointed. He shall be responsible to the Board.
5. Appointment to the administrative secretariat and to the research staff shall be made by the General Secretary subject to such guidelines as the Board may issue with the approval of the General Conference.
6. In the performance of their duties the General Secretary and the members of the administrative secretariat and the research staff shall not seek or receive instructions from any member State. Each member State shall respect the international character of the responsibilities of the General Secretary, of the administrative secretariat and of the research staff.
7. The administrative secretariat may be organized by the General Secretary as he deems desirable.
8. The permanent research staff shall consist of two divisions:
 - (a) a scientific and technical division headed by a Director who shall be responsible to the General Secretary;
 - (b) a legal, economic and social division headed by a Director who shall be responsible to the General Secretary.

The General Secretary may establish such coordinating committees between the two divisions as he deems necessary.

ARTICLE XIII - FUNCTIONS OF THE ADMINISTRATIVE SECRETARIAT AND RESEARCH STAFF

1. The administrative secretariat shall perform such administrative and secretarial functions as the General Secretary may assign to it.
2. The research staff shall perform such functions of scientific, technical, economic, legal or social research as the Board in consultation with the General Secretary may decide.
3. The work of the research staff shall be guided by the following principles:
 - (a) the primary responsibilities of the research staff shall be to identify gaps in the existing knowledge of the scientific, technical, economic, legal or social aspects of pollution and pollution control; to keep itself informed concerning relevant research projects carried out by agencies of the member States or by other national or international organizations; to collect such data as the Agency may require for its regulatory functions; to evaluate such data and report on the results of such evaluation; and to assist in the exchange of information;

- (b) if the Board decides that certain data are needed in order to realize the objectives of this Convention and if there are no other methods available to obtain such data, the research staff may undertake the researches needed to obtain such data;
- (c) the member States shall make available to the research staff all assistance which the staff may need in the performance of its responsibilities;
- (d) member States shall keep the research staff of the Agency at all times informed of any research with respect to pollution or pollution control conducted under their responsibility;
- (e) the research staff of the Agency shall make available to the member States all assistance within its powers, particularly with respect to the drafting of laws and regulations based on the Control Measures of the Agency, and with respect to such pollution control programs as member States may wish to carry out.

ARTICLE XIV - FUNCTIONS OF THE GENERAL SECRETARY

1. The General Secretary shall be the chief administrative officer of the Agency. He shall perform the following functions:
 - (a) to direct subject to such instructions and guidelines as the Board may issue the work of the administrative secretariat and of the research staff of the Agency;
 - (b) to keep member States and the general public informed of the work of the Agency;
 - (c) to prepare an annual report for the Board with respect to the work of the administrative secretariat and the research staff, including the financial aspects of such work;
 - (d) to maintain the records of the Agency.

ARTICLE XV - ADVISORY COMMITTEES

1. Each member State may establish a national Advisory Committee to which it shall appoint in an individual capacity persons who are knowledgeable with respect to the pollution problems of such member State and who shall represent the various national interest groups, including, but not limited to, industry, conservation groups, the scientific community and government.
2. A person serving as Chairman of such an Advisory Committee or his designee shall have the right to attend all meetings of the General Conference and of the Board, except when the Board decides to meet in camera. With the permission of the Chairman of such meetings, he or his designee may address the General Conference and the Board, but shall have no vote.

ARTICLE XVI - GLOBAL PRIORITIES

1. In advance of the second annual meeting of the General Conference the Board shall, based on the available scientific, technological, social and other information, draw up a list of global priorities in which it shall include in order of decreasing priority those polluting agents which in its opinion have, or can have, an impact on the environment on a global scale and which should be brought as soon as possible under the global regulatory control provided for in Article XVIII. The Board shall submit this list to the second annual meeting of the General Conference. The Board shall reconsider its list of global priorities in advance of each subsequent annual meeting of the General Conference and shall include its list of global priorities in the agenda of such meetings.
2. With the exception of the first annual meeting the General Conference shall draw up at each annual meeting the official list of global priorities of the Agency. Polluting agents on this list shall be drawn from the list of global priorities of the Board, except that the General Conference by a two-thirds majority vote may include in the official list of global priorities of the Agency polluting agents which are not included in the list of global priorities of the Board.
3. If the General Conference does not accept a certain polluting agent included in the list of global priorities of the Board for the official list of global priorities of the Agency, the Board shall reconsider the urgency of controlling such agent. After such reconsideration the Board may by a two-thirds majority vote decide to include such agent in the official list of global priorities of the Agency, provided that it does not assign to such agent a priority higher than any of the agents included by the General Conference in the official list of global priorities of the Agency. Such provisional inclusion of an agent by the Board shall stand until the General Conference either accepts such agent for inclusion in the official list of global priorities of the Agency or rejects by a two-thirds majority vote such inclusion.

ARTICLE XVII - REGIONAL PRIORITIES

1. In advance of the third annual meeting of the General Conference the Board shall, based on the available scientific, technological, social and other information, draw up a list of regional priorities in which it shall include in order of decreasing priority those polluting agents which in its opinion have, or can have, an impact on the environment on a regional scale and which should be brought as soon as possible under the regional regulatory control provided for in Article XIX. The Board shall submit this list to the third annual meeting of the General Conference. The Board shall reconsider its list of regional priorities in advance of each subsequent annual meeting of the General Conference and shall include its list of regional priorities in the agenda of such meetings.
2. With the exception of the first and second annual meetings the General Conference shall draw up at each annual meeting the official list of regional priorities of the Agency. Polluting agents on this

list shall be drawn from the list of regional priorities of the Board, except that the General Conference by a two-thirds majority vote may include in the official list of regional priorities of the Agency polluting agents which are not included in the list of regional priorities of the Board, provided that when a polluting agent on the official list of global priorities appears on the official list of regional priorities this shall not be permitted to impair the effectiveness of Global Control Measures.

3. If the General Conference does not accept a certain polluting agent included in the list of regional priorities of the Board for the official list of regional priorities of the Agency, the Board shall reconsider in consultation with the States concerned with such agent the urgency of controlling such agent. After such reconsideration the Board may by a two-thirds majority vote decide to include such agent in the official list of regional priorities of the Agency, provided that it does not assign to such agent a priority higher than any of the agents included by the General Conference in the official list of regional priorities of the Agency. Such provisional inclusion of an agent by the Board shall stand until the General Conference either accepts such agent for inclusion in the official list of regional priorities of the Agency or rejects by a two-thirds majority vote such inclusion.

ARTICLE XVIII - GLOBAL CONTROL MEASURES

1. Within two years after the inclusion of a polluting agent in the official list of global priorities of the Agency, the Board shall make recommendations to the General Conference for pollution control measures in accordance with this Article.
2. With respect to pollution of international water by a polluting agent included in the official list of global priorities of the Agency which reaches international water at a point which is located within the national territory of a member State, the Board shall make a recommendation providing for a maximum safe level of concentration in which such polluting agent may be found in international water at the point where such international water leaves the national territory. This maximum safe level of concentration shall not discriminate between the member States.
3. With respect to pollution of international water by a polluting agent included in the official list of global priorities of the Agency which reaches international water at a point which is not subject to the territorial sovereignty of any State, the Board shall make a recommendation providing for a maximum safe level of discharge at which such polluting agent may be discharged at such point by the nationals of the member States or by activities subject to the jurisdiction of the member States. This maximum safe level of discharge shall not discriminate between the member States.
4. With respect to pollution of international air by a polluting agent included in the official list of global priorities of the Agency which reaches international air at a point which is located within

the national territory of a member State, the Board shall make a recommendation providing for a maximum safe level of concentration in which such polluting agent may be found in international air at the point where such international air leaves the national territory. This maximum safe level of concentration shall not discriminate between the member States.

5. With respect to pollution of international air by a polluting agent included in the official list of global priorities of the Agency which reaches international air at a point which is not subject to the territorial sovereignty of any State, the Board shall make a recommendation providing for a maximum safe level of discharge at which such polluting agent may be discharged at such point by the nationals of the member States or by activities subject to the jurisdiction of the member States. This maximum safe level of discharge shall not discriminate between the member States.
6. If heat should be placed on the official list of global priorities of the Agency, the Board shall make a recommendation providing for the total amount of heat other than of geothermal or contemporary solar origin which each member State may add to the global environment.
7. In making these recommendations the Board shall be guided by the following principles:
 - (a) that the planetary ecological system has finite limits with respect to the levels and total amounts of polluting agents it can accept safely;
 - (b) that each individual and each State has an inherent right to a proportional share of the capacity defined by those levels;
 - (c) that maintaining the minimum life support capability of the global environment must be an overriding consideration;
 - (d) that maximum safe levels must be based to the extent possible on the best scientific, technological and economic information available;
 - (e) that the Global Control Measures should not unreasonably disturb the competitive basis of the industries of the member States in the world market;
 - (f) that if maximum safe levels impose an extreme hardship on a specific member State, this member State may be allowed to adjust to the maximum levels under special conditions, e.g. with respect to the levies provided for in Article XXI.
8. The General Conference shall consider the recommendations of the Board under this Article at its next annual meeting. If a recommendation of the Board is acceptable to the Conference, with or without modification, the General Conference shall submit the recommendation to the member States as a Global Control Measure. If the recommendation is unacceptable to the General Conference during two annual

meetings, the General Conference shall refer the recommendation back to the Board. In this case the Board may decide by a two-thirds majority vote to submit the recommendation to the member States as a Provisional Global Control Measure provided that the available scientific information supports the urgent need for such a Global Control Measure.

9. A Global Control Measure or a Provisional Global Control Measure adopted by the General Conference or by the Board under the provisions of this Article shall become binding sixty days after it has been formally notified to the member States, except for those member States which have lodged within that period a formal objection to such Global Control Measure or such Provisional Global Control Measure. In that event other member States shall have the right to lodge a formal objection within an additional period of thirty days. Member States in lodging a formal objection shall state the reasons for such objection.
10. Member States which have lodged a formal objection to a Global Control Measure or to a Provisional Global Control Measure shall report two times a year to the Board whether or not the reasons for their inability to accept the Global Control Measure or Provisional Global Control Measure still prevail.
11. If a State which exceeds the maximum safe level of concentration or the maximum safe level of discharge provided for in a Global Control Measure or in a Provisional Control Measure, does not accept a Control Measure which is binding for a substantial number of States within four years after its adoption by the General Conference, the Board may recommend to the General Conference that action be taken against such State either by the individual member States or by the member States in concert.

ARTICLE XIX - REGIONAL CONTROL MEASURES

1. Within two years after the inclusion of a polluting agent in the official list of regional priorities of the Agency, the Board shall in consultation with the States situated within the region or regions concerned, make recommendations to the General Conference for pollution control guidelines in accordance with this Article.
2. With respect to pollution of international water by a polluting agent included in the official list of regional priorities of the Agency which reaches international water at a point which is located within the region concerned, the Board shall make a recommendation providing for guidelines for action by the States situated within such region. These guidelines may provide for maximum safe levels of concentration in which such polluting agent may be found in international water at the point where such international water leaves such region.
3. With respect to pollution of international air by a polluting agent included in the official list of regional priorities of the Agency which reaches international air at a point which is located

within the region concerned, the Board shall make a recommendation providing for guidelines for action by the States situated within such region. These guidelines may provide for maximum safe levels of concentration in which such polluting agent may be found in international air at the point where such international air leaves such region.

4. The General Conference shall consider the recommendations of the Board under this Article at its next annual meeting. If a recommendation of the Board is acceptable to the Conference, with or without modification, the General Conference shall submit such recommendation to the member States situated within the region or regions concerned as a Regional Guideline.
5. The States situated in a region to which a Regional Guideline is applicable shall adopt in accordance with such Regional Guideline a Regional Control Measure.
6. If the States concerned are unable to reach agreement with respect to a Regional Control Measure within four years after the adoption of a Regional Guideline by the General Conference, the Board may decide to include the polluting agent in question in its list of global priorities. The fact that the States concerned are unable to reach agreement with respect to a Regional Control Measure shall be understood as fulfilling the requirement that a polluting agent has a global impact.
7. If a polluting agent is subject at the same time to a Global Control Measure or a Provisional Global Control Measure on the one hand and to a Regional Control Measure on the other hand, Regional Control Measures shall not be permitted to impair the effectiveness of Global Control Measures.

ARTICLE XX - DUMPING

1. Within two years after the entry into force of this Convention the Board shall make a recommendation to the General Conference with respect to a procedure for licensing the dumping of polluting agents in international water or in international air at a point which is not subject to the territorial sovereignty of any State. This procedure shall give the authority to license such dumping to the Board, subject to an appeal to the General Conference.
2. When a polluting agent has been on the official list of global priorities or on the official list of regional priorities of the Agency for two years, the dumping of such agent in international water or in international air at a point which is not subject to the territorial sovereignty of any State shall be prohibited except under a license granted to a member State by the Board.
3. Within two years after the inclusion of a polluting agent in the official list of global priorities or in the official list of regional priorities of the Agency, the Board shall based on the best available scientific data formulate the conditions under which it will grant licenses for the dumping of such pollutants in international water or in international air at a point which is not subject to the territorial sovereignty of any State. These conditions shall apply unless opposed by a two-thirds majority vote of the General Conference.

4. If a polluting agent has not been included in the official list of global priorities or in the official list of regional priorities of the Agency, the Board may make a recommendation to the General Conference to bring the dumping of such polluting agent in international water or in international air at a point which is not subject to the territorial sovereignty of any State under the licensing system provided for in this Article.

ARTICLE XXI - LEVIES

1. If a member State exceeds the maximum safe level of concentration or the maximum safe level of discharge provided for in a Global Control Measure or in a Provisional Global Control Measure, such member State shall be required to pay to the Agency a levy to be calculated by the Board on the basis of the assessment formula provided for in this Article.
2. Within two years after the entry into force of this Convention, the Board shall make a recommendation to the General Conference with respect to an assessment formula on which the levies provided for in this Article shall be based. In working out this assessment formula the Board and the General Conference shall take account of the following considerations:
 - (a) levies shall be in proportion to the degree by which a member State exceeds the maximum safe level of concentration or discharge;
 - (b) levies shall be in proportion to the gross national product of the member State which exceeds the maximum safe level of concentration or of discharge and such other indicators of the level of economic activity as may seem appropriate;
 - (c) levies shall increase for every year that a member State fails to meet the maximum safe level of concentration or of discharge;
 - (d) levies shall in general be designed to take away the competitive advantage to be gained from polluting international water or international air.
3. If the General Conference has been unable to adopt an assessment formula before a Global Control Measure or a Provisional Global Control Measure enters into force, the Board shall adopt a provisional assessment formula unless opposed by a two-thirds majority vote of the General Conference.
4. A member State which pays levies to the Agency under this Article shall require the segments of its economy which are responsible for the fact that it exceeds the maximum safe levels of concentration or of discharge to make payments to it which as a total shall be equal to the financial obligations of such member State under this Article.
5. States which have accepted a Regional Control Measure shall work out among themselves a system of regional levies which shall be based on the same considerations as the system of global levies provided for in this Article. Regional levies shall be paid to the Agency.
6. The levies thus received by the Agency shall be added to the Capital Fund.

ARTICLE XXII - THE CAPITAL FUND

1. There shall be established a Capital Fund under the conditions and for the purposes set forth in this Article.
2. The original capital of the Capital Fund shall come from the subscription by member States to shares of \$10,000 each in the Capital Fund. These shares shall be available to member States only.
3. To the original capital of the Capital Fund shall be added supplementary capital which shall come from the levy system provided for in Article XXI, from the interest on the deposits made with the original capital, and from the interest on loans to member States or international organizations made by the Agency under this Article.
4. Each member State shall subscribe to a minimum number of shares in the Capital Fund. This minimum number of shares shall be determined on the basis of a formula worked out by the Board and approved by the General Conference. In working out such formula the Board and the General Conference shall be guided by the following principles:
 - (a) the minimum number of shares of each member State shall be based on a weighted relationship between the total population and the gross national product of such member;
 - (b) in this weighted relationship between total population and gross national product, predominance shall be given to gross national product;
 - (c) this weighted relationship between total population and gross national product shall be designed so as to reflect to the extent possible the relative interest of each member State in protecting the natural environment.
5. Each member State may subscribe to additional shares in excess of its minimum number of shares provided for in paragraph 4 of this Article, provided that the total number of shares of such State does not exceed the largest minimum subscription calculated for a single State under the formula of paragraph 4.
6. The Capital Fund shall become operative if member States have pledged subscriptions to a total amount of \$10,000,000. At that time all member States shall make payments to the Agency for the total amount of their subscription in accordance with regulations worked out by the Board.
7. The original capital provided for in paragraph 2 of this Article shall be used in accordance with the provisions of paragraph 8 of this Article for any of the following purposes:
 - (a) to make grants to member States for damage sustained by such member States which is the result of pollution originating outside the national territory of such member States, provided that no other financial recovery of such damage is available;
 - (b) to make loans on favorable terms to member States pending the ultimate financial recovery by such member States of damage which

is the result of pollution originating outside the national territory of such member States, provided that the delay in the financial recovery hampers the capability of such member States to take corrective action against the consequences of such pollution;

- (c) to make loans on favorable terms to member States in order to facilitate the compliance by such member States with the maximum safe level of concentration or of discharge accepted in a Global Control Measure, in a Provisional Global Control Measure or in a Regional Control Measure.
 - (d) to make loans on favorable terms or grants to member States or to other international organizations with which the Agency has a relationship under Article XXV in order to fund research with respect to pollution or pollution control.
8. The decision to use the original capital for any of the purposes listed in paragraph 7 of this Article shall be made by the General Conference on the basis of a recommendation of the Board, provided that the total amount made available to loans under paragraph 7 (b)-(d) inclusive does not exceed 50 per cent of the total amount of the minimum subscriptions provided for in paragraph 4 of this Article. In the event that the assets of the original capital fall below 90 per cent of the total amount of the original subscriptions the Board shall allocate 25 per cent of the income from the sources listed in paragraph 3 of this Article to the original capital until the assets reach the original level.
9. The supplementary capital provided for in paragraph 3 of this Article shall be used by the Board for any of the following purposes:
- (a) to make grants to member States which do not exceed the maximum safe level of concentration or of discharge of a Global Control Measure, of a Provisional Global Control Measure or of a Regional Control Measure if such member States incur additional expenses from taking action to control pollution, provided that the total amount of grants for this purpose in any given year shall not exceed the income derived by the Agency in such year from the levy system provided for in Article XXI. The State to which such grant has been made shall redistribute such grant to segments of its economy if the additional expenses were incurred by such segments of its economy;
 - (b) to make loans or grants to member States or to other international organizations with which the Agency has a relationship under Article XXV in order to fund research with respect to pollution or pollution control;
 - (c) to finance the fact finding operations provided for in Article XXIII, paragraph 3-4 inclusive, provided that the funds allocated by the Board for this purpose do not exceed 25 per cent of the total annual income from the sources listed in paragraph 3 of this Article.
10. Member States which have not accepted a Global Control Measure or a Provisional Global Control Measure shall not be eligible for any of the financial benefits provided for in this Article.

ARTICLE XXIII - FACT FINDING

1. If a polluting agent has been included in the official list of global priorities or in the official list of regional priorities of the Agency, the Board shall determine which member States shall submit two times a year to it a report with respect to:
 - (a) levels of concentration in which such polluting agent is found in international water or in international air at a point where such international water or international air leaves the national territory of the member State concerned;
 - (b) levels of concentration in which such polluting agent is found in international water or in international air at a point where such international water or international air enters the national territory of the member State concerned;
 - (c) levels of concentration at which such polluting agent is discharged by the nationals of the State concerned or by activities subject to the jurisdiction of the State concerned in international water or in international air at a point which is not subject to the territorial sovereignty of any State.
2. On a request of a member State the Board may send into the territory of such member State persons belonging to the staff of the Agency and their equipment for the purpose of measuring levels of concentration in which a polluting agent is found in international water or in international air at a point where such international water or international air leaves or enters the national territory of such member State.
3. On its own initiative the Board may send to an area which is not subject to the territorial sovereignty of any State persons belonging to the staff of the Agency and their equipment for the purpose of measuring levels of concentration in which a polluting agent is found in international water or in international air at a point where such international water or international air enters or leaves the area which is not subject to the territorial sovereignty of any State.
4. On its own initiative the Board may send to an area which is not subject to the territorial sovereignty of any State persons belonging to the staff of the Agency and their equipment for the purpose of measuring levels of concentration at which a polluting agent is discharged in international water or in international air at a point which is not subject to the territorial sovereignty of any State.

ARTICLE XXIV - SETTLEMENT OF DISPUTES

1. Any question or dispute concerning the interpretation or application of this Convention or of the Control Measures adopted under it, shall be referred to the General Conference for settlement. Nothing in this Article shall preclude the Board from settling any dispute that may arise during the exercise of its functions.
2. If the General Conference is unable to settle the dispute or question and if it concerns a dispute or question between member States, such member States shall decide to submit such dispute or question to arbitration or to the International Court of Justice.

3. If the General Conference is unable to settle the dispute or question and if it concerns a dispute or question between one or more member States on the one hand, and the Agency on the other hand, the parties involved shall decide to submit such dispute or question to arbitration or to the International Court of Justice, except when such dispute or question concerns the levy system provided for in Article XXI. Nothing in this Article shall preclude the Board from asking an Advisory opinion from the International Court of Justice.
4. If a dispute or question arises concerning the application of the levy system provided for in Article XXI, the Board and the member State or States concerned shall appoint a Commission of Inquiry composed of neutral experts. This Commission of Inquiry shall evaluate the available scientific data and shall determine the levy to be paid by the member State or member States under Article XXI.
5. If a member State does not fulfill its financial obligations under the levy system within three months after the decision of the Commission of Inquiry, the Board may decide:
 - (a) to suspend research assistance provided to such State by the staff of the Agency;
 - (b) to withhold any payments to be made to such member by the Agency under the provisions of Article XXII, paragraph 7 and 9;
 - (c) to confiscate with the approval of the General Conference all or a part of the shares of such member State in the Capital Fund;
 - (d) to call for a boycott of those products of such State which are substantially responsible for such member State exceeding the maximum safe level of concentration or of discharge.

Such decision by the Board shall stand until opposed by a two-thirds majority vote of the General Conference.

ARTICLE XXV -- RELATIONSHIP WITH OTHER ORGANIZATIONS

1. The Agency shall be brought into relationship with the United Nations in accordance with Article 57 of the Charter of the United Nations as a specialized agency in the field of environmental protection.
2. The Agency shall cooperate with any specialized agency of the United Nations in matters which may be of common concern to the Agency and such other specialized agency.
3. The Agency may cooperate on matters within the scope of its objectives with other intergovernmental and non-governmental international organizations whose interests and purposes are related to the objectives of the Agency.
4. Subject to the approval of the General Conference the Board may conclude such agreements and other arrangements with other intergovernmental and non-governmental international organizations as it deems necessary.

ARTICLE XXVI - THE FINANCES OF THE AGENCY

1. The finances of the Agency shall be administered by the Board which shall be responsible for such financial administration to the General Conference as provided for in this Article.
2. The Board shall submit to each annual meeting of the General Conference the following financial statements:
 - (a) a budget estimate concerning the administrative expenditures of the Agency as anticipated by the Board for the next fiscal year. These administrative expenditures shall include, but are not limited to: the costs of keeping office; the salaries of the staff, including those of the members of the Board; the costs of carrying out the research responsibilities of the Agency; the costs of the meetings of the Board; the costs of the annual meetings of the General Conference, as far as they fall upon the Agency; and the costs of such meetings of commissions or committees as are deemed necessary;
 - (b) a budget estimate concerning the contributions to be made in the next fiscal year by the member States in order to finance the expenditures in that fiscal year under paragraph 2 (a) of this Article. The Board shall recommend criteria for apportioning these contributions among the member States;
 - (c) a statement concerning the actual expenditures in the last fiscal year made under paragraph 2 (a) of this Article;
 - (d) a statement concerning the actual contributions in the last fiscal year made by the member States in order to cover the expenditures of the Agency in that fiscal year under paragraph 2 (a) of this Article;
 - (e) a statement concerning the amounts received by the Agency from the member States under the levy system provided for in Article XXI during the last fiscal year;
 - (f) a recommendation concerning the grants and loans from the original capital of the Capital Fund provided for in Article XXII, paragraph 7 (a)-(d) inclusive to be made in the next fiscal year;
 - (g) a statement concerning the actual grants and loans from the original capital of the Capital Fund provided for in Article XXII, paragraph 7 (a)-(d) inclusive in the last fiscal year;
 - (h) a statement concerning the actual grants and loans from the supplementary capital of the Capital Fund provided for in Article XXII, paragraph 9 (a)-(c) inclusive in the last fiscal year;
3. The General Conference shall consider the financial statements submitted to it under paragraph 2(a), paragraph 2(b) and paragraph 2(f) and shall approve them, with or without modification. Approval shall be understood as authorizing the Board to make the expenditures included in these financial statements.

4. The General Conference shall consider the financial statements submitted to it under paragraph 2 (c), paragraph 2 (d), paragraph 2 (e), and paragraph 2 (g) and may discharge the Board by approving such financial statements.
5. The General Conference shall take notice of the financial statement submitted to it under paragraph 2 (h).
6. The General Conference may suspend the voting power in the General Conference of any member State which is more than two years in arrears in the fulfillment of its financial obligations under this Convention, including those arising from the levy system.
7. Each member State shall bear the expenses of its own delegation to the annual meeting of the General Conference. Each member State shall bear the expenses of the permanent liaison it maintains with the Board under Article IX, paragraph 4 of this Convention.

ARTICLE XXVII - LEGAL STATUS OF THE AGENCY AND OF THE STAFF

1. The Agency shall possess full juridical personality and in particular the capacity to contract, to acquire and dispose of immovable and movable property, and to institute legal proceedings.
2. The Agency and the persons serving on its staff shall enjoy in the territory of the member States such privileges and immunities as are necessary for the fulfillment of the objectives of the Agency.
3. Delegates to the meetings of the General Conference and their alternates shall likewise enjoy such privileges and immunities as are necessary for the independent exercise of their functions.
4. Such privileges and immunities shall be defined in a separate agreement which shall be prepared by the Board and which shall be approved by the member States.

ARTICLE XXVIII - AMENDMENTS TO THE CONVENTION

1. Amendments to this Convention may be proposed by any member State and by the Board. Certified copies of the proposed amendment shall be communicated to all member States at least ninety days in advance of the next annual meeting of the General Conference.
2. Amendments to this Convention may be approved by the General Conference with a two-thirds majority vote. They shall become effective twelve months after being approved by the General Conference, except for those member States which make a formal declaration that they do not accept such amendment.
3. The General Conference may by a two-thirds majority vote decide that an amendment is of such a nature that member States which do not accept such amendment shall cease to be members of the Agency when such amendment enters into force.
4. All communications and notifications required by this Article shall be made through the General Secretary of the Agency.

ARTICLE XXIX - SIGNATURE, ENTRY INTO FORCE AND WITHDRAWAL

1. States may become parties to this Convention by:
 - (a) signature without reservation as to acceptance;
 - (b) signature subject to acceptance followed by acceptance; and
 - (c) acceptance;

provided that this is followed by ratification of this Convention in accordance with the constitutional procedures of each State.
2. The Secretary General of the United Nations shall perform depository functions for this Convention.
3. This Convention shall enter into force when twenty-five States have deposited their instruments of ratification with the Secretary General of the United Nations.
4. Each member State may withdraw from the Agency in accordance with the procedure of Article V, provided such withdrawal does not take effect within five years after such State became a party to this Convention.
5. When more than two-thirds of the member States have withdrawn from this Convention, the Agency shall cease to exist.

