Distr.
GENERAL

A/AC.241/7
23 April 1993

Original: ENGLISH

INTERGOVERNMENTAL NEGOTIATING COMMITTEE
TO ELABORATE A CONVENTION TO COMBAT
DESERTIFICATION IN THOSE COUNTRIES
EXPERIENCING SERIOUS DROUGHT AND/OR
DESERTIFICATION, PARTICULARLY IN AFRICA (INCD)
First Session
24 May-3 June 1993
Agenda item 4

ELABORATION OF AN INTERNATIONAL CONVENTION TO COMBAT DESERTIFICATION IN COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA

Format and possible elements of the Convention

Note by the Secretariat

I. FORMAT OF THE CONVENTION

II. INTRODUCTORY ELEMENTS

1. Preamble
2. Principles
3. Definitions
4. Objectives

III. NATIONAL AND SUBREGIONAL ACTION PROGRAMMES

1. Basic strategy
2. Role of case studies
3. Options for incorporation
4. Review and verification

GE.93-60679 (E)

IV. GLOBAL COMMITMENTS

1. Research and development
2. Data collection and analysis
3. Exchange of information
4. Technology transfer and cooperation
5. Capacity building
6. Education and awareness
7. Linkages to global environmental issues
8. Financial resources and mechanisms
9. Coordination and cooperation

V. INSTITUTIONAL ARRANGEMENTS

1. Conference of the Parties
2. Secretariat
3. Subsidiary bodies
4. Dispute settlement mechanisms

VI. PROCEDURAL ARRANGEMENTS

1. Annexes and protocols
2. Amendments
3. Voting procedures
4. Signature
5. Depositary
6. Ratification
7. Entry into force
8. Interim arrangements
9. Reservations
10. Withdrawals
11. Authentic texts

Introduction

1. At its organizational session in New York 26-29 January 1993, the INCD approved an agenda for the first substantive session of the Committee in Nairobi (A/AC.241/L.2/Rev.1). It decided, in accordance with General Assembly resolution 47/188, that it would devote the first week of the Nairobi session to sharing technical information and assessments and the second week to initial discussions of the format and possible elements for inclusion in a convention to combat desertification in those countries experiencing serious drought and/or desertification, particularly in Africa (hereafter the Convention).

2. The organization of the first week of the Nairobi meeting of the INCD is the subject of a separate note from the Secretariat (A/AC.241/6). The INCD also agreed that the secretariat should prepare a paper with its analysis and recommendations on the format and elements of the Convention. This would serve as background for INCD deliberations during the second week and assist Governments in later presenting proposals on the text of the Convention, which the Committee agreed, at the request of the Chairman, should be submitted to the Secretariat by 1 July 1993.

3. The Secretariat wrote the present paper to meet the request of the INCD for background documentation. In doing so, it consulted extensively with the International Panel of Experts on Desertification established in accordance with paragraph 12 of resolution 47/188 as well as with United Nations agencies involved in programmes aimed at combating desertification and mitigating the effects of drought.

I. FORMAT OF THE CONVENTION

4. International law establishes no standard format for international agreements. The INCD will decide how to structure the Convention and any accompanying instruments. In doing so, however, the Committee can draw to the extent it wishes on some standard practices evident in past agreements. Where appropriate, the sections below note the formats which recent environmental conventions, particularly the Framework Convention on Climate Change (hereafter Climate Change Convention) and the Convention on Biological Diversity (hereafter Biodiversity Convention), have followed. These references are not meant in any way to prejudge the content of future provisions in the Convention.

5. At the most general level, international agreements break into four parts. The first part usually incorporates introductory elements which set the overall context for the agreement. These can take the form of a preamble and definitions and, in some conventions, articles dealing with objectives and principles. The second part consists of operational articles laying out the commitments which the parties to the agreement undertake. The third and fourth parts then specify the institutional and procedural arrangements for implementing the agreement and monitoring adherence to its provisions. The last two parts, in particular, contain standard elements, such as dispute settlement provisions and voting procedures, common to many if not all

agreements. Instruments that may accompany conventions include annexes, which are an integral part of the agreement, as well as protocols which operate separately.

6. The format of the operational articles of agreements varies widely depending on substantive focus. In the case of the Convention, the INCD may wish to consider a commitments structure where the obligations of the parties take the form of a mutually-reinforcing set of agreed actions at local, national, subregional, regional and international levels to support the basic strategy of the Convention and to implement it by bringing to bear appropriate technical and financial resources.

7. Governments in Chapter 12 of Agenda 21 agreed on an approach focusing on actions at the local community level. Following this approach, commitments in the Convention at other levels would be seen as supporting and empowering local efforts. In discussing possible elements of the Convention's operational articles, the Secretariat first discusses the incorporation of commitments to national and subregional action programmes then analyses nine categories for structuring global-level commitments. There would however, be considerable overlap between categories of action at different levels.

II. INTRODUCTORY ELEMENTS

1. Preamble

8. Most international conventions, including recent environmental conventions, begin with a preamble. Preambular language in conventions resembles that in United Nations resolutions. Contracting parties use preambles to establish the political context for convention commitments, to describe the background and basis for negotiations and to establish linkages to related legal instruments, resolutions or action programmes. The following are some themes - there are undoubtedly others - which the INCD might consider in preambular language:

(a) The adverse effects of land degradation in dryland areas, because they are so widespread, are an issue of common concern to all countries. In this sense, desertification is, like climate change or biological diversity, a global problem, not just a regional or local one. Moreover, combating desertification can be justified economically in its own right and can also help in solving other environmental problems;

(b) The gravity of desertification processes and the recurrence of drought are causal factors adversely affecting both the sustainable development of different world regions and the livelihood of millions of people. The health and welfare of populations, food security and energy balances are increasingly menaced along with life support systems and dryland ecosystems. (Throughout this paper, the term dryland refers to arid, semi-arid and dry sub-humid areas as a group.);

(c) Desertification processes have thus resulted in the induced migration of thousands within countries and across borders, even to distant developed nations;

(d) The world community endorsed in Rio, and at the forty-seventh session of the General Assembly, the elaboration of the Convention as a new and fundamental instrument to mobilize the political, human, scientific and technical resources to combat desertification and mitigate drought;

(e) Poverty, which is both a cause and a consequence of degradation in drylands, is a major factor in accelerating desertification. Control of desertification must, therefore, include the improvement of the social and economic conditions of local populations in the regions affected and the reinforcement of integrated local development;

(f) The social and economic effects of desertification are the direct cause of social and political instability in developing countries. Ecological instability and its social implications constitute a direct menace to social and political stability in many areas of the world;

(g) Coordinated action by both countries experiencing serious drought and/or desertification and by the international community, including meaningful political and financial commitments, is essential to combat land degradation and mitigate the effects of drought in a sustainable way. The global nature of drought and desertification also calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response.

9. Aside from introducing themes such as those above, the Preamble could usefully recall the history of drought and desertification issues in a United Nations context. Such chronological references might include, among others: (a) the 1977 United Nations Conference on Desertification and the plans of action which flowed from it; (b) the process of the United Nations Conference on Environment and Development (UNCED), beginning with Resolution 44/228 through the results of the Rio Conference to the present activities of the Commission on Sustainable Development; (c) the Abidjan Common Position, which constituted the first call for the Convention; and (d) other regional declarations from Africa as well as other continents.

2. Principles

10. Articles on principles are rare in treaty law. When they appear, they often use mandatory language ("parties shall") best construed as commitments. Otherwise, the legal status of an article on principles is unclear. If principles state the intention of parties or provide a context for interpreting commitments, some legal experts argue that they belong in the preamble not in operative paragraphs. Clearly, if parties wish the principles to be commitments, they should denominate them as such.

11. There are articles on principles in both the Climate Change and Biodiversity Conventions. The chapeau of Article 3 of the Climate Change Convention contains mandatory language: "In their actions to achieve the objectives of the convention and to implement its provisions, the parties shall be guided, inter alia, by the following." The language in the sub-paragraphs of this article is, however, weaker when providing that

"parties should". Article 3 of the Biodiversity Convention, on the other hand, merely recalls the sovereign rights of States in accordance with the Charter of the United Nations and the principles of international law.

12. Subsequent to agreement on the Climate Change and Biodiversity Conventions, Governments adopted at UNCED the Rio Declaration which sets out general principles for promoting sustainable development. One approach to dealing with principles in the Convention would be to craft preambular language making appropriate references to the Rio Declaration or to one or more of its individual principles, such as those on intergenerational equity, sovereignty over natural resources, the significant role of major groups, particularly women, in sustainable development and the concept that lack of scientific certainty should not deter urgently needed action.

3. Definitions

13. Article 1 of the Climate Change Convention lists 9 definitions, Article 2 of the Biodiversity Convention 17. It would similarly be useful to underpin the Convention with definitions of terminology frequently associated with the phenomena of drought and desertification. This would add clarity to commitments and facilitate the drafting and negotiation of operating paragraphs.

14. Governments accepted in paragraph 12.2 of Agenda 21 the following definition: "Desertification is land degradation in arid, semi-arid and dry sub-humid areas resulting from various factors, including climatic variations and human activities." Despite this important agreement, some fundamental definitional issues remain and raise the following questions:

(a) What is the scientific meaning of drought, which researchers define, depending on their focus, in terms of temperature, rainfall, vegetation cover or ecosystem water budgets? How long do abnormal conditions defined using these parameters have to persist to reach a drought threshold? What would the intensity and duration of a drought have to be to characterize it as "serious"?

(b) Are there accepted definitions of land degradation in various cropping, pastoral and forest systems?

(c) How are arid, semi-arid and dry sub-humid areas distinguished? Would it be useful to employ the term drylands in referring to these three areas as a group, as this paper does?

(d) Which countries are experiencing serious drought and/or desertification? Is it necessary to list them in an annex to the Convention? What does it mean to combat desertification in countries experiencing serious drought but not yet experiencing desertification?

15. If the INCD wishes, the Secretariat, with the assistance of the Panel of Experts could recommend some definitions for inclusion in the Convention. Where possible, they would be definitions on which there is already consensus among Governments and international organizations or within the scientific

community. They would include not only terminology related to drought and desertification from the physical sciences but also some terms from the social sciences.

16. The following is a non-limited list of some terms which the Secretariat and the Panel of Experts felt the INCD might like to define: (a) combating desertification (to incorporate the concepts of prevention, rehabilitation, management and improvement); (b) drought (bearing in mind that there are meteorological, agricultural, hydrological and biological dimensions); (c) drought threshold; (d) climate classification (hyper-arid, arid, semi-arid, dry sub-humid, sub-humid, humid); (e) climate variations; (f) overgrazing; (g) land degradation (in cropping, pastoral and forest systems); (h) drylands; (i) desiccation; (j) integrated development; (k) comprehensive and minimum data sets; (l) traditional technologies; (m) alternative livelihoods; (n) local community; and (o) sustainable rural development.

4. Objectives

17. An article on objectives is also a feature of some international agreements. Article 2 of the Climate Change Convention and Article 1 of the Biodiversity Convention are recent examples. There is general agreement that the Convention should contain a clear statement of its objectives.

18. Wherever language setting out the objectives of the Convention appears, there are several options, which are not mutually exclusive, for framing it. One possibility is to refer to the detailed objectives which Governments already accepted in Agenda 21, particularly those in the six programme areas of Chapter 12 on combating drought and desertification. A more likely approach might be the development of a succinct paragraph laying out general objectives.

19. At the first meeting of the Panel of Experts, there was considerable discussion of the possible objectives of the Convention. The result, as modified in contacts with relevant United Nations agencies, was a first try at a succinct formulation of a paragraph on objectives, which reads as follows:

> "The overall objective of the Convention is to marshal effective and specific commitments, actions and cooperation at local, national, regional and global levels to implement a new integrated systems approach to combating desertification and mitigating drought by promoting sustainable development at the local community level according to the real needs local people perceive. This implies a long-term focus on both improving living conditions and the quality of life at the community level and simultaneously managing land resources sustainably to maximize dryland productivity."

20. Some legal experts question the wisdom of including in conventions an article specifically devoted to objectives, preferring to reflect objectives in preambular language or in articles detailing commitments. They argue that, since Article 18 of the Vienna Convention on the Law of Treaties imposes a

duty on parties to a convention not to defeat its "object and purpose", it might be problematic to have in a convention, language of a declarative nature which does not characterize its objectives as commitments.

III. NATIONAL AND SUBREGIONAL ACTION PROGRAMMES

1. Basic strategy

21. The centerpiece of the Convention should be a set of procedures for elaborating commitments, both by countries experiencing serious drought and/or desertification and by the international community, in the form of national and subregional action programmes. The basic strategy for these action programmes would flow from the objectives of the Convention. Key elements of the strategy might include:

(a) Actions to ensure popular participation in decision making at the local level, including democratic processes, free access by local people to information, emphasis on environmental education and awareness, and a strong role for major groups, particularly farmers, pastoralists, women and non-governmental organizations (NGOs);

(b) Measures to reduce poverty, since it is both a cause and a consequence of land degradation, and population pressure;

(c) Expansion of extension services and other local programmes to prevent anthropogenically-caused degradation as well as rehabilitate, sustainably manage and improve, rainfed croplands, irrigated croplands, pastures and forests in dryland areas;

(d) Elaboration of modern techniques for research, information collection, information sharing and capacity building with a new focus on giving local people the tools they perceive they need to utilize the biological and other resources of the ecosystems they live in both sustainably and productively;

(e) Diffusion of appropriate management technologies, customized to local circumstances and land use systems, with full attention to economic incentives and disincentives, commercial possibilities and cultural factors;

(f) Innovation of alternative livelihood systems and migration strategies to relieve population pressure on the carrying capacity of degraded dryland ecosystems;

(g) Development of alternative energy systems for dryland areas through agroforestry, improved stoves and the utilization of renewable energy sources such as solar and wind power;

(h) Reorientation of national policies and programmes to provide an "enabling environment" for local action, particularly by removing bottlenecks to sustainable development, such as inappropriate land tenure systems, and by giving priority in national budgets to extension services and other interactions with local people;

(i) Restructuring of subregional institutions and cooperation to fully support sustainable development at the community level in countries of the region, taking full account of debt, trade patterns and other relevant aspects of the international environment.

2. Role of case studies

22. The organizational session of the INCD concurred in the Secretariat organizing a series of case studies to develop flexible models of: (a) the commitments which individual countries affected could take to combat desertification and mitigate drought through local, national and subregional policies and programmes, and (b) the commitments of the international community in support of these policies and programmes.

23. These models would elaborate the structure of, and steps to, prepare national and subregional action programmes to carry out the basic strategy outlined above. The action programmes could have a variety of sectoral components. To avoid duplication in planning processes at the national level, national action programmes could also serve as the management-of-fragile-ecosystems portions of the national sustainable development plans envisaged in Agenda 21.

24. The action programmes would be long-term, covering a period of 10 to 15 years and specifying necessary financial commitments for the duration of the programme. The case studies would evolve general guidelines for the preparation and structure of action programmes but would not provide the type of model which would be replicable in detail in all situations.

25. On the basis of comments from the Panel of Experts, the Secretariat prepared a methodology for the case studies with the aim of attaining a general format for the action programmes. The methodology was then further revised after the Secretariat received suggestions from the countries and subregional organizations involved in carrying out case studies and from United Nations agencies concerned with drought and desertification issues.

26. The phases of the case study methodologies encompass: (a) selection of local communities which are representative of ecosystems and land use systems in a participating country; (b) assembly of readily available physical, social and economic data about each site; (c) consultations with the local communities by carefully selected multidisciplinary teams; (d) preparation of local versions of Agenda 21 for each community; (e) national roundtables to map out strategies for creating the "empowering environment" needed for the local communities to implement their Agenda 21 programmes; (f) seminars with bilateral donors and relevant international agencies to structure the long-term commitments of the international community in national action programmes; (g) preparation of model national action programmes; (h) assembly of readily available information on subregional programmes; (i) meetings organized by subregional organizations to structure the long-term commitments of the international community at the subregional level; and (j) reports to the Secretariat for synthesis and transmission to the INCD.

27. Four African countries (Botswana, Mali, Tunisia and Uganda), and four subregional organizations in their subregions, will participate in the first stage of the case studies. Other countries and subregions will be addressed

later. The Secretariat plans to complete the initial case studies by September 1993 and report on them to the INCD by November 1993.

28. The report to the INCD will: (a) transmit the national and supporting subregional action plans developed in the first stage; (b) summarize the results of local, national and subregional meetings and consultations during the case study process; (c) suggest modifications in the methodologies for preparing action programmes based on case study experience; and (d) draw preliminary conclusions regarding the commitments which different parties could make in a convention framework.

3. Options for incorporation

29. If the Committee agrees that national/subregional action programmes should be a central theme of the Convention, it will have to carefully consider how best to incorporate them. There clearly would have to be a section of the Convention containing articles stating the general nature of commitments to the structure, preparation and review of the programmes. This would unambiguously tie the action programmes to other aspects of the Convention. It would be unwieldy, however, to reflect the details of the programmes in the Convention itself. This would be better left to accompanying instruments, that is, annexes or protocols.

30. It is unlikely that a single model for action programmes would do justice to regional and subregional variations in levels of development and in the nature of desertification processes. There would logically, therefore, need to be a system of accompanying instruments covering different regions or subregions. There would be merit, however, in negotiating one of the accompanying instruments first in order to gain experience with the process. Given the priority which it is agreed the Convention will give to Africa, the Committee would, under this scenario, presumably choose that region as a first model and work to complete an annex/protocol on Africa by the time the Convention itself is ready. In this case, the Convention would have to contain clear commitments that negotiation of annexes/protocols for other regions would follow quickly.

31. Annexes would have the advantage of being integral parts of the Convention. Each party would adhere to them unless the Convention specifically provided otherwise, which is unusual in treaty law. The Convention could equally contain a presumption that all parties would adhere to protocols even though developing countries outside a given region or subregion might not take an active role in negotiating them. This would underline the common interest of all countries in combating desertification and mitigating drought worldwide. It would also allay the concerns which many countries expressed at the organizational session of the INCD about regional instruments to accompany the Convention.

4. Review and verification

32. Many international agreements include reporting/verification requirements because they promote transparency and thus facilitate international review of progress in meeting obligations. Articles 10 and 12 of the Climate Change Convention set up elaborate procedures for communication and consideration by an implementation body of implementation information.

Article 26 of the Biodiversity Convention commits parties to reporting procedures which the Conference of Parties will elaborate at a later stage.

33. The INCD may also wish to include in the Convention a system for reviewing and verifying the implementation of national and subregional action programmes through a system of inventories, indicators and reports by countries, subregional organizations and international agencies. An implementation committee would be the logical institution to assist the Conference of Parties of the Convention in carrying out such reviews.

34. In this regard, countries might commit themselves in the Convention to providing minimum data sets of relevant climate variables, soil and water variables, land use variables, and socio-economic variables. This approach would initially constitute the comprehensive desertification database which Agenda 21 envisages. The Panel of Experts underlined that there is, in the field of land degradation and desertification, ample experience that ambitious data collection programmes are methodologically difficult and do not achieve comprehensive coverage within a reasonable timescale. A well-designed minimum data set programme is much more likely to give adequate data for all dryland areas in support of practical dryland development programmes. Such minimum data sets could draw on existing efforts and give further impetus to extending these efforts into the more marginal areas. In this regard, geographical information systems (GIS) could be most helpful in organizing these sets.

35. In building minimum data sets, the standard reporting routines of appropriate international agencies should be utilized where possible. Data should be available for computation at approximately the district level. Priority should be given to creating as complete data sets as possible for this limited number of variables, postponing further revision of the data set until most dryland areas have been covered adequately.

36. At least the following variables might be usefully included in the relevant minimum data sets: (a) climate variables (albedo, solar radiation, rainfall, temperature, air humidity, wind, dust, groundwater, major surface waters); (b) soil and water variables (wind erosion, water erosion, salinization, waterlogging, soil fertility); (c) land-use variables (land use/production systems, land tenure systems, 10-year changes in land use, woody biomass, fodder biomass, selected plant and animal indicator species, crop yields of major staple crops, number and density of livestock, livestock production); and (d) socio-economic variables (human population, 10-year population changes, seasonal and annual human migration, infant and adult mortality rates, animal and human disease status, per capita income, income distribution, sources of income, market prices of key foodstuffs, energy availability and prices).

IV. GLOBAL COMMITMENTS

37. The INCD will probably wish to include in the Convention obligations of a global nature, some of which might be differentiated. There are two bases for such global commitments: (a) the implications of drought and desertification, and of measures to combat them, for other problems of global significance such as climate change, conservation of biodiversity and water resource management; and (b) the need to support national and subregional actions at global level.

38. Agenda 21, particularly sections on international cooperation, provides a good starting point for considering global commitments. The INCD can draw not only on Chapter 12 of Agenda 21, which concerns drought/desertification, but also on many other chapters. In fact, much of Agenda 21 is relevant to devising an integrated approach to combating desertification.

39. To assist the INCD in considering more concrete global commitments, the Secretariat has divided such obligations into nine categories. For each category, there appears below a brief summary of the relevant parts of Chapter 12 of Agenda 21 and a preliminary discussion of related issues the INCD would wish to consider.

40. There are also some general issues which cut across the nine categories, of which five stand out:

(a) How can the Convention best reflect different types of global commitments? In some cases, articles in the operational part of the Convention may not provide a sufficient level of detail. Should the INCD then consider the preparation of annexes containing prioritized agendas on subjects such as research, data collection, information sharing, the conservation of dryland biodiversity, and possibly others. If so, is there time to negotiate such annexes simultaneously with the Convention or should they be left for the first meeting of the Conference of Parties? What bodies, for example INCD working groups of government experts, should the INCD establish or utilize to prepare technical annexes?

(b) How can the Committee ensure that detailed global commitments complement commitments in national and subregional action plans, some of which will fall in the same general categories?

(c) How can the Committee similarly make sure that global commitments in the Convention, and any annexes to it, mesh with the overall work of the Commission on Sustainable Development? Are there ways of both utilizing in the Convention the initiatives which the Commission takes to implement Agenda 21 and of seeing to it that the Convention takes precedence in matters relating to desertification and drought?

(d) What are the implications of provisions in the Convention, including any annexes to it, for the distribution of work among international agencies? Should the Convention, in some instances at least, designate lead agencies to oversee implementation in areas such as data collection?

(e) How, most importantly, can global actions to combat desertification and mitigate the effects of drought consistently take a local perspective when their planning and implementation usually takes place at a distance from the local people they ultimately serve?

1. Research and development

Agenda 21 Activities

41. There are significant research activities in five of the six programme areas of Chapter 12. They are notable for their emphasis on research which meets the real needs of local communities. For the purposes of the

Convention, the most important ones are to: (a) integrate indigenous knowledge into desertification research; (b) develop land-use models based on both new practices and traditional local practices; (c) develop and introduce drought-resistant, fast-growing plants appropriate to each dryland region; (d) undertake applied land-use research with the support of local research institutions; (e) do research to improve seasonal forecasts at the farm level; (f) support research on reducing loss and increasing absorption of water in soils and on water harvesting techniques in drought-prone areas; and (g) strengthen interdisciplinary research.

Issues for INCD consideration

42. The Panel of Experts and relevant United Nations agencies identified a number of research priorities within the above activities, including the development of: water harvesting techniques, fencing material for soil loss reduction, grain storage, animal-traction ploughing, local improvement, modalities for protecting threatened animal species, locust warnings, crop forecasts, pest forecasts and market forecasts. With regard to fast-growing plants, the Panel advised giving priority to indigenous plants, plants from similar climates and modern improved varieties in that order. It also stressed the significance of off-station research and participatory research, particularly with women and farmers.

43. An issue of prime importance is the identification of future research and development priorities relevant to the Convention. This question leads to the related issues of: (a) developing technologies which generate real benefits at the local level; (b) finding ways and means of taking proper account of existing local and traditional technologies; and (c) emphasizing ranges of technologies which could be customized to local conditions.

44. The Panel of Experts discussed the development of such a research agenda during its second meeting, advancing many specific suggestions about priorities in overall research and development activities, including local-level technology and the production of appropriate new technologies. The Secretariat will continue this work with the Panel of Experts. It might be incorporated in different ways in the Convention, possibly, for example, in an annex with a detailed and prioritized research agenda.

2. Data collection and analysis

Agenda 21 activities

45. Programme Area A of Chapter 12 deals exclusively with data collection and analysis, which is sometimes referred to as systematic observation. It calls for: (a) strengthening national desertification information centres, regional/global desertification observation networks, national and regional meteorological and hydrological monitoring systems, and national and local institutions for assessing desertification; (b) updating inventories of natural and other resources related to desertification; (c) linking national desertification centres at subregional, regional and global levels while ensuring cooperation among existing international desertification monitoring systems; (d) studying means of measuring the consequences of land degradation in dryland areas; (e) developing a comprehensive desertification/land degradation/human condition database as well as benchmarks for programmes to

combat drought and desertification; (f) involving local populations in collecting and using desertification information; and (g) facilitating the acquisition of appropriate land degradation monitoring technology.

46. There are also important and relevant data collection activities in other programme areas of Chapter 12, notably: (a) conducting socio-economic baseline studies in areas affected by desertification; and (b) strengthening early-warning systems using a variety of sophisticated tools.

Issues for INCD consideration

47. This topic should be read in conjunction with the section above on inventories and indicators to review progress in national and subregional action plans. One set of key issues relates to the cataloguing of major data gaps and identification of appropriate collection programmes. Another encompasses activities to make information collection "demand-driven", that is to tailor observation and analysis to information needs at the local level or to requirements of national decision makers in designing programmes to support local efforts.

48. In considering the first set of issues, as in the case of research activities, the INCD could contemplate an annex or set of articles to set priorities, implementation responsibilities and timetables for collecting minimum data sets. In this regard the Secretariat, with the assistance of the Panel of Experts, will consult closely with relevant United Nations agencies to ascertain actual availabilities and bottlenecks in worldwide data collection.

49. With regard to collection programmes, the Panel of Experts offered the following observations at its second meeting: (a) aerial photography and other remote sensing technologies are available to collect most of the relevant natural science data sets; (b) low-resolution imagery involves low investment costs, particularly if dryland countries receive assistance in installation of receiving equipment and training of personnel; (c) the processing costs of high-resolution imagery from systems such as Landsat currently puts them out of reach for most dryland nations; and (d) the international community should consider new initiatives for the steady release of high-resolution data for use by developing countries as well as their access to high-resolution techniques.

50. Turning to the second set of issues, a new locally-focused strategy requires attention to far more than collecting and sharing specific data sets, as important as that might be for a global appreciation of desertification issues. Extensive networks and sophisticated systems are necessary but not sufficient. There is also a need to focus on information collection by local people, tailoring and adapting data to their specific local requirements and receiving local-level feedback on the utility of different kinds of data. Catalyzing the evolution of such a "demand-driven" approach is one of the major challenges the Convention confronts.

3. Exchange of information

Agenda 21 activities

51. Chapter 12 recommends the establishment of regional/global networks to promote information exchange on drought and desertification issues. It also recommends strengthening channels for affected countries to exchange information among themselves and enhancing information exchange among desertification research institutions. Finally, it emphasizes information sharing on technical packages adapted to local conditions and on means of generating alternative livelihoods.

Issues for INCD consideration

52. The constant evolution of information sharing arrangements is essential to carrying out the other functions in this section. Utilization of modern information technology is the key, but traditional modes of diffusion, such as libraries, publications and newsletters, also have a role to play.

53. Methodologically, there is an urgent need to: (a) identify and catalogue existing information sharing arrangements, which are multiplying rapidly; (b) distinguish important types of information related to combating desertification and mitigating drought that are not currently exchanged; (c) integrate socio-economic data into geographic information systems and exchange more qualitative data such as that on project evaluation and NGO activities; (d) invest in the communications infrastructure, computer hardware and computer software required for developing countries to utilize large world networks, such as Internet; (e) designate existing subregional institutions as "gateways" for desertification information; (f) develop national and regional capabilities to collect, retrieve and circulate data in geographic information systems and to transfer local data; and (g) ensure that government and private sector personnel in developing countries have the skills to access and utilize the information they actually need.

54. The INCD will need to consider how parties to the Convention can make concrete commitments in all these areas, possibly, as in the case of research and data collection, through negotiation of an annex on information exchange. The Committee should also take up institutional questions such as giving an existing system, for example the "Earthwatch" network of the United Nations Environment Programme (UNEP), a central role in the future information arrangements the Convention maps out. This would ensure that diffusion of desertification information is related closely to the exchange of other classes of information which countries need in order to promote sustainable development.

55. Underlying all of these considerations is the enormous gap between information and action. If it does not ultimately have a positive impact at the local level, information is basically useless. Much of the desertification information presently collected unfortunately falls into this category. Evolving information systems must build in constant feedback from local people and national decision makers in developing countries in order to ensure that their vast contents reorient priorities, policies, programmes and the everyday activities of local populations.

4. Technology transfer and cooperation

Agenda 21 activities

56. Chapter 34 of Agenda 21 sets out a detailed programme for technology transfer and cooperation, most of which could be applied to technologies relevant to combating desertification. Chapter 12 also has some specific recommendations to make, including: (a) introducing environmentally sound agricultural/pastoral technologies in vulnerable drylands; (b) promoting improved management systems to combat desalinization/waterlogging on irrigated croplands and to stabilize rainfed croplands; (c) encouraging the utilization of improved woodstoves and other energy sources which relieve pressure on ligneous resources; and (d) promoting the introduction of technologies which support alternative livelihoods.

Issues for INCD consideration

57. The underlying issue with regard to technology transfer and cooperation is the kinds of technologies available but not consistently utilized to better manage rainfed cropland, irrigated crop land, pasture land and dryland forests, to generate alternative livelihoods and to use more efficient energy sources.

58. In a few instances, such as biotechnologies, the technologies in question are proprietary, raising long-standing questions of financial, legal and commercial obstacles to technology diffusion. More commonly, however, appropriate technologies lie in the public domain or represent the consolidated experience and long-standing traditions of local people. Here, the issue becomes one of information sharing, country studies and capacity building aimed at adapting the right technologies to target groups of people and ecosystems, taking full account of local incentive systems, culture and commercial possibilities.

59. At its second meeting, the Panel of Experts particularly emphasized concentration on three areas largely neglected until now: (a) extension of technology cooperation in dryland areas to non-agricultural sectors such as cottage industries, small businesses and tourism, which can absorb at least part of excess populations straining the carrying capacities of dryland ecosystems; (b) evaluation and transfer of local traditional know-how in promising technologies such as water harvesting and agro-forestry; and (c) reinforcement of the capability of developing countries to conserve, exploit and improve dryland biodiversity and genetic resources, including both plant and animal species.

5. Capacity building

Agenda 21 activities

60. Although there is a separate chapter on capacity building in Agenda 21, Chapter 12 contains a number of specific activities, including: (a) giving members of rural organizations needed management skills; (b) training agro-pastoralists in special land-management techniques and extension agents in participatory approaches to land management; (c) enhancing the skills of personnel engaged in data collection; (d) training decision-makers and land

users in utilizing early-warning information; (e) strengthening interdisciplinary training; and (f) developing special training programmes to increase popular participation, particularly of women, in decision making.

Issues for INCD consideration

61. There is a strong case for reinforcing and expanding capacity building efforts in countries experiencing serious drought and/or desertification with emphasis on the grass-roots level, the decision-making level and the dialogue between the two. Since this will require strong support from the international community, the Convention should induce a wide-based, long-term approach to all aspects of capacity building - training, institutional development and indigenous research capacity - through commitments both in national/subregional action programmes and in articles dealing with global-level obligations.

62. The Panel of Experts offered the following observations to assist the Secretariat and the INCD in deliberations on capacity building:

(a) Regional and national capacity building centres are not successful when they focus solely on narrowly-defined programmes related to desertification and drought. Such "centres of excellence", which should not be confined to institutions of higher learning, need to have a broader and integrated environment and development view;

(b) Duplication of effort among capacity building institutions at national, regional and international levels is not generally a problem as long as there is a constant flow of information between the institutions so successful experiences can be replicated;

(c) The best way to enable local capacity building is to strengthen national and subregional institutions. There is now serious neglect of universities, research centres and extension services;

(d) There is growing scepticism about creating new research institutions when so many existing ones lack support. At the very least, there should be a careful review of any proposals for new institutions. Where there are no regional level centres, a group of national ones can usually take on the same functions.

6. Education and awareness

Agenda 21 activities

63. The existence of a large Agenda 21 chapter specifically on education and awareness means there is relatively little on these subjects in Chapter 12. That Chapter does, however, recommend national anti-desertification awareness campaigns. Programme Area F on participation and education also mentions the need to strengthen the outreach programmes of international organizations dealing with desertification issues and recommends the review, development and distribution of gender disaggregated information and know-how about combating desertification.

Issues for INCD consideration

64. Education/awareness efforts will largely fall in the domain of national action programmes, covering areas such as: (a) expansion of educational resources in local communities; (b) introduction of materials on desertification and drought into school curricula at all levels; (c) educational opportunities for girls and women; (d) awareness of population dynamics; and (e) educational interactions between outside professionals, such as extension officers, and local people. Articles in the Convention could nevertheless provide for supporting action at the global level. International agencies, particularly UNEP and UNESCO, and donor organizations, have a role to play in providing basic materials on drought and desertification issues, which can then be tailored to local circumstances and translated, if necessary, into local languages. They can also assist by pioneering and catalyzing local use of new educational media such as videos and interactive computer programmes.

7. Linkages to global environmental issues

Agenda 21 activities

65. Desertification processes are intimately linked to three global environmental issues: climate change and global warming, the conservation and utilization of biodiversity and the management of water resources. Large chapters of Agenda 21 on Atmosphere, Biodiversity, Biotechnology and Fresh Water deal with these issues. Other chapters touch on them as well. Only two activities in Chapter 12 reflect them: studying the interactions and impacts of climate change, drought and desertification and promoting *in situ* conservation of special dryland ecological areas and their diversity.

Issues for INCD consideration

66. The Preamble of the Convention could contain general references to linkages to other environmental agreements, particularly: (a) the Climate Change Convention; (b) the Biodiversity Convention; (c) the Convention on International Trade in Endangered Species (CITES); (d) the Ramsar Convention on management of wetlands (some of which, like the Niger inland delta in Mali, paradoxically occur in semi-arid areas); (e) the Basel Convention on international trade in hazardous wastes and related agreements such as the Bamako Convention; (f) the Bonn Convention on migratory species; and (g) regional agreements on management of rivers and lakes, which include water use, water quality, fishing rights and energy provisions.

67. In at least two of these cases, it would also be appropriate to include operational articles relating desertification and drought issues to other environmental problems of global concern. There clearly, for example, would be considerable overlap between the research, data collection and information exchange provisions of the Convention and those of the Climate Change and Biodiversity Conventions:

(a) There are critical linkages, all of which both the International Panel on Climate Change and the International Panel of Experts on Desertification are already evaluating, between drought and desertification on the one hand and the world climate system and climate change on the other.

Global Circulation Models are becoming more sophisticated in establishing correlations betweens the timing and duration of droughts in given subregions of the planet and major events in the world climate system, such as the El Niño Oscillation. There is also the hypothesis, as yet unproven, that the recent long periods of drought in the Sahel and elsewhere reflect global warming or other underlying changes in the world climate system. On the other side, overgrazing and overcultivation of drylands change local surface characteristics with measurable effects on local temperature and rainfall which could impact on the world climate system;

(b) In spite of their relative aridity, the world's drylands support considerable biodiversity of both plant and animal species, much of it still unclassified, unexplored and unutilized. In addition, the drylands are the genetic centres of origin of many useful plant and animal species, particularly the world's cereals which constitute the most important element in the diet of a large portion of the world's population. The maintenance of genetic diversity in situ, supported by ex situ arrangements, is critical to future food production in the drylands. All of these considerations suggest the desirability of the Convention setting a specific agenda for conserving and utilizing biodiversity, which would complement the Biodiversity Convention.

8. Financial resources and mechanisms

Agenda 21 activities

68. The means of implementation sections of the programme areas in Chapter 12, as in other chapters, contain estimates of the costs to countries and the international community of carrying out the activities in the programme area. They do not, by agreement of Governments at the UNCED Conference, discuss funding mechanisms specifically for anti-desertification programmes. Nor does Chapter 33 on financial resources get into this level of detail. This will clearly, however, be a major issue in negotiating the Convention.

Issues for INCD consideration

69. Detailed consideration of the financial provisions of the Convention should probably await both the results of national/subregional case studies and the development of at least a broad outline of other global commitments. Even at this stage, however, it is possible to identify several issues which will arise in marshalling the right mix of domestic and external resources to assist dryland areas in carrying out an integrated, locally-based approach to combating desertification and mitigating the effects of drought:

(a) The efforts of developing countries themselves, which provide the bulk of financial resources, need to be better understood. Dialogue, dissemination of information, seminars and visits by decision makers from developed countries are some of the elements to accomplish this;

(b) A new locally-based approach probably necessitates distinct changes in project design and implementation by donors. These would logically need to evolve in such directions as: greater reliance on multilateral funding, flexible projects which develop in an iterative, experimental way as

conditions change, more reliance on definition of project activities by local people, more use of local experts, and a longer-term focus in general;

(c) At the same time, a new approach implies new modes of coordination between developing countries, donor organizations and NGOs. Developing countries increasingly complain about the burden of accommodating to the different programming requirements of multiple donors, suggesting intensification of field-level coordination. In a similar way, the commitments of the international community to national/subregional action plans would entail new coordination arrangements beyond the UNDP roundtables common for most developing countries;

(d) The Committee will have before it proposals for new special mechanisms to finance anti-desertification programmes. The role of the Global Environmental Facility (GEF), and the desirability of a separate desertification window in it, will also come up for discussion.

9. Coordination and cooperation

Agenda 21 activities

70. Chapter 12 places considerable emphasis on strengthening coordination and cooperation within the international community to combat drought and desertification. It specifically calls on appropriate United Nations agencies, international and regional organizations, non-governmental organizations and bilateral agencies to: (a) coordinate their roles in combating desertification and promoting reforestation, agroforestry and land management systems in affected countries; (b) specifically to strengthen their cooperation in assisting with the preparation of desertification control programmes and their integration into national planning strategies; and (c) develop programmes of support to subregional organizations.

Issues for INCD consideration

71. Aside from the coordination of financial assistance discussed above, the INCD will need to consider changes in other, more general, modes of international coordination and cooperation in order to implement the new approach it is generally agreed the Convention should embody. It is difficult to assess such institutional changes before work on the substantive articles of the Convention is underway. The following, however, are some preliminary ideas:

(a) While bilateral and multilateral assistance will continue to be the prime forms of cooperation with poorer developing countries, particularly in Africa, other forms of scientific and technical cooperation will increasingly predominate with more advanced developing nations. These will involve catalytic actions by Governments on both sides to promote a wide variety of interactions between universities, research institutions, foundations, NGOs, businesses and other private sector entities;

(b) United Nations agencies and other international organizations will have to review their operations in dryland countries, as well as coordination

mechanisms among themselves, in order to adjust to locally-focused assistance programming. There will, in particular, have to be reconfiguration of the regional and subregional activities of various entities;

(c) The operations of the international trading system, and the international economy more generally, have a significant, sometimes negative impact, on sustainable development in dryland areas. The INCD will need to consider how parties to the Convention can cooperate to reduce the adverse effects;

(d) Cooperative arrangements are needed to deal with transboundary issues among dryland countries and neighbouring nations. Deforestation in one country leading to lower river levels and water availability in a neighbouring country is just one possible example of this phenomenon.

V. INSTITUTIONAL ARRANGEMENTS

1. Conference of the Parties

72. It is standard practice for the Conference of the Parties (COP) to be the supreme decision-making body of a convention, with authority to oversee its implementation. Articles on the COP, such as Article 7 of the Climate Change Convention and Article 23 of the Biodiversity Convention, often spell out specific COP functions of particular importance. There is also usually a saving clause allowing the COP to exercise any other functions integral to achieving a convention's objectives. This ensures that the COP is not vulnerable to challenges to its legal authority. COP commonly meet once a year but nothing prevents provision for more frequent meetings or for calling extraordinary meetings at the request of a party or a specified percentage (e.g. one-third) of parties.

2. Secretariat

73. The secretariats of most conventions have strictly administrative functions without verification responsibilities. Typically, conventions specify such secretariat functions as: (a) arranging for sessions of the COP and its subsidiary bodies, if any; (b) serving as a focal point for gathering information from parties, any subsidiary bodies and other sources; (c) preparing reports; (d) ensuring coordination with other secretariats and international bodies; (e) communicating to parties (or signatories for information purposes), within a set time-frame, the text of any amendments the COP might have adopted in a session before it meets again; and (f) communicating, in the case of protocols, their text, or the text of amendments, to parties to the protocol. Articles 8 and 17 of the Climate Change Convention, as well as Articles 24 and 29 of the Biodiversity Convention, contain examples of such provisions.

74. Some conventions enlist existing international organizations (e.g. UNEP) or the secretariats of other conventions as their secretariats. Others establish secretariats of their own, often keeping in place the secretariat which has serviced the particular convention's negotiation. Given the strong preference of Governments for an independent INCD secretariat, the latter seems more probable in the Convention.

3. Subsidiary bodies

75. Many environmental conventions provide for scientific committees/bodies to give the Conference of Parties the best available expert advice on, at least, scientific and technical matters relating to the convention and sometimes on the drafting of technical annexes. Scientific committees/bodies can also have other functions such as the monitoring of research, data collection and information exchange.

76. Depending on the intricacy of the obligations the Parties have to carry out, many conventions also mandate implementation bodies. These bodies either themselves receive reports from the parties and review progress in meeting commitments or alternatively assist the COP in carrying out such verification functions. This could be a significant feature of obligations regarding national and subregional action programmes in the Convention.

77. Articles 9 and 10 of the Climate Change Convention set up both kinds of bodies. Article 25 of the Biodiversity Convention contains the mandate of a subsidiary body on scientific, technical and technological advice. Each of these Conventions also provides for the creation of an interim and a permanent financial mechanism. At this stage, however, it is doubtful that a single financial entity could be the focal point for financing implementation of the Convention. At the organizational session of the INCD, many Governments rather favoured a package approach to financing, that is one which would utilize a variety of existing, and possibly new, sources of financing.

4. Dispute settlement mechanisms

78. International agreements contain a wide range of mechanisms for settling disputes between parties after negotiations fail to resolve issues. Generally, they fall into two categories: traditional dispute settlement mechanisms and the more novel multilateral, non-adversarial procedures.

79. These categories are not mutually exclusive. However, parties to a dispute should not invoke both mechanisms concurrently. Many conventions contain both. Article 14 of the Climate Change Convention, for example, outlines the traditional mechanisms. Article 13 of the same Convention provides for the future establishment of a multilateral consultative process, to be available at the Parties' request, for the resolution of questions regarding the implementation of the Convention. There was general agreement among climate negotiators that the multilateral consultative process would be forward-looking, aiming to help parties comply with the Convention rather than adjudicate blame or impose sanctions.

80. In this respect, the Climate Change Convention reflects a tendency in international environmental law to rely on systems of cooperation rather than systems of liability. This assumes that when disputes involve issues of global concern, all States have an interest in resolving them. In addition, non-adjudicative procedures often have the advantage of resolving questions before they evolve into bitter legal disputes.

81. The non-compliance procedures in the Montreal Protocol to the Vienna Ozone Convention illustrate the operation of multilateral conciliation mechanisms. Parties may submit in writing reservations about another Party's

implementation of the Protocol. An implementation committee, consisting of five Parties elected by the Meeting of Parties with equitable geographical distribution, reviews the written submission. Its function is to seek an amicable resolution of the matter and report to the Meeting of Parties. The Parties can then call for steps to bring about full compliance, including steps to assist compliance by the Party in question.

82. The Convention will probably also have provisions which might lead to more traditional bilateral or subregional disputes, for example differences of opinion among neighbouring States sharing water resources. International law and practice point to a panoply of mechanisms for resolving such disputes. Among the most common are: (a) good offices or mediation by a third party; (b) compulsory arbitration; (c) conciliation committees with members selected by each party to the dispute; and (d) submission to the International Court of Justice. Many conventions, such as the Biodiversity Convention, spell out some or all of their dispute settlement procedures in annexes. Resort to compulsory arbitration or the jurisdiction of the International Court of Justice requires a previous declaration by the States or regional economic integration organizations concerned, submitted in writing to the Depositary, that they accept such means of settlement as compulsory.

VI. PROCEDURAL ARRANGEMENTS

1. Annexes and protocols

83. The sections above suggest the possibility of annexes for action programmes, as well as several technical annexes such as ones containing detailed agendas for research, systematic observation and information sharing. Annexes to deal with technical subjects are not yet a feature of the Climate Change Convention and Annex I of the Biodiversity Convention on identification and monitoring is very brief. Other international agreements, however, commonly employ such annexes. They form an integral part of agreements. References to agreements implicitly constitute references to annexes.

84. One of the most important questions before the INCD will be the desirability of a system of regional or subregional annexes/protocols to the Convention embodying commitments to execute national and subregional action programmes within a fixed time-frame. The INCD could complete work on one of these annexes/protocols, presumably on Africa, at the same time it finalizes the Convention. The Convention could then set ground rules for the later negotiation of annexes/protocols covering other regions of the world. However, should protocols be opted for, the Convention would have to contain specific procedures for their entry into force and provide that only parties to the Convention could be parties to protocols. These procedures, as well as those for signature and ratification, would formally be distinct from those of the Convention itself.

2. Amendments

85. Once it is in force, the Convention will need to respond to changing circumstances, as well as new knowledge and concerns. It thus should contain separate but parallel provisions for amendments to the Convention itself; adoption of annexes to the Convention; amendment of annexes; and the adoption of any protocols associated with the Convention. Such provisions typically

provide for: (a) adoption by the COP of any amendments to a convention or an annex thereof in an ordinary session; (b) arrangements for notifying the Depositary of acceptance; and (c) voting procedures.

86. Parties commonly attempt to reach agreement in ordinary session on any proposed amendments to a convention. Failing that, there are provisions for adoption by a specified majority of parties present and voting. Article 15 of the Climate Change Convention sets the majority for amendments to the Convention itself at three-quarters, Article 29 of the Biodiversity Convention at two-thirds.

87. Amendments to a convention usually do not bind parties which do not accept them affirmatively. In contrast, an ammended annex binds a party unless it opts out. Recent environmental conventions tend to restrict annexes to procedural, scientific, technical and administrative matters.

3. Voting procedures

88. Most international agreements, including the recent environmental conventions, give each party one vote. They also provide for regional economic integration organizations voting in their areas of competence to cast a number of votes equal to the number of their member States that are parties. The organization and its member States cannot then simultaneously exercise the right to vote. Other aspects of voting procedures are generally left for elaboration in the rules of procedures which the COP adopts at its first session.

4. Signature

89. In some cases, the texts of conventions limit the entities which can sign the agreement and also specify precise dates for signature. At its organizational session, members of the INCD clearly characterized combating desertification and mitigating drought as matters of concern to all countries. It might therefore, be logical to take a more global approach to opening the Convention for signature. Article 20 of the Climate Change Convention provides a model in this regard by recognizing as potential parties States Members of the United Nations or any of its specialized agencies or that are parties to the Statute of the International Court of Justice, as well as regional economic integration organizations. The INCD will have to work out the exact nature of the participation of regional economic integration organizations in the Convention.

90. In the case of conventions negotiated under General Assembly auspices, the normal practice is to open instruments for signature at United Nations headquarters in New York.

5. Depositary

91. There is a long-standing practice of utilizing the Secretary-General of the United Nations as the depositary for multilateral conventions, and related instruments, concluded under the auspices of the General Assembly or other United Nations bodies. There is no obvious reason for the Convention to depart from this practice.

6. Ratification

92. A State cannot be bound by a convention unless it ratifies, accepts, approves or accedes to it, depending on its constitutional procedures. (The latter terms are commonly encompassed under the term ratify.) States deposit instruments of ratification with the Depositary the convention specifies, in the case of the Convention almost certainly the Secretary-General of the United Nations. A standard provision in recent conventions requires a regional economic integration organization to declare in its instrument of ratification the extent of its competence in matters which the agreement governs and to communicate to the parties any changes in its competence.

7. Entry into force

93. International agreements usually specify entry into force a set period (e.g. 90 days) after a given absolute number of ratifications, typically requiring that one-half, two-thirds or three-quarters of the signatories ratify. Given the lengthy parliamentary procedures needed for ratification in most States, entry into force normally takes several years even with a lenient 50 per cent requirement. Stricter provisions can delay entry into force substantially. Both Article 23 of the Climate Change Convention and Article 36 of the Biodiversity Convention provide that ratifications by regional economic integration organizations are not counted as additional to those of member States in such organizations.

8. Interim arrangements

94. Article 25 (1) of the Vienna Convention on the Law of Treaties allows for provisional application of a treaty, or part of a treaty, if the agreement itself so provides or if the negotiating States agree in some other manner, for example in a resolution. Given the urgency of implementing a new strategy for combating desertification and mitigating drought, the INCD should consider providing for interim arrangements in the period between signature of the Convention and its entry into force and in the period between entry into force and the first COP meeting. Such interim arrangements would allow signatories, and possibly other participants in the Convention negotiations, to become involved immediately in inputs to the implementation process.

95. Interim arrangements could facilitate activities such as: (a) preparation of draft rules of procedure for the COP and subsidiary bodies; (b) continuation of work on protocols and annexes which the Convention authorizes but which are not agreed at the time of signature; (c) development of databases and country studies; (d) continued meetings of potential parties before the first COP meeting; (e) communication of measures consistent with the Convention before its entry into force; (f) provision of scientific and technical advice by the existing International Panel of Experts on Desertification or a group of government experts; and (g) operation of the INCD secretariat until the COP designates it or another body as a permanent secretariat.

96. Negotiators of recent environmental conventions availed themselves of the two options which the Vienna Convention on the Law of Treaties allows. Article 21 of the Climate Change Convention and Article 40 of the Biodiversity Convention deal with interim arrangements. In addition, both negotiating

committees passed resolutions on the same subject. The "prompt start" resolution of the International Negotiating Committee on Climate Change is particularly elaborate in setting up implementation procedures in advance of entry into force of the Climate Change Convention.

9. Reservations

97. A "no reservation" rule is an increasingly common feature of international environmental conventions, for example the Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol, the Basel Convention on the Transboundary Movement of Hazardous Wastes, the Climate Change Convention and the Biodiversity Convention. Even if a reservation is allowed under a convention it would be subject to certain limitations under the Vienna Convention on the Law of Treaties. In particular, a reservation cannot be contrary to the "object and purposes" of a convention.

10. Withdrawals

98. Most international agreements contain provisions for withdrawal, usually specifying that it is possible once a certain number of years elapse after entry into force and effective a specified period after notification of withdrawal. In the Climate Change Convention, the period after entry into force is three years; in the Biodiversity Convention two years. Usually withdrawal from a convention implies withdrawal from any of its protocols unless the text of a protocol provides otherwise. International practice does not generally question, however, the ability of States to withdraw an instrument of ratification, accession or acceptance before a convention enters into force

11. Authentic texts

99. The Vienna Convention on the Law of Treaties does not prescribe specific procedures for the preparation of authentic texts. Under United Nations procedures, the parties to a convention delegate the task of authentication to the Secretary-General since time constraints usually prevent their representatives from authenticating texts themselves. In practice, the Treaty Section of the United Nations Secretariat then prepares authentic texts of the convention instruments before they are opened for signature by invited States. Many international conventions, including the Climate Change and Biodiversity Conventions, therefore, provide for the deposition of the original texts in all United Nations languages with the Secretary-General. They also specify that the texts in the different languages are equally authentic.
