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REPORTS

Regional and International Activities

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ORGANIZATION OF AMERICAN STATES (OAS)

I. INTER-AMERICAN JURIDICAL COMMITTEE

A. Convention Defining Torture as an International Crime

During its meeting held in January and February 1980, the Inter-American Juridical Committee (hereinafter Committee), the principal juridical organ of the OAS, approved the Draft Convention Defining Torture as an International Crime (hereinafter Draft Convention). The preamble of this Draft Convention adheres to the principles embodied in both the American Declaration of the Rights and Duties of Man of 1948 and the American Convention on Human Rights of 1969, which provide that no one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. It is explained in the preamble that in order for this principle to take effect, the pertinent rules contained in the said Declaration and Convention must be implemented through a document that defines torture as an international crime. All of these documents recognize the practice of torture as one of the most serious violations of the essential rights of every person, and require that such a practice be considered an international crime.

The substantive rules on this matter are contained in the first seventeen articles of the Draft Convention. The other articles deal with signature, ratification, entry into force and similar matters.

In the first article of the Draft Convention, the Contracting States ratify the principle that torture is an international crime which they undertake to prevent and punish under the terms set forth in this Convention. Other important rules and principles of the Draft Convention include the following: torture shall be understood to be any act by which physical or mental pain or suffering is inflicted on a person for purposes of criminal investigation or any other purpose, as

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a means of intimidation, as personal punishment, as a preventive measure, or as a penalty. Torture shall also be further understood to be the use of technical or scientific methods upon a person with intent to obliterate the personality of the victim, or to diminish his physical or mental capacities, even if they do not cause physical pain or mental anguish. The following people shall be guilty of the crime of torture: (a) a public employee or official who orders, instigates or induces the use of torture, or who directly uses it; (b) others who are not public employees or officials who order torture, or induce its use, or use it directly; and (c) those who have an obligation and the opportunity to prevent torture, but fail to do so. Loss of personal freedom, legally ordered as a preventive measure, or legally imposed as a punishment, shall not constitute torture, but persons responsible for carrying it out must ensure that the persons affected are placed in locations where conditions are livable.

The fact that a person acted under orders from a superior shall not be considered a circumstance that absolves the person from criminal liability for the crime of torture. All acts of torture, or any other cruel, inhuman, or degrading treatment or punishment, shall constitute an offense against human dignity, and shall be considered a denial of the rights endorsed by the Charter of the OAS and the Charter of the United Nations, and shall further be considered a violation of fundamental human rights and freedoms proclaimed in the American Declaration of the Rights of Man and the Universal Declaration of Human Rights.

The Draft Convention also establishes that no State shall permit or tolerate torture. No State shall be permitted to offer as justification for this crime the existence of any mitigating circumstances, such as the existence of a state of war, the threat of war, the threat of internal political instability, or other public emergencies or disasters. The States Parties to the Convention are to adopt effective measures designed to prevent and punish the practice of torture and other cruel, inhuman, or degrading treatment in the territory under their jurisdiction. The Parties to the Convention would further undertake to report each year to the Inter-American Commission on Human Rights on the legislative, judicial, and administrative measures they have adopted to implement the Convention.

Any person making an accusation that he has been subjected to torture by or at the instigation of a public official shall have the right to have his case examined either impartially by those authorities in his State that have jurisdiction or, where applicable, according to the procedure established in the Statute and Rules of Procedure of the
Inter-American Commission on Human Rights. The States Parties to the Convention should undertake to define torture in accordance with the guidelines of this Convention and to establish appropriate compensation for victims of the crime by the State if the active subject is a public employee or official. The mechanisms for the execution of the Convention would be the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights.

There is in the Draft Convention a provision concerning extradition under which the States Parties shall take the necessary steps to obtain extradition of, or to punish fugitives or persons accused or condemned for crimes of torture, without prejudice to the provisions of the conventions on asylum. As provided in the final clauses, the Convention would be open for signature and ratification by the member states of the OAS. It would also be open for accession by any other American state.

The Inter-American Juridical Committee also prepared a Statement of Reasons (hereinafter Statement) concerning the Draft Convention. The Statement explains that the Committee adopted the principle that "torture is an international crime" in order to fulfill the mandate of the OAS General Assembly contained in Operative Paragraph 6 of resolution AG/RES.368 (VIII-0/78).

The Committee considered it necessary to include within the definition of acts of torture the use of technical or scientific methods intended to obliterate the personality of the victim, or to diminish his physical or mental capacities. This broadened definition is designed to encompass the advances in modern technology that are applied not to the service of the good of mankind, but to the destruction of the most priceless and irreplaceable possession of the individual, his personality and his free will. Moreover, the definition of torture is intended to provide an objective description of the criminal act so that the States Parties to the Convention can adjust their domestic legislation to the terms of the Convention without any difficulties of a technical nature in order to include the crime and the punishment for it in their penal codes.

Furthermore, the Statement indicates that after an exhaustive analysis of the Inter-American background, the Committee decided to extend the responsibility for the crime of torture beyond public officials, and to include a new element of persons who while not public employees or officials, order, induce or practice torture on other persons. The Committee believed it necessary to include such a provision, as a reaction to incidents that frequently occur in a number of
American countries where persons or groups have tortured others for any reason, causing public disturbances or social unrest.

B. Draft Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad

The meeting of Experts on Private International Law, held April 9-15, 1980, at the OAS Headquarters in Washington, D.C., under the auspices of the Inter-American Juridical Committee and the OAS General Secretariat, prepared a Draft Additional Protocol to the Inter-American Convention on the Taking of Evidence Abroad (hereinafter Draft Protocol) which had been adopted in 1975. Six members of the Juridical Committee were participants at the meeting.

The main objective of the Draft Protocol is to coordinate and harmonize the differences between the Civil Law and the Common Law systems of taking evidence, as practiced in the Western Hemisphere. A good precedent for the work of the Meeting of Experts was the Additional Protocol to the Inter-American Convention on Letters Rogatory of 1975, adopted in Montevideo on May 8, 1979.

The Draft Protocol prepared by the Meeting of Experts contains provisions on the following topics as they related to the taking of evidence: (1) the preparation of letters rogatory; (2) transmission and processing of letters rogatory; (3) costs and expenses for the processing of letters rogatory; and (4) additional procedures for taking evidence.

C. Bases of International Jurisdiction for the Recognition and Enforcement of Foreign Judgments

During the April Meeting of Experts on Private International Law, a draft of bases of international jurisdiction for the recognition and enforcement of foreign judgments was also prepared. This is a topic of special interest in Inter-American legal relations. This document will be considered during the drafting of the anticipated Additional Protocol to the Inter-American Convention on Extraterritorial Validity of Foreign Judgments and Arbitral Awards signed in 1979.

II. ANDEAN GROUP

A. Treaty Establishing the Andean Parliament

On October 25, 1979, the five member countries of the Cartagena Agreement (the so-called Andean Group consisting of Bolivia,
Colombia, Ecuador, Peru and Venezuela) signed a treaty establishing the Andean Parliament, at a meeting held in La Paz, Bolivia. The Andean Parliament was created to be the common deliberative organ of the sub-regional integration process. The Andean Parliament shall consist of representatives from each of the Contracting Parties, to be elected by direct and universal suffrage in accordance with the procedure that the Member States shall adopt by means of an Additional Protocol. Until this Additional Protocol enters into effect, the representatives will be elected by the national legislative bodies of the Contracting Parties from among their members. Each member country will have one representative. The Andean Parliament and the representatives are to act in accordance with the common objectives and interests of the Contracting Parties.

The Andean Parliament will hold one annual session. The site and the duration of the annual session shall be determined at the session of the preceding year, according to a system of rotation with the Member States. When one-third of the Contracting Parties request it, an extraordinary session can be convened to discuss urgent and specific matters.

The representatives shall be elected for a period of two years and they may be reelected. Each representative shall have a first and second alternate, who shall substitute for the representative in cases of temporary or permanent absence. The Andean Parliament shall elect from among its members a President and Vice Presidents. This Parliament is intended to be an international juridical entity with the capacity to act as such.

The objectives of the Andean Parliament are, among others: to assist in promoting and orienting the Andean sub-regional integration process; to foster in the Andean sub-region the development of freedom, social justice and democracy in its broadest participative form; to monitor the respect for human rights throughout the region; to stimulate the development of an Andean communitarian consciousness; to foster the development and integration of the Latin American community; and to contribute to the attainment of international peace and justice. The functions of the Andean Parliament are: to evaluate the progress of the sub-regional integration process by monitoring the annual reports submitted by the pertinent organs of the Andean Group; to maintain cooperative relations with the parliaments of the Contracting Parties and of other countries with respect to the matters provided for in the Treaty; and to propose measures to establish close cooperative relations among the legislative organs of the Contracting
Parties. The Andean Parliament will adopt its recommendations by a two-third vote, and it will approve its own regulations.

The Treaty may not be signed, ratified, or acceded to with reservations. Only Member States of the Cartagena Agreement, or States which become members of it, may be Party to this Treaty. The Treaty shall enter into force thirty days following the ratification by all Member States. The instruments of ratification shall be deposited with the Ministry of Foreign Affairs of Bolivia.

B. Cooperation between the Andean Group and the United States

On November 21, 1979, two memoranda of understanding between the Commission of the Cartagena Agreement (Andean Group) and the United States were signed in Washington, D.C., to foster cooperation in trade, financing, science and technology, and for the development of industry, agriculture and infrastructure. Both parties agreed to establish Special Groups to deal with these matters. The participants in these groups will be members of the Junta of the Cartagena Agreement and government representatives from both parties, all of whom will submit the results of their work to their respective authorities for approval. One of the purposes of these groups will be to keep all members current on changes adopted in the laws, regulations and procedures of both parties as they affect the other party. Both parties have agreed that it is their common objective to sign an agreement on economic cooperation based on the dialogue established during the discussion concerning these groups.

The Special Group for Trade Matters will be responsible for determining the possibilities for a qualitative and quantitative improvement in reciprocal trade relations. The principal subjects to be handled by this group are: the United States' generalized system of preferences; matters associated with multilateral trade negotiations under GATT; measures to improve trade relations between the Andean Group and the United States; and matters concerning commodities.

In the field of science and technology, both sides recognized the importance of beginning to work together on specific activities, taking into account the Program of Action of the Vienna Conference on Science and Technology for Development. At the suggestion of the Commission of the Cartagena Agreement, both parties agreed to explore the possibilities for beginning cooperative activities in the following areas: agriculture and livestock, industrial technology, energy, health, natural resources (e.g. the development of remote sensing technology for use in forests and on soils), and technology concerning
information. Other special groups will deal with the other matters mentioned in the above-mentioned memoranda of understanding.

III. UNITED NATIONS

A. Space Law: Agreement Governing the Activities of States on the Moon and Other Celestial Bodies

The United Nations General Assembly, during its thirty-fourth session, adopted the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (Resolution 34/68, approved on December 25, 1979) (hereinafter Agreement). This Agreement will make an outstanding contribution to Space Law. It represents a completion of work begun in three previously ratified international treaties. These are: the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, of January 27, 1967; the Agreement on the Rescue of Astronauts, the Return of Astronauts, and the Return of Objects Launched into Outer Space, of April 22, 1968; and the Convention on the International Liability for Damage Caused by Space Objects, of March 29, 1972.

The new Agreement contains principles and norms of special significance in the context of Space Law and represents a remarkable legal achievement for the last part of the twentieth century. The provisions of this Agreement shall also apply, according to Article 1, to other celestial bodies within the solar system, other than the Earth, except in so far as special legal norms are adopted to apply to any of these celestial bodies. Also, any reference to the Moon shall also include orbits around or other trajectories to or around it. The Agreement does not apply, however, to extraterrestrial materials which reach the surface of the Earth by natural means.

All activities on the Moon, including its exploration and use, as provided in Article 2, shall be governed by principles in accord with international law, in particular the Charter of the United Nations. Article 3 provides that the Moon shall be used by all States Parties exclusively for peaceful purposes, and any threat or use of force or any other hostile act or threat of hostile act on the Moon is prohibited. It is likewise prohibited to use the Moon in order to commit any act or to engage in any threat directed at the Earth, the Moon, spacecrafts, and the personnel of spacecrafts or man-made space objects. States Parties shall not place in orbit around or in trajectory to or around the Moon, objects carrying nuclear weapons or any other
weapons of mass destruction. The establishment of military bases, installations and fortifications, as well as the testing of any type of weapon and the conduct of military maneuvers on the Moon shall be forbidden. The use of military personnel for scientific research and the use of any equipment or facility necessary for the peaceful exploration and use of the Moon shall not be prohibited.

In accordance with Article 4, the exploration and use of the Moon shall be available to all mankind, and shall be carried out for the benefit and in the interest of all countries, irrespective of their degree of economic or scientific development. States Parties shall be guided by the principle of cooperation and mutual assistance in all their activities concerning the exploration and use of the Moon.

Articles 5 to 9 — here stated in a summary manner — provide that States Parties shall inform the UN Secretary General as well as the public and the international scientific community of any activities related to the exploration and use of the Moon. There shall be freedom of scientific investigation on the Moon by all States Parties in exploring and using the Moon. States Parties shall take measures to prevent the disruption of the existing environmental balance of the Moon and they shall all have an obligation to inform the UN Secretary General of any such measures they may adopt. States Parties may pursue their activities in the exploration and use of the Moon anywhere on or below its surface, subject to the provisions of the present Agreement. For these legitimate purposes, States Parties may land their space objects on the Moon and launch them from the Moon, place their personnel, space vehicles, equipment, facilities, stations and installations anywhere on or below the surface of the Moon. States Parties may also establish manned and unmanned stations on the Moon in such a manner that they do not impede free access to other areas of the Moon as guaranteed by the Treaty.

Article 10 makes specific reference to two other important international instruments dealing with Space, in provisions urging that the States Parties adopt all practicable measures necessary to safeguard the lives and health of persons on the Moon. For this purpose, any person on the Moon will be regarded as an astronaut within the meaning of Article V of the Treaty on Principles governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, and as part of the personnel of a spacecraft within the meaning of the Agreement on the Rescue of Astronauts, the Return of Astronauts and the Return of Objects Launched into Outer Space. In Article 14, reference is made to another Space Law instrument: the Convention on International Liability for Damage Caused by Space Objects.
Fundamental principles and norms are contained in Article 11 which, in its several paragraphs, provides that the Moon and its natural resources are the common heritage of mankind, and that the Moon is not subject to national appropriation by any claim of sovereignty, by means of use or occupation, or by any other means. Neither the surface nor the sub-surface of the Moon, nor any part thereof or natural resources in place, shall become property of any State, international, intergovernmental or non-government organization, national organization or non-governmental entity, or any natural person. Neither will the placement of personnel, space vehicles, equipment, facilities, stations and installations on or below the surface of the Moon create a right of ownership over the surface or the sub-surface of the Moon or any areas thereof.

Article 11 also explains that States Parties have the right to explore and use the Moon without discrimination of any kind, on an equal basis, and in accordance with International Law and the terms of the Agreement. States Parties to this Agreement promise to establish an international regime armed with appropriate procedures, to regulate the exploitation of the natural resources of the Moon. In order to facilitate the establishment of this international régime, States Parties shall inform the Secretary General of the United Nations as well as the public and international scientific community of any natural resources they may discover on the Moon. The main reasons for proposing the establishment of this international régime are to enable: (a) the orderly and safe development of the natural resources of the Moon; (b) the rational management of those resources; (c) the expansion of opportunities in the use of those resources; and (d) an equitable sharing by all States Parties in the benefits derived from these resources.

According to other provisions of the Agreement, Articles 12 through 15, the States Parties shall retain jurisdiction and control over their personnel, vehicles, equipment, facilities, stations and installations on the Moon, and the ownership of such vehicles, equipment, facilities, stations and installations shall not be affected by their presence on the Moon. A State Party which learns of the crash landing, forced landing or other unintended landing on the Moon by a space object, or its component parts, shall promptly inform the launching State Party and the UN Secretary General. States Parties shall bear international responsibility for national activities on the Moon, and for assuring that national activities are carried out in conformity with the provisions as set forth in this Agreement. Each State Party is authorized to assure itself that the activities of other States
Parties in the exploration and use of the Moon are being conducted in accordance with the provisions of this Agreement. To this end, all space vehicles, equipment, facilities, stations and installations on the Moon shall be open to other States Parties. A State Party which has reason to believe that another State Party is not fulfilling the obligations incumbent upon it pursuant to this Agreement, may request consultation with that State Party. If the consultations do not lead to a mutually acceptable settlement that recognizes the rights and interest of all States Parties, the parties concerned shall take all measures to settle the dispute by the peaceful means of their choice.

This Agreement shall be open for signature and ratification or accession by all States at the United Nations Headquarters in New York. The Agreement shall enter into force on the thirtieth day following the date of the deposit of the fifth instrument of ratification.

B. International Convention against the Taking of Hostages

At its thirty-fourth session, the UN General Assembly adopted the International Convention against the Taking of Hostages (Resolution 34/146 of December 17, 1979). In the preamble of this Convention it is recognized that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. It is further asserted that the taking of hostages is an offense of grave concern to the international community, and in accordance with the provisions of this Convention, any person committing an act of hostage-taking shall either be prosecuted or extradited.

Article 1 of this Convention provides that any person who seizes or detains, and threatens to kill, to injure or to continue to detain, another person in order to compel a third party, namely a State, an international intergovernmental organization, a natural or juridical person, or a group of persons, to do or to abstain from doing any act as an explicit or implicit condition for the release of the hostage, commits the offense of taking of hostages (hostage-taking) within the meaning of this Convention. Any person who attempts to commit an act of hostage-taking, or participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking, likewise commits an offense for the purposes of this Convention. Each State Party to the Convention, according to Article 2, shall make the offenses set forth in Article 1, punishable by appropriate penalties which take into account the grave nature of those offenses.
The Convention contains some specific provisions on the question of extradition. Article 8 establishes that the State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. There is no recognized exception to this requirement. Under Article 9, a request for extradition of an alleged offender shall not be granted if the requested State Party has substantial grounds for believing that the request for extradition for an offense set forth in Article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion. Article 10 specifies that the offenses set forth in Article 1 shall be deemed to be included as extraditable offenses in any extradition treaty existing between States Parties to the Convention, and that States Parties undertake to include such offenses as extraditable offenses in every extradition treaty entered into between themselves in the future. If a State Party which has made extradition conditional on the existence of a treaty, receives a request for extradition from another State Party with which it has no extradition treaty, the requested State may at its option consider this Convention as the legal basis for extradition in respect to the offenses set forth in Article 1. Extradition shall be subject to all the conditions as provided by the law of the requested State. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offenses set forth in Article 1 as extraditable offenses between themselves subject to the conditions as provided by the law of the requested State.

Article 4 provides for cooperation among States Parties in the prevention of the offenses as established in Article 1, particularly by: (a) taking all practicable measures to prevent preparations in their respective territories for the commission of those offenses within or outside their territories, including measures to prohibit in their territories illegal activities of persons, groups and organizations that encourage, instigate, organize or engage in the perpetration of acts constituting the taking of hostages; (b) exchanging information and coordinating administrative and other appropriate measures to prevent the commission of those offenses.

The question of jurisdiction is considered in Article 5. This Article provides that each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offenses set forth in Article 1 which are committed: (a) in its territory or on board a ship or aircraft registered in that State; (b) by any of its nationals or,
if that State considers it appropriate, by those stateless persons who
have their habitual residence in its territory; (c) in order to compel
that State to do or abstain from doing any act; or (d) with respect to a
hostage who is a national of that State, if that State considers it ap-
propriate. Each State should likewise establish its jurisdiction over
the offenses referred to in Article 1 of the Convention in cases where
the alleged offender is present in its territory and it does not extra-
dite him to any of the States mentioned in the first part of this Arti-
cle.

According to Article 11, the States Parties should afford each
other the greatest measure of assistance in connection with criminal
proceedings brought with respect to any of the offenses set forth in
Article 1, including the supply of all evidence at their disposal which
is necessary for those criminal proceedings. According to Article 13,
this Convention shall not apply where the offense is committed
within a single State, the hostage and the alleged offender are nation-
als of that State and the alleged offender is found in the territory of
that State. Article 14 states that nothing in this Convention shall be
construed as justifying the violation of the territorial integrity or poli-
tical independence of a State in contravention of the Charter of the
United Nations.

The asylum question is covered in Article 15. The provisions of
this Convention shall not affect the application of the treaties on
asylum in force at the date of the adoption of this Convention, as
between the States which are parties to those treaties. However, a
State Party to this Convention may not invoke those treaties with
respect to another State Party to this Convention which is not a party
to those treaties. This article should be unnecessary because it con-
tains a statement of the obvious, but it could be useful to avoid dif-
ficulties in the interpretation and application of the Convention.

The Convention will be open for signature and ratification, and
for accession by all States. It will enter into force on the thirtieth day,
following the date of deposit of the twenty-second instrument of
ratification or accession, with the Secretary General of the United
Nations. Any State Party may denounce the Convention by written
notification to the said Secretary General.

C. Legal Status of Women: Convention on the Elimination of All
Forms of Discrimination Against Women

The General Assembly of the United Nations, at its thirty-fourth
session, adopted the Convention on the Elimination of All Forms of
Discrimination against Women (A/Res.34/180, approved on December
The preamble of the Convention contains fifteen paragraphs which note that because the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women, the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal right of men and women to enjoy all economic, social, cultural, civil and political rights. The international conventions concluded under the auspices of the United Nations and the specialized agencies, as well as the resolutions, declarations and recommendations adopted by the United Nations and the specialized agencies promoting equality of rights for men and women, have not stopped the extensive discrimination against women they universally condemned.

The Convention contains twenty-four articles of a substantive nature, with the final clauses concerning signature, ratification, and entry into force. Following is a summary of some provisions of this Convention.

For the purposes of this Convention, the term "discrimination against women" means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality with men, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

States Parties to this Convention condemn discrimination against women in all its forms and agree to pursue by all appropriate means and without delay a policy of eliminating that discrimination against women. To this end, they will take the following measures, among others, to embody the principles of equality between men and women in their national constitutions or with any other appropriate legislation if not yet incorporated therein. The States Parties will also ensure, through law and other appropriate means, the practical realization of this principle. The States Parties further promise to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women. They also promise to guarantee the legal protection of the rights of women on an equal basis with the rights of men, and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination. Other appropriate measures which were taken include legislation which will modify or abolish existing laws, regulations, customs and practices which consti-
tute discrimination against women, and a promise to repeal all national penal provisions which constitute such discrimination.

The Convention also provides that the States Parties shall take all appropriate measures to modify the social and cultural patterns of conduct of both men and women, with a view towards achieving the elimination of prejudices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes. The States Parties must also ensure that family education includes a proper understanding of maternity as a social function as well as recognition of the common responsibility shared by men and women in the upbringing and development of their children. Every State Party to the Convention should take appropriate measures, including legislation, to suppress all forms of traffic in and concerning the exploitation of women, to eliminate discrimination against women in the political and public life of the country, and in particular, to ensure women the right to vote in all elections and to be eligible for election to all publicly elected bodies. Measures should also be exercised to allow women to participate in the formulation of government policy and the implementation thereof, and to hold public office and perform all public functions at all levels of government, and to participate in non-governmental organizations and associations concerned with public and political life of the country on an equal term with men.

Furthermore, the States Parties to the Convention should ensure to women, on equal terms with men and without discrimination, the opportunity to represent their governments at the international level and to participate in the work of international organizations. They should grant women equal rights with men to acquire, change or retain their nationality.

In the field of education, the same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas must be insured by the appropriate actions of national governments. Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard, and school premises and equipment of the same quality, the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education, the same opportunities to benefit from scholarships and other study grants, for access to programs of continuing education and to participate in sports and physical education are intended to result from those States Parties following the spirit of the Convention.
The States Parties to the Convention should also take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure that the same rights are available to men and women equally. These measures would include activity in the following areas: the right to work as an inalienable right of all human beings; the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment, free choice of profession and employment; to promotion, job security and all benefits and conditions of service; to receive vocational training, equal remuneration, social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age as well as the right to paid leave; protection of health; and to safe working conditions.

States Parties to the Convention should take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in non-monetary sectors of the economy. They should take all adequate measures to ensure the application of the provisions of this Convention to women in rural areas. Women in rural areas must be ensured participation in and benefit from rural development, including the right to participate in the elaboration and implementation of development planning at all levels. They must have access to adequate health care facilities, benefit directly from social security programs, and be able to obtain all types of training and education, formal and informal. Their educational training should relate to functional literacy as well as to the benefit of the entire community and extension services, in order to increase their technical proficiency. They need to participate in all community activities, have access to agricultural credit and loans, marketing facilities, appropriate technology and be accorded equal treatment in land and agrarian reform proposals as well as receiving equal consideration in land settlement schemes, and enjoyment of adequate living conditions.

States Parties to the Convention should also accord to women equality with men before the law. This would include according to women a legal capacity identical to that of men and the same opportunities to exercise that capacity in civil matters; the same rights with regard to the law relating to the movement of persons along with the freedom to choose their residence and domicile; and the elimination of discrimination against women in all matters relating to marriage and family relations. Women should be ensured of the same rights as men to enter into marriage only by their free and full consent, and be
accorded the same rights and responsibilities during marriage and at its dissolution.

The Convention establishes the Committee on the Elimination of Discrimination against Women consisting at the time of entry into force of the Convention, of eighteen experts of high moral standing and competence in the field covered by the Convention. After the Convention has been ratified by thirty-five States, the Committee will consist of twenty-three experts. The experts shall be nominated by States Parties from among their nationals and serve in a personal capacity. The members of the Committee shall be elected by secret ballot from a list of persons presented by the States Parties. The election of the members of the Committee shall be held at a meeting of States Parties to be convened by the Secretary General of the United Nations at the United Nations Headquarters. The members of the Committee shall be elected for a term of four years. The only exception to that provision being that the terms of nine of the members elected at the first election shall expire at the end of two years. Their names shall be chosen by lot, immediately after the first election.

The Committee shall, through the Economic and Social Council of the United Nations, report annually to the U.N. General Assembly on its activities. It will have the capacity to make suggestions and general recommendations based on the examination of reports and information received from the States Parties.

The Convention is open for signature and ratification by all States. The Convention shall enter into force thirty days after the deposit with the U.N. Secretary General of the twentieth instrument of ratification or accession.

Any dispute between two or more States Parties concerning the interpretation or application of the Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of request for arbitration the parties are unable to agree on the organization of the arbitration, anyone of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

D. Nuclear Law: Convention on the Physical Protection of Nuclear Material

On October 26, 1979, a Convention on the Physical Protection of Nuclear Material was approved in Vienna by a Meeting of Governmental Representatives convened by the International Atomic
Energy Agency. In the field of Nuclear Law the adoption of this Convention constitutes one of the outstanding international achievements for the physical protection of nuclear material. This Convention should come into force soon and be ratified by a very large number of states.

The first seventeen articles of this Convention deal with substantive matters. Six other articles contain provisions of a procedural nature, such as signature, approval, ratification, accession, and entry into force. The following is a summary of the provisions of this Convention.

Three definitions are provided for purposes of interpreting this Convention. In Article 1: (a) “nuclear material” means plutonium except when the isotope concentration exceeds 80% in plutonium-238; uranium-233; uranium enriched in the isotopes 235 or 233; uranium containing the mixture of isotopes as occurs in nature in other than the form of ore or ore-residue; or any material containing one or more of the foregoing; (b) “uranium enriched in the isotope 235 or 233” means uranium containing the isotopes 235 or 233 or both in an amount such that the abundance ratio of the sum of these isotopes to the isotope 238 is greater than the ratio of the isotope 235 to the isotope 238 occurring in nature; (c) “international nuclear transport” means the carriage of a consignment of nuclear material by any means of transportation intended to go beyond the territory of the State where the shipment originates beginning with the departure from a facility of the shipper in the sending State and ending with the arrival at a facility of the receiver within the State of ultimate destination.

In accordance with Article 2, this Convention shall apply to nuclear material used for peaceful purposes while in international nuclear transport. With the exception of Articles 3 and 4, and paragraph 3 of Article 5, this Convention shall also apply to nuclear material used for peaceful purposes while in domestic use, storage and transport. Apart from the commitments expressly undertaken by States Parties in these articles with respect to nuclear material used for peaceful purposes while in domestic use, storage and transport, nothing in this Convention shall be interpreted as affecting the sovereign rights of a State regarding the domestic use, storage and transport of such material.

As provided for in Articles 3 and 4 of this Convention, each State Party shall take appropriate steps within the framework of its national law and consistent with international law to ensure as far as practicable that during international nuclear transport, or the transport of
nuclear material within its territory over land or on board ship or aircraft within its jurisdiction that the nuclear material is to be protected at the levels described in Annex I of this Convention. No State Party shall export or authorize the export of nuclear material unless the State Party has received assurances that such material will be protected during the international nuclear transport at the levels described in Annex I to the Convention. No State Party shall import or authorize the import of nuclear material from a State not a party to this Convention unless the State Party has received assurances that such material will be protected at the levels described in Annex I to this Convention during its international nuclear transport. No State Party shall allow the transit, by way of land or internal waterways or through airports or seaports, of nuclear material between States that are not parties to this Convention, unless the State Party has received assurances that as far as practicable this nuclear material will be protected during international nuclear transport at the levels described in Annex I to this Convention. Under paragraph 3 of Article 5, States Parties may cooperate and consult with each other directly or through international organizations, with a view towards obtaining guidance on the design, maintenance and improvement of systems intended for the physical protection of nuclear material in international transport.

The Convention also provides that States Parties identify and make known to each other, directly or through the International Atomic Energy Agency, their central authority and point of contact with responsibility for the physical protection of nuclear material. These central authorities would be responsible for coordinating recovery and response operations in the event of any unauthorized removal, use or alteration of nuclear material or in the event of credible threat thereof. In the case of theft, robbery or any other unlawful taking of nuclear material or of credible threat thereof, the States Parties shall, in accordance with their national law, provide cooperation and assistance to the maximum extent feasible to aid in the recovery and protection of such material to any State that requests it. In particular: (a) a State Party should take appropriate steps to inform other States as soon as possible when it learns of any theft, robbery or other unlawful taking of nuclear material or credible threat thereof, and may inform international organizations; and (b) the States Parties concerned may exchange information with each other or international organizations in order to protect threatened nuclear material, verify the integrity of the shipping container, or recover unlawfully taken nuclear material, and shall: (i) coordinate their efforts through diplomatic and other agreed channels; (ii) render assistance, if requested;
and (iii) ensure the return of nuclear material stolen or missing as a consequence of these events. The means of implementing this cooperation shall be determined by the States Parties concerned.

States Parties shall take appropriate measures consistent with their national law to protect the confidentiality of any information which they receive in confidence, by virtue of the provisions of this Convention, from another State Party or through participation in an activity carried out for the implementation of this Convention. States Parties shall not be required by this Convention to provide any information which they are not permitted to communicate pursuant to national law or which would jeopardize the security of the State concerned or the physical protection of nuclear material.

The Convention enumerates the following acts which shall be made punishable offenses by each State Party under its national law: (a) an act without lawful authority which constitutes the receipt, possession, use, transfer, alteration, or dispersal of nuclear material and which causes or is likely to cause death or serious injury to any person or substantial damage to property; (b) a theft or robbery of nuclear material; (c) an embezzlement or fraudulent obtaining of nuclear material; (d) an act constituting a demand for nuclear material by threat or use of force or by any other form of intimidation; (e) a threat: (i) to use nuclear material to cause death or serious injury to any person or substantial property damage, or (ii) to commit an offense to compel a natural or legal person, international organization or State to do or to refrain from doing any act; (f) an attempt to commit any of the offenses described above; (g) an act which constitutes participation in any of these offenses. Each State Party shall make these offenses punishable by appropriate penalties which take into account their grave nature.

Each State Party shall take such measures as may be necessary to establish its jurisdiction over the above-mentioned offenses in the following cases: (a) when the offense is committed within the territory of that State or on board a ship or aircraft registered in that State; (b) when the alleged offender is a national of that State. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over these offenses in cases where the alleged offender is present in its territory and does not extradite him. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law. The State Party in whose territory the alleged offender is present shall, if it does not extradite him, submit, without exception whatsoever and without delay, the case to its competent
authorities for the purpose of prosecution. The proceedings are to be conducted in accordance with the law of that State.

The above-mentioned offenses shall be deemed to be included as extraditable offenses in any extradition treaty between States Parties. States Parties undertake to include those offenses as extraditable offenses in every future extradition treaty to be concluded between them. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may at its option consider this Convention as the legal basis for extradition in respect to those offenses. Extradition shall be subject to the other conditions provided for by the law of the requested State. States Parties which do not make extradition conditional on the existence of a treaty shall recognize those offenses as extraditable offenses between themselves, subject to the conditions provided for by the law of the requested State. Each of the above-mentioned offenses shall be treated, for the purpose of extradition between States Parties, as if it had been committed not only in the place in which it occurred but also in the territories of the States Parties required to establish their jurisdiction in accordance with the pertinent provisions of this Convention.

States Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect to the above-mentioned offenses, including the supply of any evidence at their disposal necessary for the proceedings. Each State Party shall inform the depositary of its laws and regulations which give effect to this Convention. The depositary shall periodically communicate this information to all the States Parties. The State Party where an alleged offender is prosecuted, whenever practicable, shall first communicate the final outcome of the proceedings to the States directly concerned. The State Party shall also communicate the final outcome to the depositary who shall inform all States.

A conference of States Parties to the Convention shall be convened by the depositary five years after the entry into force of this Convention to review the implementation of the Convention and its adequacy. Without prejudice to this provision, a State Party may propose amendments to this Convention. The proposed amendments shall be submitted to the depositary who shall circulate them immediately to all States Parties. If a majority of States Parties request the depositary to convene a conference to consider the proposed amendment, the depositary shall invite all States Parties to attend such a conference to begin not sooner than thirty days after the invitations are issued. Any amendment which is adopted shall enter into
force for each State Party that deposits its instrument of ratification, acceptance or approval of the amendment on the thirtieth day after the date on which two thirds of the States Parties have deposited their instruments of ratification, acceptance or approval with the depositary.

In the event of a dispute between two or more States Parties concerning the interpretation or application of this Convention, they would be encouraged to attempt to reach a settlement of the dispute by negotiation, or by any other peaceful means. Any dispute of this nature which cannot be settled by peaceful means, at the request of any party to such dispute, shall be submitted to arbitration or referred to the International Court of Justice for a decision.

This Convention shall be open for signature by all States at the Headquarters of the International Atomic Energy Agency in Vienna and at the Headquarters of the United Nations in New York from March 3, 1980, until its entry into force. The Convention is subject to ratification, acceptance or approval by the signatory States. After its entry into force, this Convention will be open for accession by all States. This Convention shall also be open for signature or accession by international organizations and regional organizations that are the result of any integration policy, provided that any such organization is constituted by sovereign States and has competence to conduct the negotiation, conclusion and application of international agreements in matters covered by this Convention.

The instruments of ratification, acceptance, approval or accession shall be deposited with the depositary. The Convention shall enter into force on the thirtieth day following the date of deposit of the twenty-first instrument of ratification, acceptance or approval with the depositary. Any State Party may denounce this Convention by written notification to the depositary.

E. Economic Commission for Europe: Convention on Long-Range Transboundary Air Pollution

This Convention was adopted by the Economic Commission for Europe on November 13, 1979. For the purposes of the Convention, "air pollution" means the introduction by man, directly or indirectly, of substances or energy into the air resulting in deleterious effects of such a nature as to endanger human health, harm living resources and ecosystems and material property, and impair or interfere with amenities and other legitimate uses of the environment. "Air pollutants" would be the active agents of this process. "Long-range trans-
boundary air pollution" means air pollution whose physical origin is situated wholly or in part within the area under the national jurisdiction of one State, and which has adverse effects in the area under jurisdiction of another State at such a distance that it is not generally possible to distinguish the contribution of individual emission sources or groups of sources.

The Contracting Parties, according to fundamental principles of this Convention, taking into account the facts and problems involved, are determined to protect man and his environment against air pollution and shall endeavour to limit, and as far as possible, gradually reduce and prevent air pollution including long-range transboundary air pollution. Within the framework of the present Convention, the Contracting Parties shall by exchanging information, consultation, research and monitoring, develop without undue delay, policies and strategies which can serve as a means of combating the discharge of air pollutants, taking into account efforts already made at national and international levels.

In the field of air quality management, each Contracting Party will undertake to develop the best policies and strategies compatible with balanced development, and use the best available technology which is economically feasible. Ongoing research, the exchange of information, monitoring, and the cost and effectiveness of local and other remedies will be taken into account in the development of policy.

The Convention also provides for activities in research and development. The Contracting Parties, as appropriate to their needs, shall initiate and cooperate in the conduct of research into and/or development of existing and proposed technologies for reducing emissions of sulphur compounds and other major air pollutants. The scope of the cooperation should include the development of technical and economic feasibility with an understanding of the environmental consequences; instrumentation and other techniques for monitoring and measuring emission rates and ambient concentrations of air pollutants; improved models for a better understanding of the transmission of long-range transboundary air pollutants; the effects of sulphur compounds and other major air pollutants on human health and the environment, including agriculture, forestry, materials, aquatic, and other natural ecosystems; education and training programs related to the environmental aspects of pollution by sulphur compounds and other major air pollutants. Some provisions of the Convention deal with exchange of information and the implementation and further de-
development of a cooperative program for the monitoring and evaluation of the long-range transmission of air pollutants in Europe.

The Executive Body of the Convention consists of the representatives of the Contracting Parties, within the framework of the Senior Advisers to ECE Governments on Environmental Problems. The Executive Body shall review the implementation of the Convention and establish, as appropriate, working groups to consider matters related to the implementation and development of the present Convention. These working groups will prepare studies and other documentation, and submit recommendations to be considered by the Executive Body. The Executive Secretary of the Economic Commission for Europe shall carry out, for the Executive Body, several secretarial functions.

The Convention shall be open for signature and ratification or accession at the United Nations Office at Geneva by the member States of the Economic Commission for Europe, as well as States having consultative status with the said Commission, and by regional economic integration organizations comprising sovereign States members of the Economic Commission for Europe, which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by the present Convention. The Convention shall enter into force on the ninetieth day after the date of deposit of the twenty-fourth instrument of ratification, acceptance, approval or accession.

IV. COUNCIL OF EUROPE

A. Draft Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data

This Draft Convention was prepared by a Working Party of the European Committee of Juridical Cooperation of the Council of Europe, over a period of about four years. The latest draft is dated January 10, 1980. It is being considered by the full Committee at present and will eventually be submitted to the Committee of Ministers of the Council of Europe for the final decision.

The Draft Convention concerned itself with a matter of extraordinary importance: the "dictatorship of the computer". The right to privacy with regard to automatic processing of personal data must be safeguarded by appropriate rulemaking on an international as well as a national level.
The Draft adopts the following definitions for the purposes of the Convention: (a) "personal data" means any information relating to an identified or identifiable individual ("data subject"); (b) "automated data file" means any set of data undergoing automatic processing; (c) "automatic processing" is an umbrella term that encompasses the following operations: storage of data, carrying out of logical and/or arithmetical operations on those data, their alteration, erasure, retrieval or dissemination; (d) "controller of the file" means the natural or legal person, public authority, agency or any other body which is competent to decide what should be the purpose of the automated data file, and to decide which categories of personal data should be recorded and which processes should be applied to them.

The Draft Convention provides, inter alia, that each Contracting Party shall take the necessary measures in its domestic law to give effect to the basic principles enumerated for data protection. These measures should be undertaken no later than by the time this Convention enters into force with respect to that Party. Personal data undergoing automatic processing shall be: (a) obtained and processed fairly and lawfully; (b) stored for specific and legitimate purposes and not used in a way incompatible with those purposes; (c) adequate, relevant and not excessive in relation to the purposes for which it is maintained; (d) accurate and, where necessary, kept up-to-date; (e) preserved in a form which permits indentification of the data subjects for no longer than is required for the legitimate purpose for which that data is maintained.

Personal data revealing religious or political opinions, or racial origins as well as personal data relating to criminal convictions may not be processed automatically unless domestic law provides appropriate safeguards. Adequate security measures should be taken for the protection of personal data recorded in automated data files against accidental or unauthorized destruction or accidental loss as well as against unauthorized access, alteration or dissemination.

Every person shall be permitted to know of the existence and the main purposes of an automated personal data file, as well as the identity and habitual residence of the controller of the file. They should be able to obtain, at reasonable intervals, confirmation of whether any personal data relating to themselves are stored in the automated data file, and to obtain rectification or erasure of such data which gets processed contrary to the provisions of domestic law. Exceptions to the above-mentioned rules can be made if safeguards are provided by the law of the Contracting Party, and can be shown to be a measure necessary for a democratic society to pursue in the in-
terests of protecting State security, public safety, the fiscal interests of the State or preventing criminal acts or protecting the data subject, or the rights and freedoms of others. The Contracting Parties should establish appropriate sanctions and remedies for violations of provisions of domestic law giving effect to the basic principles for data protection established by this Convention.

The following provisions shall apply to the transfer of personal data across national borders by any means in order to be automatically processed. A Contracting Party shall not, for the sole purpose of the protection of privacy, prohibit or subject to special authorization, transborder flows of personal data going to the territory of another Contracting Party, unless its legislation exempts certain categories of personal data from automated personal data files because of the special nature of that data or those files. Data which is transferred from the territory of a Contracting Party to the territory of a non-Contracting Party through the intermediary of the territory of another Contracting Party is not to be authorized if it results in the circumvention of the privacy legislation of the sending party. Other provisions of the Draft Convention refer to mutual assistance; cooperation between the Contracting Parties, assistance to data subjects who habitually reside abroad, safeguards concerning assistance rendered by designated authorities, refusal of requests of assistance, procedure and costs of assistance.

The creation of a Consultative Committee is provided for in the Draft Convention. It shall be set up during the year following the entry into force of the Convention. Each Contracting Party shall appoint a representative to the Committee and a deputy representative. Any member of the Council of Europe which is not a Contracting Party to the Convention will have the right to be represented on the Committee by an observer.

The functions of the Consultative Committee would be to make proposals with a view to facilitating or improving the application of the Convention; to make proposals for amendments to the Convention; to examine and formulate its opinion on any proposal offered as an amendment to the Convention; to express advisory opinions on any question concerning the application of the Convention principles, at the request of a Contracting Party.

The Draft Explanatory Report on the Draft Convention states that the object of the Convention is to strengthen data protection, that is, the legal protection of individuals with regard to the automatic processing of personal information relating to them. The Report further states that, "there is a need for such legal rules in view of the
increasing use made of computers for administrative purposes. Compared with manual files, automated files have a vastly superior storage capability and offer possibilities for a much wider variety of transactions, which they can perform at high speed.” It is stressed also that “information power” brings with it a corresponding social responsibility on the part of the data users in the private and public sector. In modern society, many decisions affecting individuals are based on information stored in computerized data files. It is essential that those responsible for these files should make sure that the undeniable advantages they can obtain from automatic data processing do not at the same time lead to a weakening of the position of the persons on whom data are stored. For this reason, they should maintain the good quality of the information in their care, refrain from storing information which is not necessary for the given purpose, guard against unauthorized disclosure or misuse of the information, and protect the data, hardware and software against physical hazards.

On the need for an international agreement, the Draft Explanatory Report indicates that,

even between States which have a very similar system of data protection law problems arise both with regard to the law itself and its practical application. When automatic processing of personal data involves parties in different countries, it may not always be easy to determine which State has jurisdiction and which national law applies.... Furthermore, persons resident in one country may encounter difficulties when they want to exercise their rights with regard to automated data files in other countries. Also, this kind of problem can only be satisfactorily solved through international cooperation. More generally, having regard to the rapid evolution of information handling techniques and the development of international data traffic, it is desirable to create mechanisms at the international level which enable States to keep each other informed and to consult each other on matters of data protection.

In the chapter concerning transborder data flows, the Draft Explanatory Report stresses that specifying the scope of transborder data flows has been so worded as to take into account the wide variety of factors determining the way in which data are transferred; the mode of representation of the data (plain text, encoded text); their storage medium (paper, punched card, punched tape, magnetic tape, disk, etc.); way of transport (physical transport, mail, circuit-switches or packet-switched telecommunications link); interface (computer to terminal, computer to computer, manual to computer, etc.); the circuit followed (direct from country of origin to country of destination,
or via one or more countries of transit); the relations between the sender and recipient (within one organization or different organizations).

V. PROTECTION OF THE ENVIRONMENT

A. Convention of the Conservation of Migratory Species of Wild Animals

This Convention was signed at the Conference to Conclude a Convention on the Conservation of Migratory Species of Wild Animals, held at Bonn in June 1979. The Conference met in accordance with Recommendation No. 32 of the Action Plan adopted by the United Nations Conference on the Human Environment which took place in Stockholm in 1972. In 1979 Conference was convened by the Government of the Federal Republic of Germany and about sixty-five States were represented among which there were the representatives of thirteen American countries.

The preamble of the Convention states that wild animals in their innumerable forms are an irreplaceable part of the earth's natural system which must be conserved for the good of mankind. Each generation of man holds the resources of the earth for future generations, and has an obligation to ensure that this legacy is conserved and used wisely when used at all. Special concern is expressed in the preamble for those species of wild animals that migrate across or outside national jurisdictional boundaries. It is recognized that the States are and must be the protectors of the migratory species of wild animals that live or pass through their national jurisdictional boundaries, and that conservation and effective management of migratory species of wild animals require the concerted action of all States within the national jurisdictional boundaries of which such species spend any part of their life cycle.

Article 1 of the Convention contains a series of definitions for the purposes of the Convention. For example, "migratory species" means the entire population of any geographically separate part of the population of any species or lower taxon of wild animals, a significant proportion of whose members cyclically and predictably cross one or more national jurisdictional boundaries. "Conservation status of a migratory species" means the sum of the influences acting on the migratory species that may affect its long-term distribution and abundance. "Endangered" in relation to a particular migratory species
means that the migratory species is in danger of extinction throughout all or a significant portion of its range. "Range" means all the areas of land or water that a migratory species inhabits, stays in temporarily, crosses or overflies at any time on its normal migration route. "Habitat" means any area in the range of a migratory species which contains suitable living conditions for that species. "Taking" means the taking, hunting, fishing, capturing, harassing, and deliberate killing of, or the attempt to engage in such conduct with migratory species. "Agreement" means an international agreement relating to the conservation of one or more migratory species. "Party" means a State or any regional economic integration organization consisting of sovereign States which have competence in respect of the negotiation, conclusion and application of international agreements in matters covered by this Convention for which the Convention is in force.

Article II of the Convention establishes its fundamental principles. The Parties acknowledge the importance of migratory species being conserved, and of Range States agreeing to take action to this end whenever possible and appropriate. Special attention must be paid to migratory species, the conservation status of which is unfavourable, and the steps necessary to conserve such species and their habitat must be taken either individually or in cooperation with each other. The Parties acknowledge the need to take action to avoid the endangering of any migratory species, in particular, the Parties: (a) should promote and cooperate in support research relating to migratory species; (b) should endeavor to provide immediate protection for migratory species included in Appendix I of the Convention; (c) should endeavor to conclude agreements covering the conservation and management of migratory species included in Appendix II to the Convention.

Article III states with regard to endangered migratory species, that Appendix I shall list all the migratory species which are endangered. A migratory species may be listed in Appendix I provided that reliable evidence, including the best scientific evidence available, indicates that the species is endangered. Such species may be removed from Appendix I when the Conference of the Parties determines by reliable evidence that the species is no longer endangered, and the species is not likely to become endangered again because of loss of protection due to its removal from Appendix I. Parties that are Range States of a migratory species listed in Appendix I shall only permit the taking of animals belonging to such species if the taking is for scientific purposes, the taking is for the purpose of enhancing the
propagation or survival of the affected species, or extraordinary circumstances.

Migratory species to be subject to special agreements are treated in Article IV of the Convention. This article indicates that Appendix II shall list those migratory species which have an unfavourable conservation status and which require international agreements to ensure their conservation and management, and those which also have a conservation status which would significantly benefit from the international cooperation achieved by an international agreement. Parties that are Range States of migratory species listed in Appendix II shall endeavor to conclude agreements between themselves where they can benefit the species, and give priority to those species in an unfavourable conservation status.

Article V contains the guidelines for the suggested agreements. The object of each agreement shall be to restore the migratory species concerned to a favourable conservation status or to maintain it in such a status. Each agreement should cover the whole range of migratory species concerned and should be open to accession to all Range States of that species. Each agreement should: (a) identify the migratory species covered; (b) describe the range and migration route of the migratory species; (c) provide for each Party to designate its national authority concerned with the implementation of the agreement; (d) establish, any machinery necessary to assist in carrying out the aims of the agreement, to monitor its effectiveness, and to prepare reports for the Conference of the Parties; and (e) provide procedures for the settlement of disputes between Parties to the agreement.

Where appropriate and feasible, each agreement should also provide the following: periodic review of the conservation status of the migratory species concerned, coupled with the identification of the factors which may be harmful to that status; coordinated conservation and management plans; research into the ecology and the population dynamics of the migratory species concerned; the exchange of information on the migratory species concerned; conservation and restoration of the habitats of importance in maintaining a favourable conservation status; elimination of, to the maximum extent possible, or compensation for activities and obstacles which hinder or impede migration; measures based on sound ecological principles to control and manage the taking of the migratory species; procedures for coordinating action to suppress illegal takings; making the general public aware of the contents and aims of the agreements.
B. Conference of the Parties

As provided in Article VII, the Conference of the Parties shall be the decision-making organ of the Convention. The Secretariat is to call a meeting of the Conference of the Parties no later than two years after the entry into force of this Convention. The Conference of the Parties shall establish and keep under review the financial regulations of this Convention. At each of its ordinary meetings, the Conference shall adopt the budget for the next financial period. Furthermore, at each of its meetings the Conference of the Parties shall review the implementation of this Convention and may in particular review and assess the conservation status of migratory species, especially those listed in Appendices I and II. The Conference of the Parties may also make recommendations to the Parties for improving the conservation status of migratory species and also, to review the progress being made under agreements, and to make recommendations to the Parties for improving the effectiveness of this Convention.

C. Scientific Council

At its first meeting, according to Article VIII of the Convention, the Conference of the Parties shall establish a Scientific Council to provide advice on scientific matters. Any Party may appoint a qualified expert as a member of the Scientific Council. In addition, the Scientific Council shall include as members, qualified experts selected and appointed by the Conference of the Parties. The number of experts, the criteria for their selection, and the terms of their appointment shall be determined by the Conference of the Parties. The Scientific Council shall meet at the request of the Secretariat as required by the Conference of the Parties.

The Conference of the Parties shall determine the functions of the Scientific Council. Some functions could be: to provide scientific advice to the Conference of the Parties, to the Secretariat, and, if approved by the Conference of the Parties, to any body set up under this Convention or to any agreement or to any Party; to recommend research and the coordination of research on migratory species; to evaluate the results of this research in order to ascertain the conservation status of migratory species; to report to the Conference of the Parties on such status as determined and measures for its improvement; and to make recommendations to the Conference of the Parties as to the migratory species to be included in Appendices I or II, as well as on specific conservation and management measures to be in-
cluded in agreements on migratory species adopted by the Range States.

D. Secretariat

For the purposes of this Convention, a Secretariat shall be established, as determined in Article IX.

E. Settlement of Disputes

Article XIII of the Convention provides that any dispute which may arise between two or more Parties with respect to the interpretation or application of the provisions of this Convention shall be subject to negotiation between the Parties involved in the dispute. If the dispute cannot be resolved, the Parties may, by mutual consent, submit the dispute to arbitration. The Permanent Court of Arbitration at The Hague would hear the case, and the Parties submitting the dispute would be bound by the arbitral decision.

F. Signature, Ratification, Accession, Entry into Force

The Convention shall be open for signature and accession to all States and any regional economic integration organization. The Convention is subject to ratification, acceptance or approval, and the respective instruments shall be deposited with the Government of the Federal Republic of Germany, which shall be the Depositary. The Convention shall enter into force on the first day of the third month following the date of deposit of the fifteenth instrument of ratification, acceptance, approval or accession with the Depositary.