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ASIAN-AFRICAN LEGAL CONSULTATIVE ORGANIZATION



ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

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LIST OF ABBREVIATIONS

AALCO	Asian-African Legal Consultative Organization
ABS	Access and Benefit Sharing (relevant to CBD)
AIA	Advanced Informed Agreement (relevant to CBD)
BCH	Biosafety Clearing House (relevant to CBD)
CBD	Convention on Biological Diversity
CBDR	(Principle of) Common But Differentiated Responsibility
CDM	Clean Development Mechanism (relevant to UNFCCC)
CHM	Clearing House Mechanism (relevant to CBD)
COP	Conference of Parties
CRIC	Committee to Review the Implementation of the United Nations Convention to Combat Desertification
CSD	Commission on Sustainable Development
CST	Committee on Science and Technology (of UNCCD)
EU	European Union
FAO	Food and Agriculture Organization
G-77	Group of 77
GEF	Global Environment Facility
GHG	Green House Gases (relevant to UNFCCC)
GM	Global Mechanism (relevant to UNCCD)
GPSC	Global Strategy for Plant Conservation (relevant to CBD)
GTI	Global Taxonomy Initiative (relevant to CBD)
IAS	Invasive Alien Species (relevant to CBD)
ICCP	Intergovernmental Committee for the Cartagena Protocol on Biosafety
IFAD	International Fund for Agriculture Development
IMO	International Maritime Organization
IPR	Intellectual Property Rights
LDC	Least Developed Countries
LMMC	Group of Like-Minded Megadiverse Countries (relevant to CBD)
LMO	Living Modified Organisms (relevant to CBD)
LULUCF	Land Use, Land Use Change and Forestry (relevant to UNFCCC)
MCPA	Marine Coastal Protected Area (relevant to CBD)
MDG	Millennium Development Goal
MEA	Multilateral Environmental Agreement
NAP	National Action Plan (relevant to UNCCD)
NAPA	National Adaptation Programme of Action (relevant to UNFCCC)
NBSAP	National Biodiversity Strategic Action Plan (relevant to CBD)
PA	Protected Areas (relevant to CBD)
PIC	Prior-Informed Consent
SBI	Subsidiary Body on Implementation (of UNFCCC)
SBSTA	Subsidiary Body on Scientific and Technological Advice (of UNFCCC)
SBSTTA	Subsidiary Body for Scientific, Technical and Technological Advice (of CBD)

SIDS	Small Island Developing States
UNCCD	United Nations Convention to Combat Desertification
UNCED	United Nations Conference on Environment and Development (or the Earth or Rio Summit)
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNFF	United Nations Forum on Forests
UNGA	United Nations General Assembly
WIPO	World Intellectual Property Organization
WSSD	World Summit on Sustainable Development (or the Johannesburg Summit)
WTO	World Trade Organization

ENVIRONMENT AND SUSTAINABLE DEVELOPMENT

BACKGROUND

1. One of the hallmarks of AALCO's Annual Session is the convening of a one-day Special Meeting on a topic of contemporary relevance and of interest to the Member States. These meetings are generally convened in association with the Inter-governmental Organizations, having distinctive interest in the topic and the host Government. Presentation on themes by subject experts is made which is followed by a lively exchange of ideas among the delegations of Member States and the Subject experts.

2. AALCO has been following the developments on environment and sustainable development issues for over thirty years now. The year 2005 marks the culmination of thirty years of its work on Environmental Law issues by the Asian-African Legal Consultative Organization. The Organization has in the last three decades, in its unique and original way—through deliberations at its Annual Sessions, supported by a Secretariat Background Study on the topic—worked towards promoting awareness of the global regime for environment protection. It is customary for AALCO, to devote one-day of its Annual Session to a Special Meeting for a topic on which there is a significant interest of the AALCO Member States. Thus, environmental matters find an important place in AALCO's work programme as this is the Third Special Meeting being organized by AALCO on Environment and Sustainable Development. The last such meeting was held in conjunction with the Thirty-Eighth Session of the Organization (Accra, Ghana, 1999) on "Effective Means of Implementation, Enforcement and Dispute Settlement in International Environmental Law". Prior to that at the Thirty-First Session of the Organization that took place at Islamabad in 1992 a Special Meeting on "Preparation of the United Nations Conference on Environment and Development" was organized.

4. It is a matter of pride for AALCO Member States that Her Excellency Prof. Ms. Wangari Maathai, Deputy Minister of Environment, Government of Kenya is the recipient of Noble Peace Prize for the year 2004. Prof. Maathai is the first woman from Africa to be honoured with the Nobel Peace Prize for her great achievement in spreading the "Greenbelt Movement". Prof. Maathai founded the Green Belt Movement, which in a period of thirty years has mobilized poor women to plant 30 million trees. Through education, family planning, nutrition and fight against corruption, the Green Belt Movement has paved the way for development at a grass root level. She represents an example and a source of inspiration for everyone fighting for sustainable development, democracy and peace. In her acceptance speech she commended the Norwegian Nobel Committee for placing the "critical issue of environment and its linkage to democracy and peace before the world. For their visionary action, I am profoundly grateful. Recognizing that sustainable development, democracy and peace are indivisible is an idea whose time has come." It is expected that Prof. Maathai would deliver the Keynote Address at the forthcoming Special Day Meeting, being organized in conjunction with the Forty-Fourth Session of the AALCO.

5. Accordingly, the present Secretariat Report is divided into two parts. *Part I* contains an overview of the themes identified for deliberations, by subject experts, during the course of the Special Day Meeting, in different Sessions, namely: Session I: Sustainable Development, the Role of Law, Human Rights and Environmental Justice; Session II: Compliance with and Enforcement of Environmental Law; and Session III: Entry into force of Kyoto Protocol: Problems and Prospects. This part seeks to provide an overview of the topics for discussion and has been prepared with the objective of facilitating deliberations in the Special Day Meeting. *Part II* of the Report is prepared in pursuance of the mandate entrusted vide resolution RES/43/11 which directed the Secretariat to continue to monitor the progress in the implementation of the United Nations Framework Convention on Climate Change (UNFCCC), Convention on Biological Diversity (CBD), and United Nations Convention to Combat Desertification (UNCCD) as well as follow-up on the progress in the implementation of the outcome of the Johannesburg Summit. Accordingly, this part elaborates upon the tenth Conference of Parties to the UNFCCC and reports on the pertinent developments in the other two Rio Conventions, namely the (CBD) and the (UNCCD). In addition, it reports on the progress in the implementation of the outcome of the World Summit on Sustainable Development by the Fifty-ninth Session of the United Nations General Assembly.

PART ONE

I. PRELUDE

6. In the latter part of the twentieth century, serious worldwide attention has been focused on the global environment. It may be hoped that the enhanced public awareness of the gravity of the environmental challenge, coupled with concerted national, regional and multilateral efforts would help avert the catastrophe of continuing environmental degradation.¹ In this regard, the Johannesburg Declaration on Sustainable Development,² adopted by the World Leaders on 4 September 2002 notes:

The global environment continues to suffer. Loss of biodiversity continues, fish stocks continue to be depleted, desertification claims more and more fertile land, the adverse effects of climate change are already evident, natural disasters are more frequent and more devastating, and developing countries, more vulnerable, and air, water and marine pollution continue to rob millions of a decent life.

7. The international community recognized the urgent need to respond to the problem of environmental deterioration in the 1972 United Nations Conference on Human Environment (UNCHE, Stockholm, 1972). Twenty years later at the 1992 United Nations Conference on Environment and Development (UNCED, Rio-de-Janeiro, 1992) the world leaders set the new agenda for sustainable development and agreed that the protection of environment and social and economic development were fundamental to sustainable development. They reaffirmed their commitment to sustainable development at the World Summit on Sustainable Development (WSSD) in 2002.

8. The period from 1972-2002 and beyond witnessed tremendous law-making exercise by the international community and today there are more than 500 global, regional or bilateral treaties that together demonstrate international commitment to environment protection. In this regard, Amb. Yamada, Member of the International Law Commission is of the view that the “present situation is characterized by an abundance of conventions and other international instruments, which cover many fields and constitute an impressive network of rights and obligations of States. They should be considered a successful achievement of contemporary international law.”³

9. Despite these efforts of the international community, environmental degradation has been very recently identified as one of the economic and social threats amongst the six clusters of threats with which the world must be concerned now and in the decades to come in the Report of the UN Secretary-General’s High-Level Panel on Threats, Challenges and Change, aptly entitled *A more secure world: Our shared responsibility*.

¹ Ved P. Nanda, *International Environmental Law & Policy* (Transnational Publishers, Inc., New York, 1994), p. 1.

² UN, Report of the World Summit on Sustainable Development (Johannesburg, South Africa, 26 August – 4 September 2002), A/CONF. 199/20, p.

³ “Rights and Duties of States for the Protection of the Human Environment”, by Mr. Cheusei Yamada, *Yearbook of the International Law Commission*, Vol. II, Part One (1993), pp. 247-50. UN Doc. A/CN.4/SER.A/1993/Add.1 (Part I).

The Panel found lack of coherence in environmental protection efforts at the global level and observed that “Most attempts to create governance structures to tackle the problems of global environmental degradation have not effectively addressed climate change, deforestation, and desertification. Regional and global multilateral treaties on the environment are undermined by inadequate implementation and enforcement by the Member States”.

10. These remarks by the High-Level Panel bring into focus the urgency for strengthening of the legal instruments aimed at environment protection, as also for their adequate implementation and enforcement.

11. At the forthcoming Sixtieth Session of the United Nations General Assembly the world leaders would inter alia take note of this Report. More importantly, they would review the progress in realization of the Millennium Development Goals (MDGs). Ensuring “environmental sustainability” was one of the eight MDG⁴ adopted by the Summit.

12. In the light of foregoing, it is timely to deliberate upon the contribution of environmental law in sustainable development, the compliance of environmental law and also deliberate upon legal responses to one of the key environment challenges of our time i.e. climate change in different substantive sessions in the Special Day Meeting.

⁴ The other seven MDGs are: Eradicate extreme poverty and hunger; Achieve universal primary education; Promote gender equality and empower women; Reduce child mortality; Improve maternal health; Combat HIV/AIDS, malaria and other diseases; and Develop a global partnership for development

II. SUSTAINABLE DEVELOPMENT, THE ROLE OF LAW, HUMAN RIGHTS AND ENVIRONMENTAL JUSTICE

A. The Concept of Sustainable Development

13. The notion of sustainable development, although not so named is reflected in Principle 2 of the Stockholm Declaration in 1972. It provides:

The natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate.

14. The World Commission on Environment and Development in its Report entitled *Our Common Future* (1987) defined this notion as: “Development that meets the needs of the present without compromising the ability of future generations to meet their own needs.” It envisaged the values of environment and development to be reconciled by calling for the integration of environmental and developmental concerns at all levels of decision-making. It involves the application of concepts such as: intergenerational and intergenerational equity: that is, equitable access to environmental resources both within the present generation as well as for future generations; application of the precautionary principle or approach; and the maintenance of biological diversity and biological integrity: both of these are vitally important for the continued existence of ecosystems; the integration of environmental protection and economic development; the right to development. These are the substantive elements. Procedural elements include public participation in decision-making, access to information and environment impact assessment.

15. The international community and other actors have now adopted the concept of “sustainable development” almost universally. The 1992 United Nations Conference on Environment and Development (UNCED) accorded political legitimacy and institutionalized the concept.

16. The Johannesburg Summit recognized that “poverty eradication, changing consumption and production patterns and protecting and managing the natural resource base for economic and social development are overarching objectives of and essential requirements for sustainable development.”

17. It may be noted that the concept of sustainable development has played a critical role in defining the growth of environmental law principles since the Rio Conference. The centrality of sustainable development highlights the cross-sectoral nature of environmental law, i.e. the way in which it has to be harmonized with other concerns such as economics, including world trade, human settlements, human rights and other areas.⁵

⁵ Presentation by Alexandre Timoshenko in UNEP, *Fourth Global Training Programme in Environmental Law* (Nairobi, 1999), p. 8.

18. Justice Christopher Weeramantry, former Vice-President of the International Court of Justice is of the view that there are “many different principles within the principle of sustainable development. These include intergenerational rights, the trusteeship principles, the principle of collective duties, the emphasis on duties rather than rights, the precautionary principle, the concept of the interrelationship of rights and obligations, right and duties *erga omnes* (ie towards the whole of human community) and so on.”⁶

B. Role of Law in Environment Protection

19. Law generally reflects and shapes a society’s norms. The concern for environment protection is thus evident from the growing corpus of environmental law, both in the international and national streams and as such it could be divided into international environmental law and national environmental law.

20. International environmental law primarily comprises of conventions, protocols, and “soft law” instruments such as guidelines or codes of conduct. In addition, agreements, resolutions, guidelines and declaration adopted at the Conference of Parties of the Conventions and Protocol are relevant. All these assist in building and capturing consensus between nations on goals for environmental protection and resource conservation.⁷

21. National environmental law consisting of legislation, standards, regulations and rules adopted to control activities damaging to the environment within a State is the mechanism for translating environmental and sustainable development policies into action at the national level.⁸ Since the Stockholm Conference many countries in the developing world have created legal and institutional regimes for environmental protection.

C. Right to Environment as a Human Right

22. The debate on whether environmental protection falls within the existing body of recognized human rights, or whether environmental protection and preservation of the global system is a goal in and of itself. Many believe that a purely human-centered notion of environmental law reduces consideration of the ecosystem to its economic value, which contributes to excessive exploitation of resources and environmental protection. However, it can be safely argued that the right to environment is a condition precedent to all other human rights –for enjoyment of established human rights and presupposes that human enjoy at least minimum standards of health and well-being.⁹ It can also be argued that ultimate aim of the right to environment must be to protect human life and health,

⁶ Christopher Weeramantry, “Justice can be shortsighted”, *Our Planet*, vol. 15, no. 3 (2004), p. 7.

⁷ UNEP, *UNEP Environmental Law Training Manual* (UN, Nairobi, 1997), p. 8-9.

⁸ Ibid.

⁹ See Ved P.Nanda, *International Environmental Law and Policy* (Transnational Publishers, New York), pp.66-71

preserve the natural environment, and impose a duty to protect the ecosystem on present and future generations.

23. Right to a decent/ healthy/ viable environment have found expression in various international and regional human right instruments, including 1966 UN Covenant on Economic, Social and Cultural Rights, 1981 African Charter on Human and Peoples Rights, 1961 European Social Charter, 1989 Convention on the Rights of the Child, and 1993 Vienna Declaration and Programme of Action. The right to a healthful environment may be found in several other recognized human rights as well. The question arises that whether this right can be put in a particular category of human right or it overlap in all three categories of human rights, namely civil and political rights; economic, social and cultural rights; and solidarity or third generational rights.¹⁰ It can be termed as civil and political right, as it enables individuals, groups and non-governmental organizations access to information, judicial remedies and political processes. On this view their role is one of empowerment, facilitating participation in decision-making and compelling governments to meet minimum standards of protection for life and property from environmental harm. A second possibility is to treat a decent, healthy and viable environment as an economic or social right. This would give environmental quality comparable status to other economic and social rights. The third option, of treating environmental quality as a solidarity right, would mainly entail governments and international organizations co-operating to provide the necessary resources, skills and technology to achieve the realization of environmental objectives.¹¹

24. The Preamble of the Stockholm Declaration provides that “Man has the fundamental right to freedom, equality and conditions of life in an environment of a quality that permits a life of dignity and well-being”. Rio Declaration provided that “Human Beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature”.

D. The Concept of Environmental Justice

25. According to the United States of America’s Environmental Protection Agency (US-EPA)¹²:

Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations and policies. EPA believes that it will be achieved when

¹⁰ The division of human rights into three generations was initially proposed in 1979 by the Czech juristr Karel Vasak at the International Institute of Human Rights in Strasbourg. First generation rights deal essentially with liberty. Second generation rights are related to equality. Third-generation rights focus essentially on fraternity and, in generic terms, can be seen as rights of solidarity. They cover group and collective rights: the right to self-determination, to economic and social development, to sovereignty over natural resources, and to participate in the common heritage of mankind. By and large, the third generation rights has not yet been incorporated into any legally-binding human rights equivalent.

¹¹ See P.W.Birnie & A.E.Boyle, *International Law and the Environment*, 2nd ed. (Oxford University Press), pp. 252-256

¹² Definition drawn from URL: <http://www.epa.gov/compliance/environmentaljustice/>

everyone enjoys the same degree of protection from environmental and health hazards and equal access to the decision-making process to have a healthy environment in which to live, learn and work.

26. The “Principles of Environmental Justice”¹³ adopted by People of Color Environmental Leadership Summit (Washington, 1991), environmental justice affirms the ecological unity and the interdependence of all species, and the right to be free from ecological destruction. It demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias. It calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water and food. It also affirms the fundamental right to political, economic, cultural and environmental self-determination of all peoples and considers governmental acts of environmental injustice a violation of international law.

27. The environmental justice framework incorporates the principle of the “right” of all individuals to be protected from environmental degradation. It also adopts a public health model for prevention as the preferred strategy. It shifts the burden of proof to polluters who do harm, discriminate, or who do not give equal protection to racial and ethnic minorities, and other “protected” classes and would allow disparate impact and statistical weight, as opposed to “intent” to infer discrimination.

¹³ Text of the Principles of Environmental Justice adopted by the multinational People of Color Environmental Leadership Summit on 27 October 1991 in Washington, USA is available on <http://www.ejrc.cau.edu/princej.html>.

III. COMPLIANCE WITH AND ENFORCEMENT OF ENVIRONMENTAL LAW

28. One of the important matters of concern in the field of environmental law is increasing its effectiveness. The Programme for the Development and Periodic Review of Environmental Law for the First-Decade of the Twenty-First Century, adopted by the UNEP Governing Council/Global Ministerial Forum on 9 February 2001, identifies “Effectiveness of Environmental Law” as one of the Programme Areas. Implementation, compliance and enforcement constitute one of the key elements for ensuring the effectiveness of environmental law.¹⁴ The Strategy recommended by the Programme is to “promote the effective implementation of environmental law through, inter alia, the widest possible participation in multilateral environmental agreements and the development of relevant strategies and mechanisms and national laws”. In furtherance of this strategy, the Programme recommends the following actions:

- (a) Conduct studies on:
 - (i) The effectiveness of, and compliance with, international environmental law, identifying the underlying causes of non-compliance;
 - (ii) The environmental effectiveness of domestic environmental law with the consent and cooperation of the relevant State or States;
- (b) Identify effective means to address major constraints faced especially by developing countries, and, in particular, the least developed among them, and countries with economies in transition, in implementing environmental law;
- (c) Cooperate with States, particularly by providing assistance to developing countries, and in particular, the least developed among them, and countries with economies in transition, in:
 - (i) Establishing and strengthening domestic law to improve compliance with international environmental obligations and enforcement of obligations through domestic laws;
 - (ii) Developing national environmental action plans or strategies and, where appropriate, regional action plans or strategies, to assist in the implementation of international environmental obligations;
- (d) Develop, where appropriate, as advice to competent national authorities, model laws or equivalent guidance materials for the implementation of international environmental instruments;
- (e) Prepare comparative analyses of compliance mechanisms, including reporting and verification mechanisms, under different multilateral environmental agreements and, where appropriate, under agreements in other fields of international law;
- (f) Promote facilitative means of implementation of, and compliance with, international environmental law and, in this regard, study the efficacy of financial mechanisms, technology transfer, and economic incentives under existing international environmental law instruments;

¹⁴ The other elements identified in this regard are: Capacity-building; Prevention and mitigation of environmental damage; Avoidance and settlement of international environmental disputes; Strengthening and development of international environmental law; Harmonization and coordination; Public participation and access to information; Information technology; and Innovative approaches to environmental law.

- (g) Promote the use, where appropriate, of disincentives, including effective civil liability mechanisms, to encourage compliance with environmental law;
- (h) Evaluate and, as appropriate, promote the wider use of criminal and administrative law in the enforcement of domestic environmental law and standards;
- (i) Explore options for advancing the effective involvement of non-State actors in promoting implementation of, and compliance with, international environmental law and its enforcement at the domestic level;
- (j) Promote further regional cooperation for enhancing implementation of, and compliance with, international environmental law;
- (k) Encourage, during the development of new international environmental legal instruments, consideration of the implementation and enforcement aspects of those instruments.

29. It may be recalled that as part of the Thirty-Eighth Session of the Organization, held at Accra, Ghana in 1999 the Special meeting took place on “Effective, Means of Implementation, Enforcement and Dispute Settlement in International Environmental Law.”¹⁵ Some of the salient aspects of the deliberations are as under:

- i. International Environmental law is largely based on treaties following a sectoral approach. Delegates expressed concern that an integrated and comprehensive approach is needed to address global environmental problems.
- ii. A number of delegates felt that with increasing liberalization and expansion of trade the legal interface between trade and environment needed to be studied.
- iii. A view was expressed supported by a number of participants that capacity-building of States was very important for effective implementation, which would involve technology transfer and financial resources to developing and least developed States.
- iv. On the issues of enforcement, delegates agreed that States alone enforce international obligations relating to environment.
- v. There was a novel suggestion that alternate dispute resolution (ADR) could be an important method of settling environmental disputes.

¹⁵ For the Secretariat Study on the subject and the deliberation during the course of the Special Meeting see AALCC, *Report and Selected Documents of the Thirty-Eighth Session*, held in Accra, Ghana (19-23 April 1999), pp. 322-52.

IV. ENTRY INTO FORCE OF KYOTO PROTOCOL: PROBLEMS AND PROSPECTS

30. Amongst all the environmental problems plaguing the life on planet Earth, climate change is undoubtedly recognized as the most serious threat. The response of the international community, to this “quintessentially global challenge”¹⁶ is contained in the United Nations Framework Convention on Climate Change, 1992 (UNFCCC) and its Kyoto Protocol of 1997. On 16 February 2005, the international community welcomed the entry into force¹⁷ of the 1997 Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC), 1992. It was heralded as a major event as it marked an important step in the struggle of international community for protecting the planet Earth from the threat of climate change. The commemorative event to mark the occasion took place in Kyoto, Japan, the city where the Protocol was adopted in 1997. Nobel Peace Prize Laureate Professor Mrs. Wangari Maathai, Deputy Minister of Environment, Government of Kenya was amongst the important dignitaries that graced the occasion.

31. The UN Secretary-General Kofi Annan, on the occasion described the Kyoto Protocol as “an important first step in the right direction”. However, he stressed that the Protocol itself would not save the humanity from the dangers of climate change and the international community must act quickly to take the next steps.¹⁸ Mr. Klaus Topfer, the Executive Director of the United Nations Environment Programme stated that the coming into force of the Kyoto Protocol was a “very-very powerful signal that climate change is a matter of concern and is linked to concrete targets and additional instruments for checking emissions. We can now discuss ‘beyond Kyoto.’”¹⁹ The Indian Minister of Environment and Forests Mr. A. Raja stated that the “implementation of the Kyoto Protocol, and especially its Clean Development Mechanism would help create a global constituency of investors, financial institutions and industries, who would have a significant stake in the continued expansion of the clean energy sector.” Michael Meacher, former Environment Minister of United Kingdom called it as a “New dawn with Kyoto”.²⁰ He stated that this was a start to “realizing Earth’s limits”. The European Commission President Jose Manuel Barroso urged Washington²¹ to urgently address the

¹⁶ It is so described by the UN Secretary-General Mr. Kofi Annan in his message to the Tenth Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, that took place from 6-17 December 2004 in Buenos Aires, Argentina, Message dated 15 December 2004, available on URL: http://unfccc.int/meetings/cop_10/items/2944.php.

¹⁷ To enter into force, the Protocol was required to be ratified by 55 Parties to the UNFCCC, including Annex I Parties representing at least 55% of the total carbon dioxide emissions for 1990. Annex I includes developed countries and countries making the transition to a market economy. These countries/regional groups and their share of carbon emissions at 1990 level are: USA- 36.1%; European Union –24.2%; Russia-17.4%; Japan 8.5%; Poland-3.0%; Other European Nations 5.2%; Canada-3.3%; Australia-2.1% and New Zealand-0.2%.

¹⁸ *UN Press Release SG/SM/9721* dated 17 February 2005.

¹⁹ “Not Just Gas”, Interview with Mr. Klaus Topfer in *Times of India* (New Delhi), 17 February 2005, p. 16.

²⁰ This is the title of Mr. Meacher’s article published in *The Hindu* (New Delhi), 10 February 2005, p. 10.

²¹ The United States of America has firmly denounced the Kyoto Protocol.

issue to prevent future natural disasters.²² Leading Indian Newspaper *Times of India* in its Editorial of 17 February 2005 described the entry into force of Kyoto Protocol as a “silver lining” while the London based *The Guardian* wrote “The most important thing about the Kyoto Protocol – is that it is there at all.”

32. From the above remarks, it is apparent that the entry into force of the Kyoto Protocol has raised tremendous expectations in the international community. Therefore, it would be appropriate to explore what prospects does the Protocol provides for the developing countries and the agenda for the Protocol beyond 2012.

A. Kyoto Protocol to the United Nations Framework Convention on Climate Change

33. The complexity of the enormous challenge posed for the control of the greenhouse gases have remained the key concern at the successive sessions of the Conference of Parties to the UNFCCC, as diverse political and economic interests had to be balanced. Furthermore, change in fossil fuel based energy consumption patterns would require the reshaping of billion dollar industries. All these concern got crystallized in the 1997 Kyoto Protocol adopted at COP-3 at Kyoto, Japan. Because the Kyoto Protocol affects virtually all major sectors of the economy, it is considered to be the most far-reaching agreement on environment and sustainable development ever adopted.²³

34. The key commitment in the Kyoto Protocol is for industrialized countries (Annex I countries), which agreed to reduce their emissions in 2008-2012 period, the first commitment period, by 5.2 % compared to 1990 levels. In recognition of the fact that developed countries have different economic circumstances and differing capacities and costs making emissions reductions, each developed country has a specific, differentiated target period to no more than 8 % above 1990 levels. The Protocol commits developed countries and countries making the transition to a market economy (EITs) to achieve quantified emissions reduction targets. The Protocol also establishes three flexible mechanisms to assist Annex I Parties in meeting their national targets cost-effectively: an emissions trading system; joint implementation (JI) of emissions-reduction projects between Annex I Parties; and the Clean Development Mechanism (CDM), which allows for projects to be implemented in non-Annex I Parties. Following COP-3, Parties initiated negotiations on most of the rules and operational details determining how countries will reduce emissions, and measure and assess emissions reductions. After intense negotiations, starting at COP-4 (Buenos Aires, Argentina, 1998) and culminating at COP-9 (Milan, Italy, 2003) these rules and operational details have been put into place by the Climate Change negotiators.

35. The Kyoto Protocol to the UNFCCC, 1997-its three flexible mechanisms –clean development mechanism (CDM), joint implementation (JI) and emissions trading (the

²² “U.S. must join Kyoto battle”, *The Hindu*, 17 February 2005, p. 14.

²³ For the prospects of Kyoto Protocol for the developing countries see Pradipto Ghosh (ed.), *Implementation of the Kyoto Protocol: Opportunities and Pitfalls for Developing Countries* (Asian Development Bank, Manila, 2000), pp. 129.

Protocol has attracted much political attention, however, many are of the view that the political response to this global problem is inadequate.

B. Kyoto Mechanisms: Background²⁴

35. The Kyoto Protocol broke new ground by defining three innovative “flexibility mechanisms” to lower the overall costs of achieving its emissions targets. These mechanisms enable Parties to access cost-effective opportunities to reduce emissions, or to remove carbon from the atmosphere, in other countries. While the cost of limiting emissions varies considerably from region to region, the effect for the atmosphere of limiting emissions is the same, irrespective of where the action is taken.

36. Much of the negotiations on the mechanisms has been concerned with ensuring their integrity. There was concern that the mechanisms do not confer a “right to emit” on Annex I Parties or lead to exchanges of fictitious credits which would undermine the Protocol’s environmental goals. The negotiators of the Protocol and the Marrakesh Accords therefore sought to design a system that fulfilled the cost-effectiveness promise of the mechanisms, while addressing concerns about environmental integrity and equity.

37. All three mechanisms under the Kyoto Protocol are based on the Protocol’s system for the accounting of targets. Under this system, the amount to which an Annex I Party must reduce its emissions over the five year commitment period (known as its “assigned amount”) is divided into units each equal to one tonne of carbon dioxide equivalent. These assigned amount units (AAUs), and other units defined by the Protocol, contribute the basis for the Kyoto mechanisms by providing for a Party to gain credit from action taken in other Parties that may be counted towards its own emissions target.

38. The three Kyoto mechanisms are:

- Joint Implementation (JI) under Article 6 provides for Annex I Parties to implement projects that reduce emissions, or remove carbon from the atmosphere, in other Annex I Parties, in return for emission reduction units (ERUs). An Article 6 Supervisory Committee is to be established by COP/MOP 1 and this is expected to supervise JI in relation to many JI projects.
- The clean development mechanism (CDM) defined in Article 12 provides for Annex I Parties to implement projects that reduce emissions in non-Annex I Parties, or absorb carbon through afforestation or reforestation activities, in return for certified emission reductions (CERs,) and assist the host Parties in achieving sustainable development and contributing to the ultimate objective of the Convention. The CDM is supervised by the CDM Executive Board.
- Emissions trading, as set out in Article 17, provides for Annex I Parties to acquire units from other Annex I Parties.

²⁴ The information stated herein is drawn from the website of UNFCCC Secretariat: http://unfccc.int/kyoto_mechanisms/items/2998.php.

C. Prospects for Developing Countries

39. Developing countries face a difficult challenge in supporting reduction of greenhouse gases while at the same time promoting the evolution of their economies. Furthermore, Members of the Oil-Producing Exporting Countries (OPEC) and other countries dependent on sale of oil and coal face a unique position as for reduction of greenhouse gas there needs to be reduction in the consumption of these fossil fuels.

40. Of the three flexible mechanism the Clean Development Mechanism is of interest to developing countries. It is necessary that the developed countries should make every effort through the CDM share the cleaner technologies with the developing countries.

41. The CDM defined in Article 12 provides for Annex 1 Parties to implement project activities that reduce emissions in non-Annex 1 Parties, in return for certified emission reductions (CERs). The CERs generated by such project activities can be used by Annex 1 parties to help meet their emissions targets under the Kyoto Protocol Article 12 also stresses that such project activities are to assist the developing country host Parties in achieving sustainable development and in contributing to the ultimate objective of the Convention.

42. The Protocol envisages a prompt start of the CDM, allowing CER, allowing CERs to accrue from project activities from the year 2000 onwards. The CDM is expected to generate investment in developing countries, especially from the private sector, and promote the transfer of environmentally friendly technologies in that direction. In addition, the finance and technology transfer commitment of Annex 1 parties under the Convention and Kyoto Protocol are separate. Furthermore, public funding for CDM project activities must not result in the diversion of official development assistance.

43. The CDM was established under the 1997 Kyoto Protocol as a way of promoting sustainable development while minimizing the costs of project, companies will earn 'certified emission reductions' that developed countries may use to meet their reduction targets.

D. Agenda beyond 2012

44. The issue of whether or when developing countries should commit to targets, owing to the intense pressure of the Group-77/China has not been included and remains, a subject of widespread divide between the developing countries and the European Union, Japan, Canada on the one hand and the largest emitter of greenhouse gases, the United States of America, on the other hand. In fact, due to this divide it has taken the Protocol seven long years to enter into force. Moreover, the United States of America, the largest emitter of greenhouse gases has cited this as one of the reasons for denouncing the Protocol.

45. It is important in this regard to take note of the remarks of the UN Secretary-General Mr. Kofi Annan to the UN General Assembly on 21 March 2005 in which he

asked that a “more inclusive international framework must be developed for stabilizing greenhouse gas emissions beyond 2012, with broader participation by all major emitters and both developed and developing countries”.²⁵

²⁵ The Secretary-General made these remarks while introducing his Report entitled *In Larger Freedom: Towards Development, Security and Human Rights for All*.

PART TWO

V. UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE, 1992 (UNFCCC)

A. Background

46. The UNFCCC was concluded on 9 May 1992 and opened for signature at the UNCED in June 1992. The Convention entered into force on 21 March 1994 and as at 24 May 2004 it has reached near universality with 189 Parties.²⁶

47. At its first session in 1995, the Conference of Parties (COP-1) established an *Ad hoc* Group on the Berlin Mandate with a view to consider further measures to promote the objectives of the Convention. COP-3 (Kyoto, 1997) adopted the Kyoto Protocol to the UNFCCC. As provided in Article 3 of the Protocol, the countries listed in Annex I to the UNFCCC would commit themselves to reducing their overall emissions of six greenhouse gases by at least 5% below 1990 levels over the period between 2008 and 2012, with specific targets for each of those countries. In order to assist those countries in achieving their national targets, the Kyoto Protocol also provided for three mechanisms namely, Joint Implementation (Article 6); Clean Development Mechanism (CDM:Article 12); and Emission Trading (Article 17). While the Joint Implementation and Emission Trading Mechanisms could be availed of between Annex I Parties, the Clean Development Mechanism (CDM) could involve undertaking of Joint Projects between Annex I Parties and non-Annex I Parties, mainly the developing countries. With the meeting of the procedural requirements the Kyoto Protocol entered into force on 16 February 2005.

48. Subsequent to the adoption of the Kyoto Protocol, intensive efforts continued to negotiate its operational details, which facilitated wider ratification and entry into force of the Protocol.²⁷ As at 31 January 2005, there were 139 Parties to the Kyoto Protocol,²⁸ accounting for 61.6 % of emissions.

49. At the COP-4 held in Buenos Aires, Argentina, in 1998, an action plan known as “The Buenos Aires Plan of Action” (BAPA), was adopted, which set out certain guidelines to develop the operational details concerning Kyoto Protocol and further measures to strengthen the implementation of the UNFCCC. It also set the schedule for completion of this work by COP-6 in 2000. During the next two years, intensive discussions were held in numerous meetings, workshops, and informal consultations.

²⁶ For status of participation of AALCO Member States in the UNFCCC see Table I in Annex.

²⁷ To enter into force, the Protocol required ratification by 55 Parties to the UNFCCC, including Annex I Parties representing at least 55% of the total carbon dioxide emissions for 1990. Annex I includes developed countries and countries making the transition to a market economy. These countries/regional groups and their share of carbon emissions at 1990 level are: USA- 36.1%; European Union –24.2%; Russia-17.4%; Japan 8.5%; Poland-3.0%; Other European Nations 5.2%; Canada-3.3%; Australia-2.1% and New Zealand-0.2%. Till 31 January 2005, the Protocol has received 139 ratifications. The developed country ratifications now account for 61.6 % of 1990 CO₂ emissions.

²⁸ For status of participation of AALCO Member States in the Kyoto Protocol see Table I in Annex.

Unfortunately, while agreement was reached on some issues, some key issues remained unresolved and COP-6, which met in The Hague in November 2000, failed to meet the deadline. Therefore, COP-6, Part II resumed its session in Bonn in July 2001.

50. At Bonn, discussions continued on unresolved key issues related to institutions and procedures for the implementation of Kyoto Protocol when it comes into force. The United States of America's reluctance to participate in the negotiations dampened the spirit but did not derail the negotiations. After hectic negotiations, agreement was reached on certain specific issues and on some others progress was made in narrowing the divergent views. The agreements, as a package deal, *inter alia*, included establishment of a climate change fund and a fund for least developing countries, identification of eligible sink activities, rules governing the flexibility mechanisms and the establishment of a compliance mechanism, with a facilitative branch and an enforcement branch. The issue of penalty for non-compliance was resolved to some extent with the understanding that additional compliance procedures and mechanisms would be developed after the Kyoto Protocol enters into force. The completed draft decisions along with others, which required further consideration, were forwarded for formal adoption at the COP-7.

51. COP-7 was held in Marrakesh, Morocco in 2001 and after protracted negotiations, Marrakesh Accord with key features including consideration of Land Use, Land Use Change and Forestry (LULUCF) principles and limited banking of sinks under the CDM was agreed. The Marrakesh Ministerial Declaration hoped for the timely entry into force of the Kyoto Protocol. It expressed its satisfaction over the decisions adopted by the COP-7, which would pave the way for timely entry into force of the Kyoto Protocol. Expressing its concern that all countries, particularly developing countries, including the least developed countries and small island States, face increased risk of negative impacts of Climate Change, and, in this context, the problems of poverty, land degradation, access to water and food and human health needed global attention. It called for synergies between the UNFCCC, the CBD and the UNCCD. It stressed the importance of capacity-building and dissemination of innovative technologies in key sectors of development, particularly energy and of investment in this regard including through private sector investment and market-oriented approaches. It emphasized that Climate Change and its adverse impacts have to be addressed through cooperation at all levels and welcomed the efforts of all parties to implement the Convention.

52. The Eighth Session of the Conference of Parties (COP-8) took place in New Delhi, India in 2002. The AALCO Secretariat enjoys Observer status with the UNFCCC and in that capacity participated in the COP meeting. The Secretary-General Amb. Dr. Wafik Z. Kamil delivered a statement in the High Level Segment of the Plenary on 30 October 2002, in which he *inter alia* emphasized that the principle of common but differentiated responsibility should remain as the basis for the UNFCCC process.

53. The adoption of Delhi Ministerial Declaration on Climate Change and Sustainable Development was the highlight of COP-8. It stresses that risks associated with climate change, with potentially most serious impacts on developing countries, need to be addressed by integrating appropriate action in national sustainable development strategies

in such key areas as water, energy, health, agriculture and biodiversity. The Declaration emphasizes that, along with mitigation measures, urgent action is required to adapt to climate change. It reaffirms that all Parties should continue to advance the implementation of their Convention commitments, that developed countries should demonstrate that they are taking the lead in modifying longer term trends, and that economic and social development and poverty eradication were the first and overriding priorities of developing countries. The Declaration recognizes the finding of the Third Assessment Report of the Intergovernmental Panel on Climate Change and underscores the need for significant cuts in global emissions to meet the Convention's ultimate objective. Parties that have ratified the Kyoto Protocol to the Convention strongly urged Parties that have not done so to ratify the Kyoto Protocol.

54. COP-9 took place in Milan, Italy from 1 to 12 December 2003. It resolved a number of outstanding issues on the implementation of the Kyoto Protocol and explored a wide range of options for limiting greenhouse gas emissions and adapting to the impacts of climate change. Among the important decisions arrived at COP-9 was the agreement on the modalities and procedures for afforestation and reforestation ("sinks") project activities under the CDM completed the Marrakesh Accords by expanding the mechanism to the forestry sector. The mechanism allows industrialized countries to implement projects that reduce GHG emissions in a developing country. The certified emission reduction units (CER) generated by such projects can be used by industrialized countries to help meet their emission targets under the Kyoto Protocol. Another important decision was on the Special Climate Change Fund and the Least Developed Country Fund that have enabled the Global Environment Facility, as an entity entrusted with the operation of the financial mechanism of the Convention, to mobilize the resources to make the fund operational. The decision on the Special Climate Change Fund has identified two initial eligible activities: adaptation and technology transfer and its associated capacity-building.

B. Tenth Conference of Parties to the UNFCCC (6-18 December 2004, Buenos Aires, Argentina)²⁹

55. The tenth Conference of the Parties (COP-10) to the United Nations Framework Convention on Climate Change (UNFCCC) and the twenty-first sessions of the COP's Subsidiary Body for Scientific and Technological Advice (SBSTA) and Subsidiary Body for Implementation (SBI) were held at Buenos Aires, Argentina, from 6-18 December 2004. Over 6100 participants from 167 governments, two observer States, 272 intergovernmental, non-governmental and other observer organizations, participated in the Conference. Mr. Ginés González García, Argentine Minister of Health and the Environment, was elected President of COP-10 by acclamation. COP-10 marked the

²⁹ This section of the Secretariat Report is based upon "Summary of the Tenth Conference of the Parties to the UN Framework Convention on Climate Change: 6-18 December 2004", *Earth Negotiations Bulletin*, vol. 12, no. 260, available online at <http://www.iisd.ca/climate/cop10> and UNFCCC Secretariat Press Release, "Buenos Aires conference advances efforts to adapt to climate change and meet Kyoto targets", dated 18 December 2004.

tenth year of the entry into force of the UNFCCC, as also it was the last COP meeting before the entry into force of the Kyoto Protocol.

56. The AALCO enjoys observer status with the UNFCCC and in that capacity the Organization was represented by the Deputy Secretary-General Mrs. Toshiko Shimizu at COP-10. She delivered the message of the Secretary-General Amb. Dr. Wafik Z. Kamil in the plenary Session of the Conference on 17 December 2004.

57. **Accomplishment of the entry into force of the Kyoto Protocol:** The Russian Federation's decision to ratify the Kyoto Protocol has paved the way for its entry into force. Thus, COP-10 was marked by a sense of achievement for the attainment of this accomplishment. The UN Secretary-General message to COP-10 described the problem of climate change as a "quintessentially global challenge". He also stated that much attention was "now justifiably turned toward the entry into force of the Kyoto Protocol on 16 February 2005. The Protocol's innovative use of market based mechanisms to control greenhouse gas emissions will write a new exciting chapter in the history of environmental agreements". COP-10 President emphasized that it was the final session prior to Kyoto Protocol's entry into force and the first session of a new chapter devoted to taking action. UNFCCC Executive Secretary Joke Waller-Hunter highlighted the tenth anniversary of the UNFCCC and presented a report of the UNFCCC's first decade, underlining the challenges that lie beyond 2012. She suggested that Parties consider an equitable and effective future strategy to ensure that all countries contribute fairly to achieving the UNFCCC's objectives. Numerous speakers welcomed the Russian Federation's ratification of the Protocol and expressed hope that the US would also ratify the Protocol. Qatar, on behalf of the G-77/China, noted the impacts of recent climate-related disasters on developing countries and emphasized Annex I Parties' responsibility for financial resource mobilization for adaptation, stressing the principle of common but differentiated responsibilities.

58. **High-level Segment:** In the high-level segment 85 Ministers along with heads of delegations participated in lively exchange during four panel discussions. The discussion themes were "The Convention after 10 years: accomplishment and future challenges"; "Impacts of climate change, adaptation measures and sustainable development"; "Technology and climate change"; and "Mitigation of climate change: policies and their impacts".

59. **Decisions Adopted by COP-10:** COP-10 adopted the following decisions: Buenos Aires programme of work on adaptation and response measures; Capacity-building for developing countries; Capacity-building for countries with economies in transition; Work of the Least Developed Countries Expert Group; Implementation of the global observing system for climate; Development and transfer of technologies; Status of, and ways to enhance, implementation of the New Delhi work programme on Article 6 of the Convention; Additional guidance to an operating entity of the financial mechanism; Assessment of funding to assist developing countries in fulfilling their commitments under the Convention; Continuation of activities implemented jointly under the pilot phase; Guidance relating to the clean development mechanism; Incorporation of the

modalities and procedures for afforestation and reforestation project activities under the CDM into the guidelines under Article 7 and 8 of the Kyoto Protocol; Simplified modalities and procedures for small-scale afforestation and reforestation project activities under the CDM; Issues relating to the technical review of GHG inventories of Annex I parties to the Convention and the implementation of Article 8 of the Kyoto Protocol; Standard electronic format for reporting Kyoto units; Good practice guidance for land use, land-use change and forestry activities under Article 3, paragraphs 3 and 4 of the Kyoto Protocol; Administrative and financial matters; Seminar of Governmental Experts; and Expression of gratitude to the Government of the Argentine Republic and the people of the city of Buenos Aires. Important aspects of some of these decisions is highlighted below:

60. **Buenos Aires Programme of Work on Adaptation and Response Measures:** In the face of growing evidence that climate change impacts can already be detected the Conference adopted the Buenos Aires Programme of Work on Adaptation and Response Measures. The decision is divided into four parts: adverse effects of climate change; impact of the implementation of response measures; further multilateral work relating to activities under decision 5/CP.7; and the SBSTA programme of work on impacts, vulnerability, and adaptation to climate change.

61. **Convening of seminar of governmental experts in Bonn in May 2005:** The Parties agreed on a proposal to hold a Seminar by Government Experts prior to SBSTA-22. The purpose of the Seminar is to promote an informal exchange of information on actions relating to mitigation and adaptation to assist Parties to continue to develop effective and appropriate responses to climate change, and on policies and measures adopted by governments that support implementation of Parties' existing commitments under the UNFCCC and Protocol.

62. The decision to convene the Seminar saw intense negotiations as the developing countries wanted a firm assurance that the proceedings of the Seminar would not be intended to lead to a process for further commitments by the developing countries. The final decision states that the Seminar would not open any negotiations leading to new commitments.

63. **Progress in Clean Development Mechanism:** COP-10 decided inter alia: to adopt simplified modalities and procedures for small-scale Afforestation and Reforestation (A&R) CDM project activities in the first commitment period The COP also requested inter alia, that: the CDM Executive Board develop, for consideration by COP/MOP-1, default factors for assessing the existing carbon stocks and for simplified baseline methodologies for small-scale A&R projects, taking into account, if appropriate, types of soil, lifetime of project and climatic conditions. The COP invited Parties to provide support to project participants interested in coordinating submission of several project activities, with a view to reducing the costs of validation, verification, and certification. The COP also invited relevant multilateral agencies, intergovernmental organizations, and nongovernmental organizations to participate in preparing these activities.

64. **Capacity-building:** The COP adopted two decisions on Capacity-building, one for Economies in Transition (EIT) and the other for developing countries. In the decision on capacity building for EITs, the COP, inter alia, invited the GEF, Annex II Parties and multilateral and bilateral organizations to provide information regarding opportunities for technical and financial support and encourages EITs to strengthen national institutions to build capacity through training, public education and awareness programmes. In the decision on capacity building for developing countries, the COP, inter alia, outlined key factors that could assist in further implementing capacity building, such as: prioritizing institutional capacity building; integrating capacity-building activities in planning processes; raising awareness at various levels on climate change issues and increasing the involvement of national governmental organizations in capacity-building activities; ensuring that resources are made available for the implementation of capacity-building activities; and improving international donor coordination in the provision of financial resources. The COP also decided to initiate a second comprehensive review of the implementation of the capacity-building framework at SBI-28, and requested the Secretariat to, inter alia, cooperate with the CBD and UNCCD Secretariats to maximize synergies in implementing capacity-building activities, prepare a synthesis report on the steps to be taken to regularly monitor capacity-building activities, and disseminate an information document on best practices and lessons learned.

65. **Dates of the next Session:** The next annual conference, consisting of COP-11 (for the UNFCCC) and COP/MOP 1 (for the Kyoto Protocol) would be held from 28 November to 9 December 2005 at Montreal, Canada.

C. Consideration of the resolution on “Protection of global climate for present and future generations of mankind” by the Fifty-ninth Session of the United Nations General Assembly

66. The United Nations General Assembly on 22 December 2004, at the recommendation of its Second Committee³⁰ adopted by consensus the resolution on the “Protection of global climate for present and future generations of mankind”. The Assembly once again acknowledged that the global nature of climate change called for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions. It also remained deeply concerned that all countries, in particular developing countries, including the least developed countries and small island developing States, face risks from the negative impacts of climate change. The Assembly called upon all States to work together in achieving the ultimate goals of the UNFCCC.³¹

³⁰ The recommendation of Second Committee is contained in *Sustainable development: protection of global climate for present and future generations of mankind: Report of the Second Committee*, UN Doc. A/59/483/Add. 4, dated 15 December 2004.

³¹ UN Doc. A/RES/59/234.

VI. CONVENTION ON BIOLOGICAL DIVERSITY, 1992 (CBD)

A. Background

67. The Convention on Biological Diversity (CBD) negotiated under the auspices of the UNEP was opened for signature on 5 June 1992 and entered into force on 29 December 1993. As at 2 February 2005, 188 States have ratified the Convention.³² The main goals of the CBD are to promote the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising out of the utilization of the genetic resources.

68. From the time it has entered into force, seven sessions of the Conference of Parties (COP) and two Extraordinary sessions of the COP to the CBD have been held and a number of important decisions on different topics such as establishment of the Clearing-House Mechanism (CHM) and the Subsidiary Body for Scientific, Technical and Technological Advice (SBSTTA); designation of the Global Environment Facility (GEF) as the interim financial mechanism; designation of Montreal, Canada as the permanent location for the Secretariat; access and benefit sharing (ABS); programme of work on marine and coastal biodiversity; inland water ecosystems; agricultural and forest biodiversity national reports; access to genetic resources; alien species; biodiversity and tourism etc., have been adopted.

69. The Second Extraordinary Meeting of the COP in January 2000 adopted the Cartagena Protocol on Biosafety. The Protocol addresses the safe transfer, handling and use of living modified organisms (LMOs) that may have an adverse effect on biodiversity by establishing an advanced informed agreement (AIA) procedure for imports of LMOs for intentional introduction into the environment. It also incorporates the precautionary principle and mechanisms for risk assessment and management, and establishes a Biosafety Clearing House (BCH) to facilitate information exchange. The Protocol entered into force on 11 September 2003 and as at 2 February 2005 had 111 Parties.³³

70. The Sixth Meeting of the Conference of Parties (COP-6) to the CBD was held at The Hague, the Netherlands from 7 to 19 April 2002. The Conference inter alia adopted decisions on forest biodiversity; alien species that threaten ecosystems, habitats and species; the Global Taxonomy Initiative (GTI); the Global Strategy for Plant Conservation (GPSC); liability and redress; access and benefit-sharing (ABS); the strategic plan, national reporting, CBD operations, and the multi-year work programme; financial resources and mechanism; scientific and technical cooperation and the Clearing House Mechanism (CHM); and Article 8 (j) on traditional knowledge. The Ministerial Meeting adopted The Hague Ministerial Declaration which inter alia: acknowledges the importance of biodiversity for humans' well-being; notes a shift from policy development to implementation, the equal footing of the CBD's objectives, and the link between biodiversity and sustainable development; recognizes the need for timetables, review mechanisms and targets, including a year 2010 target for adoption of measures to halt

³² For Status of AALCO Member States participation in CBD see Table II in Annex.

³³ Ibid.

biodiversity loss; urges States to ratify and implement the CBD, the Biosafety Protocol and other biodiversity-related international instruments; urges developed countries to increase financial efforts; and enable stakeholders to contribute to the implementation of the CBD, in particular youth, women and local communities.

71. The Third Meeting of the Intergovernmental Committee for the Cartagena Protocol on Biosafety (ICCP-3) took place from 22 to 26 April 2002 at The Hague, the Netherlands. The meeting adopted thirteen recommendations, which it recommended for consideration by the first Conference of the Parties serving as the Meeting of Parties (MOP). The most contentious areas of discussion at ICCP-3 related to compliance, liability and redress, and handling, transport, packaging and identification, particularly regarding provisions in Article 18.2 on documentation for living modified organisms (LMOs) for food, feed or processing, contained use and intentional introduction.

72. An attempt is made here to provide a brief overview of COP-7 of the CBD and COP/MOP-1 of the Cartagena Protocol on Biosafety, held in Kuala Lumpur Malaysia in February 2004.

B. Seventh Meeting of the Conference of Parties to the Convention on Biological Diversity (9-20 & 27 February 2004, Kuala Lumpur, Malaysia)³⁴

73. The Seventh Meeting of the Conference of Parties to the Convention on Biological Diversity took place from 9-20 & 27 February 2004 at Kuala Lumpur, Malaysia. Hon'ble Dato' Seri Law, Minister of Science, Technology and Environment of Malaysia was elected as the President of the Conference. The Meeting was attended by over 2,300 participants representing 162 governments and 396 organizations, including UN agencies, non-governmental organizations (NGOs), intergovernmental organizations (IGOs), indigenous and local communities, academia and industry.

74. Delegates to COP-7 considered and adopted 33 decisions on, *inter alia*: biodiversity and tourism; monitoring and indicators; the ecosystem approach; biodiversity and climate change; sustainable use; invasive alien species (IAS); the Strategic Plan; mountain biodiversity; inland water ecosystems; marine and coastal biodiversity; protected areas (PAs); access and benefit-sharing (ABS); technology transfer and cooperation; article 8(j) (traditional knowledge); incentive measures; communication, education and public awareness (CEPA); scientific and technical cooperation and the clearing-house mechanism (CHM); financial resources and mechanism; and national reporting. A Ministerial Segment was convened on 18-19 February, and adopted the Kuala Lumpur Ministerial Declaration.

³⁴ In the preparation of this section of the Brief reference to the following documents have been made: "Summary of the Seventh Conference of Parties to the Convention on Biological Diversity: 9-20 February 2004", *Earth Negotiations Bulletin*, vol. 9, no. 284 dated 23 February 2004 available online at: <http://www.iisd.ca/linkages/biodiv/cop7/> and also in general other information available at the website of the CBD: <http://www.biodiv.org>. The Official Report of COP-7 is contained in document UNEP/CBD/COP 7/21.

75. The Conference had the important task of translating the biodiversity-related WSSD commitments of the Summit into concrete measures. These commitments include the target of significantly reducing the current rate of biodiversity loss by 2010, the negotiation of an international regime on access to genetic resources and benefit sharing, and the establishment of ecological networks and corridors.

76. COP-7 developed a framework to facilitate the assessment of progress made towards the achievement of the 2010 targets and the communication of that assessment, to promote coherence among the programmes of work of the Convention, within which national and regional targets might be set, and indicators identified. The framework covers seven focal areas: reducing the rate of loss of the components of biodiversity; promoting sustainable use of biodiversity; addressing the major threats to biodiversity; maintaining ecosystem integrity and the provision of goods and services from biodiversity in ecosystems in support of human well-being; protecting traditional knowledge; innovations and practices; ensuring the fair and equitable sharing of benefits arising from the use of genetic resources; and mobilizing financial and technical resources. For each of the focal areas goals and sub targets are to be established, a set of indicators was established and others are to be identified. Within the flexible framework, the Conference invited parties and governments to develop national and/or regional goals and targets, and, as appropriate, to incorporate them into relevant plans, programmes and initiatives, including national biodiversity strategies and action plans.³⁵

77. It may be noted that COP-7 further reinforced the shift, already evident at COP-5 & 6, from policy development to implementation. The decisions on thematic and cross-cutting programmes of work set clear outcome-oriented targets and either established or called for the development and incorporation of indicators for measuring progress.

C. First Meeting of the Conference of Parties to the Convention on Biological Diversity Serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety (23-27 February 2004, Kuala Lumpur, Malaysia)³⁶

78. The Cartagena Protocol on Biosafety, the first legally binding international agreement governing the transboundary movement of living modified organisms resulting from modern biotechnology, entered into force on 11 September 2003. There are currently 111 Parties to the Protocol.³⁷ The treaty aims at ensuring an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms (LMOs) resulting from modern biotechnology.

79. The First Meeting of the Conference of Parties (COP) to the Convention on Biological Diversity serving as the First Meeting of the Parties to the Cartagena Protocol

³⁵ Decision VII/30.

³⁶ In preparation of this section of the Secretariat Report reference to the following documents have been made: "Summary of the First Meeting of the Conference of the Parties to the Convention on Biological Diversity Serving as the First Meeting of the Cartagena Protocol on Biosafety", *Earth Negotiations Bulletin* vol. 9, no. 289 dated 1 March 2004; available at URL: <http://www.iisd.ca/biodiv/bs-copmop1/>. For the Official Report of the Conference see UNEP/CBD/COP-MOP/1/15.

³⁷ For status of AALCO Member States participation in the Protocol see Table II in Annex.

on Biosafety (COP/MOP-1) took place from 23-27 February 2004 at Kuala Lumpur, Malaysia. The meeting was attended by over 750 participants representing 81 Parties to the Protocol, 79 non-Parties, as well as UN agencies, NGOs, IGOs, indigenous and local communities, academia and industry.

80. COP/MOP-1 adopted 13 decisions on, inter alia: decision making by Parties of import; capacity building and the roster of experts; handling, transport, packaging and identification (HTPI) of living modified organisms (LMOs), information sharing and the Biosafety Clearing House (BCH); liability and redress; compliance; other issues for implementation; the medium-term programme of work for the COP/MOP; guidance to the financial mechanism; and the budget for distinct costs of the Secretariat and the biosafety work programme. Important aspects of some of these decisions are as under:

81. In view of the importance of effective and timely decision-making by parties of the import, the Meeting established procedures and mechanisms designed to facilitate decision making by parties of import, especially those encountering difficulties in the decision-making process. The Meeting emphasized that, in facilitating decision-making, priority should be given to the capacity-building of developing countries and economies in transition. It further underlined the need for cooperation among Parties to ensure that they have access to the Biosafety clearing house and the information it houses. The meeting defined the modalities of operation of the Biosafety Clearing House and encourages Parties, Governments and other users to develop national, regional, subregional and institutional nodes that are interlinked with the central portal.

82. The Meeting considered capacity-building for developing country parties and parties with economies in transition as a crucial element in the effective implementation of the Protocol. Therefore, it established a voluntary fund for the use of the roster of experts on biosafety; called for a coordinated approach towards capacity-building at all levels in order to develop possible synergies and promote partnerships among different capacity-building efforts and funding initiatives and adopted the Action Plan for Building Capacities for Effective Implementation of the Protocol together with a set of indicators for monitoring its implementation.

83. The Meeting also adopted procedures and mechanisms to promote compliance with the provisions of the Protocol, to address cases of non-compliance by parties, and to provide advice or assistance to those Parties having difficulties. In cases of non-compliance, a compliance committee is to take the necessary measures, taking into account the capacity of the party concerned to comply and such factors as the cause, type, degree and frequency of non-compliance. In addition, the meeting established an open-ended ad-hoc working group of experts to elaborate international rules and procedures regarding liability and redress for damage resulting from the transboundary movements of living modified organisms.

84. **Next COP/MOP Meeting:** The Second Meeting of the Conference of Parties to the Convention on Biological Diversity serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety would take place from 30 May – 3 June 2005 at the seat

of the Secretariat in Montreal Canada.³⁸ The Government of Brazil has offered to host the eighth meeting of the Conference of the Parties to the Convention on Biological Diversity and the third meeting of the Conference of Parties to the Convention serving as the Meeting of the Parties to the Cartagena Protocol on Biosafety, in the first half of 2006.

D. Consideration of the resolution on the Convention on Biological Diversity by the Fifty-ninth Session of the United Nations General Assembly

85. The Plenary Meeting of the United Nations General Assembly, on the recommendation of its Second Committee³⁹ by consensus adopted the resolution on the Convention on Biological Diversity on 22 December 2004. The Assembly reiterated that the CBD was the key international instrument for the conservation and sustainable use of biological resources and the fair and equitable sharing of benefits arising from the use of genetic resources. It took note of the outcome of the COP-7 and encouraged developed-country parties to the Convention to contribute to its trust funds, in particular so as to enhance full developing-country participation in all its activities. It urged the States Parties to facilitate technology transfer for the effective implementation of the Convention. The Assembly also stressed the importance of harmonizing the reporting requirements of biodiversity related conventions, while respecting their independent legal status. It also invited countries that had not yet done so to ratify or accede to the Convention, and further invited Parties that had not yet ratified or acceded to the Convention's Cartagena Protocol on Biosafety to consider doing so.⁴⁰

E. Meeting of the Likeminded Megadiverse Countries (17-21 January 2005, New Delhi, India)

86. A Meeting of the Group of Likeminded Megadiverse Countries (LMMC), rich in biological diversity and associated traditional knowledge, took place in New Delhi, India from 17-21 January 2005.⁴¹ The Meeting was hosted by India in its capacity as the President of the Group. The group of LMMC was formed in 2002 under the initiative of Mexico. It includes 17 countries, namely, Bolivia, Brazil, **People's Republic of China**, Colombia, Costa Rica, Ecuador, **India**, **Indonesia**, **Kenya**, **Malaysia**, Mexico, Peru, **South Africa**⁴², Venezuela, Madagascar and Congo. This group represents nearly 80% of the world's biodiversity and 45% of the world's population.

87. At the Meeting the LMMC, have agreed to join efforts for effectively negotiating the development of an international regime on access and benefit sharing (ABS), including legally binding instruments in the forthcoming meetings of the Ad-hoc Open

³⁸ For Provisional Agenda see UNEP/CBD/BS/COP-MOP/2/1 dated 2 December 2004.

³⁹ The recommendation of the Second Committee is contained in *Sustainable development: Convention of Biological Diversity: Report of the Second Committee*, UN Doc. A.59/483/Add.6.

⁴⁰ UN Doc. A/RES/59/236.

⁴¹ Details of the meeting stated herein are drawn from the Press Release of the Press Information Bureau, Government of India, Friday, January 21, 2005, "Megadiverse Countries call for Global Regime to Prevent Illegal Access of Genetic Resources: Delhi Declaration of Megadiverse Countries on Access and Benefit sharing", available on URL: http://pib.nic.in/release/rel_print_page.asp?relid=6694.

⁴² The names of AALCO Member States are indicated in bold.

ended Working Group under the aegis of Convention on Biological Diversity, so as to safeguard the interests of LMMC countries and peoples.

88. The Group played an important role in obtaining a decision at COP-7 to start negotiations on an International Regime on ABS. In preparation for the first negotiation session at Bangkok, scheduled from 14 to 18 February 2005 the Group adopted the “New Delhi Ministerial Declaration of Like Minded Megadiverse Countries on Access and Benefit Sharing”.

89. The New Delhi Ministerial Declaration states that the proposed international regime on ABS should include “mandatory disclosure of the country of origin of biological material and associated traditional knowledge in the IPR (Intellectual Property Right) application, along with an undertaking that the prevalent laws and practices of the country of origin have been respected and mandatory specific consequences in the event of failure to disclose the country of origin in the IPR application”. The Megadiverse countries have also agreed to ensure that the proposed ABS includes prior informed consent of the country of origin and mutually agreed upon terms between the country of origin and user country.

90. The Group agreed to join efforts for effectively negotiating the development of an international regime on access and benefit sharing (ABS), including legally binding instruments in the forthcoming meetings of the Ad-hoc Open ended Working Group under the aegis of Convention on Biological Diversity, so as to safeguard the interests of LMMC countries and peoples.

91. The Declaration states that the LMMC have agreed to jointly further work towards creating the Megadiverse Cooperation Fund for supporting projects in member countries that meet the objectives of the Group. Recognizing the urgent need to develop human resources, capabilities, and legal and public policy to enable countries rich in biodiversity to take an active part in the new economy associated with the use of biological diversity and biotechnology, seventeen countries rich in biological diversity and associated traditional knowledge have formed the group known as the Like Minded Megadiverse Countries (LMMCs).

F. Third Meeting of the Ad Hoc Open-ended Working Group on Access and Benefit Sharing (14-18 February 2005, Bangkok, Thailand)

92. The Representatives from the 188 Parties to the Convention on Biological Diversity would negotiate a global regime on access to genetic resources and benefit-sharing⁴³ at a one-week meeting in Bangkok from 14 to 18 February.⁴⁴ The idea behind the talks is that by granting a company or organization access to its genetic resources (such as plants that can be used to produce new pharmaceuticals or fragrances), a country will in return receive a fair share of the profits or other benefits.

⁴³ The call of WSSD and COP-7 of CBD in this regard is mentioned on pp. 16-17 of this Secretariat Report.

⁴⁴ Details stated herein are drawn from Secretariat of the CBD Press Release, “Negotiations begin on international regime for access to benefit-sharing”, dated 1 February 2005.

93. The Convention recognizes the sovereign right of States over their genetic resources as well as the need to find a balance between providing access to these resources and ensuring the equitable sharing of the benefits arising from their use. It also notes that access to genetic resources should be governed by the principle of “prior informed consent” and that benefits should be distributed on the basis of “mutually agreed terms.”

94. The Parties to the Convention have already approved a set of voluntary guidelines. The 2002 “Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization” advises governments on how to set fair and practical conditions for users seeking genetic resources. In return, these users must offer benefits such as profits, royalties, scientific collaboration, or training. An international regime will need to address a number of complex issues, including the protection of traditional knowledge and the role of Intellectual Property Rights in access and benefit-sharing arrangements.

95. Until recently, foreign prospectors felt free to take biological resources from their countries of origin and use them to develop drugs and other commercial products. The resulting products would be sold by foreign companies under the protection of patents or other intellectual property rights. Meanwhile, the country of origin – often from the developing world, where most biodiversity is found – would receive no benefit from the commercial exploitation of its resources.

VII. UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA, 1994 (UNCCD)

A. Background

96. The United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and Desertification, Particularly in Africa (UNCCD or CCD) was adopted on 17 June 1994 and opened for signature in Paris in October 1994. The Convention entered into force on 26 December 1996 and with 191 Parties, as at 17 March 2004, has attained universal membership.⁴⁵

97. The Convention provides for an integrated approach to combat desertification and mitigate the effects of drought in the countries, especially in Africa, by advocating effective action at all levels supported by regional and international co-operation. The Convention also contains “Regional Implementation Annexes” for Africa, Asia, Latin America and the Caribbean, and the Northern Mediterranean. A fifth annex for Central and Eastern Europe was adopted at COP-4 in December 2000.

98. The Conference of Parties (COP) is the supreme body of the Convention. A Committee on Science and Technology (CST), established under the Convention as a subsidiary body of the COP is entrusted with the task of providing information and advice on scientific and technological matters relating to combating desertification and mitigating the effects of drought. At its first session held in 1997, the COP-1 decided to locate its Permanent Secretariat in Bonn. After the conclusion of the Headquarters Agreement with the German Government, the Secretariat moved to Bonn in early 1999. With a view to mobilization and channeling of financial resources for the implementation of the Convention, a Global Mechanism functions under the authority of the COP.

99. During its first to fourth sessions, the COP had discussed, apart from the administrative matters, including program and budget, other institutional arrangements such as establishment of an Ad hoc panel to survey benchmarks and indicators and linkages between traditional and modern knowledge. COP-3 held in 1999 approved the Memorandum of Understanding between COP and the International Fund for Agriculture Development (IFAD) as the Organization to administer the Global Mechanism (GM), as envisaged in the Convention. At that session, it was also decided to establish an Ad-hoc Working Group (AHWG) to review and analyze the reports on national, sub-regional, and regional action programs and make recommendations for their implementation.

100. The two important initiatives taken at COP-4 held in 2000, were the initiation of the consideration of modalities for the establishment of a Committee to review the implementation of the Convention (CRIC) and the adoption of a decision on the Global Environment Facility (GEF) Council initiative to explore the best options for GEF support for CCD implementation. In addition, the *Ad hoc* Working Group (AHWG)

⁴⁵ For Status of AALCO Member State’s participation in the UNCCD see table III in Annex.

continued its review of various national, sub-regional, and regional reports and discusses strategies and policy frameworks to enhance the implementation of the Convention.

101. The Fifth Conference of Parties (COP-5) was held in Geneva from 1 to 13 October 2001. The meeting focused on setting the modalities of work for the two-year interval before the next COP, scheduled for September 2003. Significant decisions adopted by the meeting include the establishment of the CRIC, the identification of modalities to improve the efficiency and effectiveness of the CST, and the enhancement of the CCD's financial base following strong support for a proposal by the GEF to designate land degradation as another focal area for funding.

102. The first session of the CRIC took place from 11 to 22 November 2002 in Rome. The meeting deliberated upon the following seven thematic issues, identified by COP-5: participatory process involving civil society, non-governmental organizations (NGOs) and community-based organizations (CBOs); legislative and institutional frameworks or arrangements; linkages and synergies with other environmental conventions and, as appropriate, with national development strategies; measures for rehabilitation of degraded land, drought and desertification monitoring and assessment; early warning systems for mitigating effects of drought; access by affected country Parties, particularly affected developing country Parties, to appropriate technology, knowledge and know-how; and resource mobilization and coordination, both domestic and international, including conclusions and partnership agreements.

B. Sixth Conference of Parties to the UNCCD (25 August-6 September, 2003, Havana, Cuba)

103. The Sixth Conference of the Parties (COP-6) to the UNCCD took place in Havana, Cuba, from 25 August to 6 September 2003. Amongst the significant decision adopted by COP-6 the decision to accept the Global Environment Facility as a financial mechanism of the convention is important. This and other decisions adopted by the Conference advance the effective and timely implementation of the Convention.

104. **Havana Declaration of Heads of States and Government on the implementation of the UNCCD:** The Havana Declaration commits governments to pursue peace, sustainable development, multilateralism, and comply with international law. It notes that people living in affected areas need to be at the center of all programmes to combat desertification, and urges the improvement of economic, social and environmental conditions of the poor. It calls on the WTO to note the impacts that agriculture and trade subsidies have on rural development and desertification, and to consider phasing them out. It invites all affected Parties to integrate the CCD in national strategies for sustainable development, and include programmes to combat desertification in policies on land, water, rural development, forests, energy, and education and culture.

105. **Date and venue of the seventh session of the Conference of the Parties:** The meeting decided to hold the COP -7 at Bonn, the site of the Convention Secretariat, in

the event that no Party makes an offer to host that session by 15 January 2005.⁴⁶ The meeting is currently scheduled to be held in Bonn, Germany from 17 to 28 October 2005.

C. Commemoration of the tenth anniversary of the UNCCD

106. The United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa was adopted on 17 June 2004 at Paris. The tenth anniversary of the UNCCD was commemorated on 17 June 2004 at the Bonn based UNCCD Secretariat by raising global awareness of desertification.

D. Consideration of the resolution on the Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa by the Fifty-ninth Session of the General Assembly

107. The Plenary Meeting of the UN General Assembly at its Fifty-ninth Session, at the recommendation of its Second Committee⁴⁷ adopted by consensus the resolution of the Implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa on 22 December 2004. The Assembly reaffirmed that desertification constituted a serious obstacle to sustainable development and contributed to food insecurity, famine and poverty, which were factors that could give rise to social, economic and political tensions, including forced migration and conflicts, and that the Convention was an important tool for poverty eradication. It also stressed the importance of implementing the Convention in order to meet internationally agreed development goals, including those contained in United Nations Millennium Declaration. It also called upon governments, in collaboration with multilateral organizations, including the Global Environment Facility implementation agencies to integrate desertification into their plans and strategies for sustainable development.

108. The Assembly also called upon governments and invited multilateral financial institutions, regional development banks, regional economic integration organizations and all other interested parties, including non-governmental organizations and the private sector, to contribute to the Convention's General Fund, Supplementary Fund and Special Fund. Further, the Assembly urged UN bodies, the Bretton Woods institutions and donors to integrate action backing the Convention into their programmes and strategies to achieve the Millennium Development Goals.⁴⁸

⁴⁶ Decision 30/COP.6.

⁴⁷ The recommendation of the Second Committee is contained in *Sustainable development: implementation of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa: Report of the Second Committee*, UN Doc. A/59/483/Add.5 dated 15 December 2004.

⁴⁸ UN Doc. A/RES/59/235.

VIII. FOLLOW-UP ON THE PROGRESS IN THE IMPLEMENTATION OF THE OUTCOME OF THE WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT

A. Background

109. The debate on the linkages between the environment protection and development, paved the way for recognition of the concept of sustainable development. The 1972 Stockholm Conference on Human Environment recognized the need of protecting environment and adopted an Action Plan for Human Environment and Stockholm Declaration consisting of 26 principles as a guide for the development of environmental law. United Nations Environment Programme (UNEP) was established as a follow up to coordinate the environment activities of the UN agencies. In 1992, United Nations Conference on Environment and Development was held in Rio de Janeiro. The Conference adopted Rio Declaration and Agenda 21, a comprehensive programme of action. The Conference also established the Commission on Sustainable Development (CSD). An evaluation of the implementation of the Agenda 21 was carried out at the Special Session of the General Assembly in 1997.

110. The 2002 World Summit on Sustainable Development, held at Johannesburg provided another opportunity to make an appraisal of the implementation of the Agenda 21. *Johannesburg Declaration on Sustainable Development* and *Plan of Implementation* were the out come of the Summit. The Plan of Implementation had dealt with poverty eradication; changing unsustainable patterns of consumption and production; protecting and managing the natural resource base for economic and social development; sustainable development in a globalising world; health and sustainable development; sustainable development of small island developing states; sustainable development for Africa; means of implementation; and institutional framework for sustainable development. The Summit emphasized integrated and concerted actions on five key areas namely, water and sanitation, energy, health, agriculture and biodiversity, known as WEHAB initiative. In line with decision of the WSSD that CSD would be the key UN forum for consideration of issues related to implementation of WSSD, the Commission at its eleventh session adopted a comprehensive work-programme taking into account WEHAB initiative.

111. The United Nations General Assembly at its fifty-eighth session adopted resolution on *Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Outcomes of the World Summit on Sustainable Development*.⁴⁹ While reaffirming the continuing need to ensure a balance between economic development, social development and environment protection as interdependent and mutually reinforcing pillars of sustainable development, the resolution recognized that good governance within each country and at the international level is essential for sustainable development. The resolution requested the Secretary General to submit, while reporting to the CSD at its twelfth session on the state of implementation of Agenda 21, the Programme for the Further Implementation of Agenda

⁴⁹ UN Doc. A/RES/58/218.

21 and the Johannesburg Plan of Implementation, one report on each of the issues of water, sanitation and human settlement, to be addressed in an integrated manner during the twelfth session of the CSD; a report on overall progress in the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation, reflecting cross-cutting issues identified by the CSD at its eleventh session; progress made in the three dimensions of sustainable development and their integration; and constraints, challenges, opportunities, best practices, information sharing and lessons learned. General Assembly also decided to include in the provisional agenda of its fifty ninth session the item entitled “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Outcomes of the World Summit on Sustainable Development”, and requested the Secretary-general to submit a report on the implementation of the this resolution for consideration at that session.

B. Eighth Special Session of the Governing Council of the UNEP and Global Ministerial Environment Forum (29-31 March, 2004, Republic of Korea)

112. Eighth Special Session of the Governing Council of the UNEP and Global Ministerial Environment Forum was held in Jeju, Republic of Korea, from 29-31 March 2004. The meeting adopted decisions regarding international environmental governance, Small Island developing States and waste management.⁵⁰ The Meeting adopted the “Jeju Initiative” on water, sanitation and human settlement.⁵¹ The Ministers and other heads of delegations stressed that integrated water resource management (IWRM) incorporating an ecosystem approach was a key building block for achieving the water, sanitation and human settlement targets to be discussed at the twelfth session of the Commission on Sustainable Development, for promoting economic growth and achieving targets on health and poverty reduction. They also stressed that UNEP, working in partnership with other United Nations agencies, international financial institutions and other actors, has an important role to play in helping to expedite the implementation of the IWRM, water and sanitation targets, including through support for capacity building on legal, financial, technical and other issues, education, scientific monitoring and assessment, and technology transfer activities at the national and regional levels, particularly in developing countries, countries with economies in transition and small island developing countries.

C. Commission on Sustainable Development (Twelfth Session, 14-30 April 2004, UN Headquarters, New York)

113. The Twelfth Session of the Commission on Sustainable Development⁵² was the Commission’s first session under its new post-World Summit on Sustainable Development work programme and was the first “non-negotiating” session. The purpose

⁵⁰ UNEP/GCSS.VIII/8, Annex I.

⁵¹ UNEP/GCSS/VIII/8, Annex II.

⁵² Report on the Twelfth Session (9 May 2003 and 14-30 April 2004), ECOSOC, Official Records, 2004, Supplement no. 9, E/2004/29; E/CN.17/2004/21.

of the twelfth session, as agreed by the CSD at its eleventh session, was to take a hard, honest look at the performance, explore successes and failures and analyze the reasons why; to identify best practices, obstacles and constraints; and to discuss where and how they must strengthen their efforts.

114. In their statements on the overall review of the review of the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation, focusing on the thematic cluster for 2004-2005 (water, sanitation and human settlements), delegations supported many of the conclusions contained in the reports of the Secretary-General. The Secretary-General in his report noted that while some progress has been achieved in meeting the internationally agreed goals and targets on water, sanitation and human settlements, such gains varied among regions and that major challenges remain. A lack of political will at both international and national levels have hampered progress, notably in resource mobilization, tariff and subsidy reform, and enforcement of water pollution laws and regulations. He also cited a serious under investment in the areas of access to clean drinking water and sanitation.

115. Many delegations expressed satisfaction that water, sanitation and human settlements are being addressed during this first cycle of the Commission in its new work programme. Many countries, developed and developing cited the lack of financial resources, technology transfer and capacity as the major challenges and constraints for developing countries in meeting the goals and targets set out in the Millennium Declaration and the Johannesburg Plan of Implementation. For the least developed countries, in particular, ODA flows need to be increased and made more effective. Concerns were expressed regarding lack of progress on market access for agricultural products or on the reduction of agricultural tariffs and subsidies. Africa was identified by the delegations requiring particular attention, which lags behind in the implementation of the three goals under review. The particular problems of the least developed countries, land-locked developing countries and small island developing countries were also highlighted.

116. In the High Level Segment, the Ministers identified a number of challenges that need to be addressed in the course of the policy year in an effective follow-up to the twelfth session of the Commission, with a view to strengthening implementation to meet the agreed goals and targets in the areas of water, sanitation and human settlements. Some of major challenges identified are:

- i. Mobilizing resources from all sources, international, regional, national and local, public and private, to meet the Millennium Development Goals and goals and targets of the Johannesburg Plan of Implementation;
- ii. Water, sanitation and human settlements in national sustainable development strategies and poverty reduction strategy papers, and ensuring that both processes are inclusive and nationally driven and that their implementation is monitored;
- iii. Strengthening governance at all levels to ensure proper and efficient use of scarce resources;
- iv. Improving inter-agency cooperation and cross-sectoral coordination among international organizations in accordance with their mandates and the

- Johannesburg Plan of Implementation, as well as cross-sectoral cooperation and donor coordination at the national level contributing to the implementation of the Johannesburg Plan;
- v. Enhancing the role of partnerships in mobilizing new and additional resources, and encouraging those that effectively contribute to meeting national needs;
 - vi. Building capacity for water management, sanitation and human settlements planning and development in developing countries, with financial and technical assistance from developed countries and international organizations. Capacity building at the local level is particularly important in view of the trend towards decentralization of service provision;
 - vii. Increasing the transfer of appropriate technologies and scientific and technical cooperation;
 - viii. Addressing the special needs of Africa, Small Island developing States and landlocked developing countries.

117. The thirteenth session of the CSD (CSD-13) is scheduled to take place at the UN Headquarters in New York from 11 to 22 April 2005. CSD-13 is the policy session in the first two-year “Implementation Cycle” and will continue to focus on the thematic cluster of water, sanitation and human settlements.

D. Consideration of the resolution on the “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development” by the Fifty-ninth Session of the United Nations General Assembly

118. The UN General Assembly, on the recommendation of its Second Committee,⁵³ on 22 December 2004, adopted the resolution on the “Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development” The Assembly called upon governments, relevant international and regional organizations, the Economic and Social Council, United Nations bodies, international financial institutions, the GEF and other intergovernmental organizations and major groups to ensure the effective implementation of and follow-up to the commitments, programmes and time-bound targets adopted at the WSSD. Further, the Assembly encouraged governments to participate with representatives from relevant departments and agencies in water, sanitation, and human settlements and finance, in the intergovernmental preparatory meeting for the thirteenth session of the CSD. The Assembly stressed the importance of CSD taking policy decisions on measures and options to expedite implementation in the thematic cluster of water, sanitation and human settlements; and mobilizing further action by all implementation actors to overcome obstacles in implementing Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation.⁵⁴

⁵³ The recommendation of the Second Committee is contained in *Sustainable development: implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development: Report of the Second Committee*, UN Doc. A/59/483/Add.1 dated 13 December 2004.

⁵⁴ UN Doc. A/RES/59/227.

IX. SECRETARIAT COMMENTS AND OBSERVATIONS

A. General Comments

119. The recent Report of the Secretary-General's High-level Panel on Threats, Challenges and Change aptly entitled *A more secure world: Our shared responsibility* inter alia identifies environmental degradation amongst the six clusters of threats which the world must be concerned now and in the decades to come.⁵⁵ The Report states with concern that "Environmental degradation has enhanced the destructive potential of natural disasters and in some cases hastened their occurrence. The dramatic increase in major disasters witnessed in the last 50 years provides worrying evidence of this trend."⁵⁶ The UN Secretary-General Kofi Annan formally received the Report on 2 December 2004.

120. Merely three weeks thereafter, on 26 December 2004, the world was hit by the biggest earthquake in the last 40 years and triggered a Tsunami – a series of large waves in the Indian Ocean – that spread thousand of kilometers over several hours and killed hundreds of thousands and orphaned many children across countries in Asia and Africa. The impact of Tsunami disaster was felt by Indonesia, Sri Lanka, India, Thailand, Maldives, Malaysia, Myanmar, Bangladesh, Somalia, Kenya, Tanzania and Seychelles. In terms of human loss, Indonesia, Sri Lanka, India and Thailand bore the maximum brunt.

121. Although the scientific linkages between environmental degradation and Tsunami disaster is yet not established, the finding of the Report seems to be quite prophetic. Of greater concern to AALCO is the fact that out of the 12 countries affected by the Tsunami disaster, ten are AALCO Member States. The Report also finds lack of coherence in environmental protection efforts at the global level and notes that the regional and global multilateral treaties on the environment are undermined by inadequate implementation and enforcement by the Member States. This disaster should therefore sound as an alarm and it is hoped that the Member States would take note of the Report of the Panel.

B. United Nations Framework Convention on Climate Change

122. The entry into force of the Kyoto Protocol to the UNFCCC on 16 February 2005 is a significant achievement for the international community. However, the Protocol by itself is not sufficient to solve the challenge of limiting greenhouse gas emissions. The Protocol encourages the development of renewable energy sources and it may be hoped that this would result in the development of renewable energy sources and lesser reliance on fossil fuels.

⁵⁵ The Report of the 16-member panel of prominent politicians, diplomat and development experts contains 101 recommendations for dealing with six areas identified by the Panel as being the greatest threats to worldwide security in the twenty-first century. See <http://www.un.org/secureworld/> for the Report.

⁵⁶ Ibid., p. 26.

123. The observations of the High-level Panel as regards the challenges facing the Climate Change Convention are noteworthy. These are:

The United States, which accounts for about one quarter of world emission's of greenhouse gases refuses to ratify the Protocol. At the same time, developing countries which account for almost half of today's net emissions of greenhouse gases (but only one tenth of per capita emissions) have been opposed to accepting any binding emission caps, which they perceive to be impediments to economic growth. Industrialized nations are likely to be more resistant to accepting costly reduction without developing country participation. Most importantly, the Protocol does not contain any obligations beyond 2012. **We urge Member States to reflect on the gap between the promise of the Kyoto Protocol and its performance, re-engage on the problem of global warming and begin new negotiations to produce a new long-term strategy for reducing global warming beyond the period covered by the Protocol.**⁵⁷

C. Convention on Biological Diversity

124. The response of COP-7 of CBD to the WSSD target of significantly reducing biodiversity loss by 2010 by adoption of concrete measures demonstrates that the CBD is the most appropriate and efficient policy framework to address biodiversity. Furthermore, the creation of a Working Group with a clear term of reference to work for the development of access and benefit sharing regime based on the Convention's objective of a "fair and equitable sharing of benefits arising out of the utilization of genetic resources" is a commendable achievement. It may be noted that developing countries Parties were advocating for the creation of such a regime and now they must actively participate in the negotiation process for such a regime. The adoption of work programmes on biological diversity of mountain ecosystem and protected area would provide further impetus to the conservation and management of biodiversity.

125. The entry into force of the Cartagena Protocol on 11 September 2003 is considered as a landmark for sustainable development, and another milestone in the global effort to reconcile environmental conservation and development. The decisions arrived at COP/MOP-1 are particularly important in providing the benefits of biotechnology. In this regard, two decisions of the Meeting stands out one the creation of a Compliance Committee and two the practical and effective documentation of Living Modified Organisms. (LMOs).

126. The protection of Intellectual Property Rights in genetic resources, folklore, and traditional knowledge is one of the most debated issues in the negotiations of several multilateral agreements, such as the CBD, World Trade Organization's (WTO) – Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS), World Intellectual Property Organization (WIPO), UN Human Rights Committee etc., as it gives rise to a range of legal and practical issues concerning both their relationship in international law and their implementation at the national level. Therefore, there is a need for

⁵⁷ Ibid., p. 30.

harmonization of the provisions of these agreements. In this regard, one may hope that the negotiation process for the international regime for access and benefit sharing from access to genetic resources and fair and equitable sharing of the benefits arising out of their utilization would take care of the concern of many countries which are unable to effectively protect their genetic resources. The sovereignty over the genetic resources of the countries of origin needs to be respected by all, to prevent biopiracy. The concern of the LMMC should also be seriously considered by the Ad Hoc Open-ended Working Group on Access and Benefit Sharing working towards the negotiation of an international regime.

D. United Nations Convention to Combat Desertification

127. The decision of COP-6 to designate the Global Environment Facility as the funding mechanism for the UNCCD would open the GEF to funding desertification programmes. It may be noted that lack of funding had been the major barrier to the implementation of the UNCCD and this achievement is expected to bring the CCD closer to breaching the implementation gap. Furthermore, it is hoped that Havana Declaration which reaffirms the strong political commitment to combat desertification would be reflected in the National Action Plan of Parties to the Convention. Further, awareness as regards the General Assembly decision for observing 2006 as the International Year of Deserts and Desertification is also required to be promoted.

E. Follow-up on the outcomes of the World Summit on Sustainable Development

128. The 2002 World Summit on Sustainable Development, Johannesburg had assumed collective responsibility to advance and strengthen the interdependent and mutually reinforcing pillars of sustainable development-economic development, social development and environmental protection-at the local, national, regional and global levels. The Summit recognized poverty eradication; changing unsustainable patterns of consumption and production; protecting and managing the natural resource base for economic and social development; as overarching objectives of, and essential requirements for sustainable development. It also recognized that the ever-increasing gap between the developed and developing worlds pose a major threat to global prosperity, security and stability. The Summit felt that globalization has added a new dimension to these challenges. The benefits and costs of globalization are unevenly distributed, with developing countries facing special difficulties in meeting these challenges. The Johannesburg Plan of Implementation, had reiterated a few commitments made at the UN Financing for Development Conference in Monterrey; the WTO Ministerial Conference at Doha and in the Millennium Declaration.

129. Lack of political will, financial resources, technology transfer and capacity are cited as the main challenges for developing countries in meeting the targets set out in the Johannesburg Plan of Implementation. No concrete effort has been made by the developed countries to meet the target of 0.7 percent of GNP as official development assistance to developing countries and least developed countries. Another major

challenge is the lack of progress on market access for developing and least developed countries and on the reduction of agricultural tariffs and subsidies. Sincere and concerted efforts are needed from the all nations, developed, developing and least developed; international and regional organizations and all actors in this field to realize the goals in the Johannesburg Plan of Implementation. Also, the developed world has to take up their historical and current responsibility on the principles and commitments agreed upon in Rio and Johannesburg.

ANNEX
STATUS OF AALCO MEMBER STATES PARTICIPATION IN UNFCCC, CBD
& UNCCD

Table I: Status of participation of AALCO Member States in the United Nations Framework Convention on Climate Change and its Kyoto Protocol

S. NO	MEMBER STATE	UNFCCC		KYOTO PROTOCOL	
		SIGNATURE	RATIFICATION ACCESSION (a) ACCEPTANCE (A) APPROVAL (AA)	SIGNATURE	RATIFICATION ACCESSION (a) ACCEPTANCE (A) APPROVAL (AA)
1.	Arab Republic of Egypt	9 June 1992	5 December 1994	15 March 1999	12 January 2005
2.	Bahrain	8 June 1992	28 December 1994	—	—
3.	Bangladesh	9 June 1992	15 April 1994	—	22 October 2001 a
4.	Botswana	12 June 1992	27 January 1994	—	8 August 2003 a
5.	Brunei Darussalam	—	—	—	—
6.	Cyprus	12 June 1992	15 October 1997	—	16 July 1999 a
7.	Democratic Peoples' Republic of Korea	11 June 1992	5 December 1994 (AA)	—	—
8.	Federal Republic of Nigeria	13 June 1992	29 August 1994	—	10 December 2004
9.	Gambia	12 June 1992	10 June 1994	—	1 June 2001 a
10.	Ghana	12 June 1992	6 September 1995	—	30 May 2003 a
11.	Hashemite Kingdom of Jordan	11 June 1992	12 November 1993	—	17 January 2003 a
12.	India	10 June 1992	1 November 1993	—	26 August 2002 a
13.	Indonesia	5 June 1992	23 August 1994	13 July 1998	—
14.	Islamic Republic of Iran	14 June 1992	18 July 1996	—	—
15.	Japan	13 June 1992	28 May 1993 (A)	28 April 1998	4 June 2002 A
16.	Kenya	12 June 1992	30 August 1994	—	—
17.	Lebanon	12 June 1992	15 December 1994	—	—
18.	Libyan Arab Jamahriya	29 June 1992	14 June 1999	—	—
19.	Malaysia	9 June 1993	13 July 1994	12 March 1999	4 September 2002
20.	Mauritius	10 June 1992	4 September 1992	—	9 May 2001 a
21.	Mongolian Peoples'	12 June 1992	30 September 1993	—	15 December 1999 a

	Republic				
22.	Myanmar	11 June 1992	25 November 1994	—	13 August 2003 a
23.	Nepal	12 June 1992	2 May 1994	—	—
24.	Pakistan	13 June 1992	1 June 1994	—	11 January 2005
25.	Palestine	—	—	—	—
26.	People's Republic of China	11 June 1992	5 January 1993	29 May 1998	30 August 2002 AA
27.	Philippines	12 June 1992	2 August 1994	15 April 1998	20 November 2003
28.	Republic of Iraq	—	—	—	—
29.	Republic of Korea	13 June 1992	14 December 1993	25 September 1998	8 November 2002
30.	Republic of Singapore	13 June 1992	29 May 1997	—	—
31.	Republic of Uganda	13 June 1992	8 September 1993	—	25 March 2002 a
32.	Republic of Yemen	12 June 1992	21 February 1996	—	15 September 2004
33.	Saudi Arabia	—	28 December 1994 a	—	—
34.	Senegal	13 June 1992	17 October 1994	—	20 July 2001 a
35.	Sierra Leone	11 February 1993	22 June 1995	—	—
36.	Somalia	—	—	—	—
37.	South Africa	15 June 1993	29 August 1997	—	31 July 2002
38.	Sri Lanka	10 June 1992	23 November 1993	—	3 September 2002 a
39.	State of Kuwait	—	28 December 1994 a	—	—
40.	State of Qatar	—	18 April 1996 a	—	11 January 2005
41.	Sudan	9 June 1992	19 November 1993	—	2 November 2004
42.	Sultanate of Oman	11 June 1992	8 February 1995	—	—
43.	Syrian Arab Republic	—	4 January 1996 a	—	—
44.	Thailand	12 June 1992	28 December 1994	2 February 1999	28 August 2002
45.	Turkey	—	24 February 2004 a	—	—
46.	United Arab Emirates	—	29 December 1995 a	—	26 January 2005
47.	United Republic of Tanzania	12 June 1992	17 April 1996	—	26 August 2002 a

Note

1. Information stated in the above table has been compiled from Status of Ratification of the United Nations Framework Convention on Climate Change and its Kyoto Protocol available on the website of the UNFCCC. The information on website for UNFCCC is updated till 24 May 2004, whereas for the Kyoto Protocol it is updated till 31 January 2005: <http://unfccc.international/resource/convention/ratlist.pdf>. (website accessed on 2 February 2005).
2. The AALCO Member States have not made any Reservation/Declaration to either of these instruments.

Inferences

Following inferences as to the participation of AALCO Member States in the UNFCCC and its Kyoto Protocol may be made from the above Table:

United Nations Framework Convention on Climate Change

(i) As at 24 May 2004, there were 189 Parties to the UNFCCC. It has been ratified/acceded/accepted/approved by 43 AALCO Member States. Amongst AALCO Member States Brunei Darussalam, Palestine, Republic of Iraq, and Somalia are non-Parties to the Convention.

Kyoto Protocol

(i) As at 2 February 2005, there were 141 Parties to the Kyoto Protocol. It has been ratified/acceded/accepted/approved to by 28 AALCO Member States. AALCO Member States Parties to this Protocol are: Bangladesh, Botswana, Cyprus, Federal Republic of Nigeria, Gambia, Ghana, Hashemite Kingdom of Jordan, India, Japan, Malaysia, Mauritius, Mongolian People's Republic, Myanmar, Pakistan, People's Republic of China, Philippines, Republic of Korea, Republic of Yemen, Republic of Uganda, Saudi Arabia, Senegal, Sri Lanka, State of Qatar, South Africa, Sudan, Thailand, United Arab Emirates and United Republic of Tanzania.

Table II: Status of the participation of AALCO Member States in the Convention on Biological Diversity and Cartagena Protocol on Biosafety

S. NO	MEMBER STATE	CONVENTION ON BIOLOGICAL DIVERSITY		CARTAGENA PROTOCOL ON BIOSAFETY	
		SIGNATURE	RATIFICATION ACCESSION (a) ACCEPTANCE (A) APPROVAL (AA)	SIGNATURE	RATIFICATION ACCESSION (a) ACCEPTANCE (A) APPROVAL (AA)
1.	Arab Republic of Egypt	9 June 1992	2 June 1994	20 December 2000	23 December 2003
2.	Bahrain	9 June 1992	30 August 1996	—	—
3.	Bangladesh	5 June 1992	3 May 1994	24 May 2000	5 February 2004
4.	Botswana	8 June 1992	12 October 1995	1 June 2001	11 June 2002
5	Brunei Darussalam				
6	Cyprus	12 June 1992	10 July 1996	—	5 December 2003a
7.	Democratic Peoples' Republic of Korea	11 June 1992	26 October 1994 (AA)	20 April 2001	29 July 2003
8.	Federal Republic of Nigeria	13 June 1992	29 August 1994	24 May 2000	15 July 2003
9.	Gambia	12 June 1992	10 June 1994	24 May 2000	9 June 2004
10.	Ghana	12 June 1992	29 August 1994	—	30 May 2003
11.	Hashemite Kingdom of Jordan	11 June 1992	12 November 1993	11 October 2000	11 November 2003
12.	India	5 June 1992	18 February 1994	23 January 2001	17 January 2003
13.	Indonesia	5 June 1992	23 August 1994	24 May 2000	3 December 2004
14.	Islamic Republic of Iran	14 June 1992	6 August 1996	23 April 2001	20 November 2003
15.	Japan	13 June 1992	28 May 1993 A	—	21 November 2003a
16.	Kenya	11 June 1992	26 July 1994	15 May 2000	24 January 2002
17.	Lebanon	12 June 1992	15 December 1994	—	13 January 2004
18.	Libyan Arab Jamahriya	29 June 1992	12 July 2001	—	—
19.	Malaysia	12 June 1992	24 June 1994	24 May 2000	3 September 2003
20.	Mauritius	10 June 1992	4 September 1992	—	11 April 2002 (a)
21.	Mongolian Peoples' Republic	12 June 1992	30 September 1993	—	22 July 2003 a

22.	Myanmar	11 June 1992	25 November 1994	11 May 2001	—
23.	Nepal	12 June 1992	23 November 1993	2 March 2001	—
24.	Pakistan	5 June 1992	26 July 1994	4 June 2001	—
25.	Palestine	—	—	—	—
26.	People's Republic of China	11 June 1992	5 January 1993	8 August 2000	—
27.	Philippines	12 June 1992	8 October 1993	24 May 2000	—
28.	Republic of Iraq	—	—	—	—
29.	Republic of Korea	13 June 1992	3 October 1994	6 September 2000	—
30.	Republic of Singapore	12 June 1992	21 December 1995	—	—
31.	Republic of Uganda	12 June 1992	8 September 1993	24 May 2000	30 November 2001
32.	Republic of Yemen	12 June 1992	21 February 1996	—	—
33.	Saudi Arabia	—	3 October 2001 a	—	—
34.	Senegal	13 June 1992	17 October 1994	31 October 2000	8 October 2003
35.	Sierra Leone	—	12 December 1994 a	—	—
36.	Somalia	—	—	—	—
37.	South Africa	4 June 1993	2 November 1995	—	14 August 2003
38.	Sri Lanka	10 June 1992	23 March 1994	24 May 2000	—
39.	State of Kuwait	9 June 1992	2 August 2002	—	—
40.	State of Qatar	11 June 1992	21 August 1996	—	—
41.	Sudan	9 June 1992	30 October 1995	—	—
42.	Sultanate of Oman	10 June 1992	8 February 1995	—	11 April 2003a
43.	Syrian Arab Republic	3 May 1993	4 January 1996	—	1 April 2004
44.	Thailand	12 June 1992	29 January 2004	—	—
45.	Turkey	11 June 1992	14 February 1997	24 May 2000	24 October 2003
46.	United Arab Emirates	11 June 1992	10 February 2000	—	—
47.	United Republic of Tanzania	12 June 1992	8 March 1996	—	24 April 2003

Note

1. Information stated in the above table has been compiled from Status of Ratification to the Convention on Biological Diversity and Cartagena Protocol available on the website of the CBD. The information on the website of the Convention regarding Parties to the CBD and Cartagena Protocol <http://www.biodiv.org/world/parties.asp> was accessed on 3 February 2005.

2. Sudan and Syrian Arab Republic have made Declarations while ratifying the Convention.

Inferences

Following inferences as to the participation of AALCO Member States in the CBD and its Cartagena Protocol may be made from the above Table:

Convention on Biological Diversity

(i) As at 3 February 2005, there were 188 Parties to the CBD. It has been ratified/acceded/accepted/approved to by 43 AALCO Member States. Amongst AALCO Member States, Brunei Darussalam, Palestine, Republic of Iraq and Somalia are non-Parties to the CBD.

Cartagena Protocol on Biosafety

(i) As at 3 February 2005 there were 111 Parties to the Biosafety Protocol. It has been ratified/acceded/accepted/approved to by twenty-five AALCO Member States.

Table III: Status of the participation of AALCO Member States in the United Nations Convention to Combat Desertification

S. NO	MEMBER STATE	UNCCD	
		SIGNATURE	RATIFICATION ACCESSION (a) ACCEPTANCE (A) APPROVAL (AA)
1.	Arab Republic of Egypt	14 October 1994	7 July 1995
2.	Bahrain	—	14 July 1997 a
3.	Bangladesh	14 October 1994	26 January 1996
4.	Botswana	12 October 1995	11 September 1996
5.	Brunei Darussalam		4 December 2002a
6.	Cyprus	—	29 March 2000 a
7.	Democratic Peoples' Republic of Korea	—	29 December 2003a
8.	Federal Republic of Nigeria	31 October 1994	8 July 1997
9.	Gambia	14 October 1994	11 June 1996
10.	Ghana	15 October 1994	27 December 1996
11.	Hashemite Kingdom of Jordan	13 April 1995	21 October 1996
12.	India	14 October 1994	17 December 1996
13.	Indonesia	15 October 1994	31 August 1998
14.	Islamic Republic of Iran	14 October 1994	29 April 1997
15.	Japan	14 October 1994	11 September 1998 A
16.	Kenya	14 October 1994	24 June 1997
17.	Lebanon	14 October 1994	16 May 1996
18.	Libyan Arab Jamahriya	15 October 1994	22 July 1996
19.	Malaysia	6 October 1995	25 June 1997
20.	Mauritius	17 March 1995	23 January 1996
21.	Mongolian Peoples' Republic	15 October 1994	3 September 1996
22.	Myanmar	—	2 January 1997 a
23.	Nepal	12 October 1995	15 October 1996
24.	Pakistan	15 October 1994	24 February 1997
25.	Palestine	—	—
26.	People's Republic of China	14 October 1994	18 February 1997
27.	Philippines	8 December 1994	10 February 2000
28.	Republic of Iraq	—	—
29.	Republic of Korea	14 October 1994	17 August 1999
30.	Republic of Singapore	—	26 April 1999a
31.	Republic of Uganda	21 November 1994	25 June 1997
32.	Republic of Yemen	—	14 January 1997 a
33.	Saudi Arabia	—	25 June 1997 a
34.	Senegal	14 October 1994	26 July 1995
35.	Sierra Leone	11 November 1994	25 September 1997
36.	Somalia	—	24 July 2002 a
37.	South Africa	9 June 1995	30 September 1997
38.	Sri Lanka	—	9 December 1998 a
39.	State of Kuwait	22 September 1995	27 June 1997

40.	State of Qatar	—	15 September 1999a
41.	Sudan	15 October 1994	9 November 1995
42.	Sultanate of Oman	—	23 July 1996 a
43.	Syrian Arab Republic	15 October 1994	10 June 1997
44.	Thailand	—	7 March 2001 a
45.	Turkey	14 October 1994	31 March 1998
46.	United Arab Emirates	—	21 October 1998 a
47.	United Republic of Tanzania	14 October 1994	19 June 1997

Note

Information stated in the above table has been compiled from Status of Ratification and Entry into force of the UNCCD available on the website of the UN Convention to Combat Desertification: <http://unccd.int/convention/ratif/doiif.php>; (accessed on 18 March 2004) and UN, *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2002*, (UN, New York, 2003), vol. II, pp. 419-421. Kuwait has made a Declaration to this Convention.

Inference

As at 17 March 2004, there were 191 State Parties to the UNCCD. All the Member States of AALCO, have ratified/acceded/accepted/approved the United Nations Convention to Combat Desertification, except for South Africa, the State of Palestine and Republic of Iraq.