
Background

Due to the growing number of unlawful acts which threatened the safety of ships and the security of passengers and crews during the 1980s, with reports of kidnapped crews and hijacked ships, states were motivated to negotiate and subsequently adopt a Convention to suppress such unlawful acts. In November 1985 the problem was considered by IMO's 14th Assembly and a proposal by the United States that measures to prevent such unlawful acts should be developed by IMO was supported.

In response to the 1985 hijacking of the Achille Lauro, The UN General Assembly adopted Resolution 40/61 in 1985 invited the International Maritime Organization (IMO) to study the problem of the terrorism aboard or against ships with a view to make recommendations on appropriate measures. To supplement their effort, the Maritime Safety Committee of the IMO issued a circular (MSC/Circ.443) on measures to prevent unlawful acts against passengers and crews on board ships.

In November 1986, The Governments of Austria, Egypt, and Italy made a proposal to IMO urging the organization to prepare a convention on the subject of unlawful acts against the safety of maritime navigation. Then from 14 March 1988 to 09 March 1989, IMO held the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation at the Headquarters of the Organization. The result of the Conference is the Convention for the Suppression of Unlawful Acts of Violence against the Safety of Maritime Navigation. This Convention is known as SUA Convention.

1 cns.miis.edu/inventory/pdfs/maritime.pdf
International Law-making

Concept

This Convention provides a comprehensive suppression of unlawful acts committed against the safety of maritime navigation which endanger innocent human lives, jeopardize the safety of persons and property, and seriously affect the operation of maritime services, thus are of grave concern to the international community as a whole.

The main purpose of the convention is to ensure appropriate action is taken against persons who commit unlawful acts against ships. These include the seizure of ships by force such as, acts of violence against persons on board ships; and the placing of devices on board a ship which are likely to be destroyed or damaged. The convention obliges Contracting Parties either to extradite or to prosecute alleged offenders.

Parties to this Convention were urged to co-operate in contributing to the prevention and elimination of all unlawful acts against the safety in maritime navigation, and the prosecution and punishment of their perpetrators.

General Principles

The General Principles, comprised in this Convention, are:

- Territorial Principle where each State Party has the authority to implement its jurisdiction relating to the violence acts against the safety of maritime navigation in its territory including the territorial sea (Article 6).
- Cooperation Principle between State Parties concerning measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of the offenders (Article 13).

Main Features

The Convention consists of 22 Articles. The main features regulated in this convention are:

1. Definition of Ship is provided in Article 1 of this Convention. Ship is defined as any type of vessel whatsoever that is not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or other floating craft. According to Article 2, Warships, ships owned or operated by a State when being used as a naval auxiliary or for customs or police
purposes, or ships that have been withdrawn from navigation or laid up are not included under the auspices of the Convention.

2. In accordance with Article 3 of the Convention, any person commits an offense if that person unlawfully and intentionally commits, attempts to commit, threatens to commit, or abets the seizure or exercise of control over a ship by force or threat of force or any form of intimidation; or commits any of the following acts if it endangers or is likely to endanger the safe navigation of that ship: an act of violence against a person on board; destroying a ship or damaging a ship or its cargo; placing or causing to be placed on a ship a device or substance likely to destroy the ship or cause damage to the ship or its cargo; destroying or seriously interfering with their operation; or communicating information he knows to be false. It is also an offense to injure or kill any person in connection with the commission or attempted commission of any of the previous offenses.

3. Based on Article 4, the Convention applies if the ship is navigating or is scheduled to navigate into, through, or from waters beyond the outer limits of the territorial sea with adjacent States. In all other cases, the Convention also applies when the offender or alleged offender is found in the territory of a State Party other than the State in whose waters the offence occurred.

4. As stated in Article 5, States Parties are required to make the offenses punishable by appropriate penalties that take into account the grave nature of those offenses.

5. Regarding the measures to establish jurisdiction over the offenses according to Article 6, the measures shall be taken when the offense is committed against or on board a ship flying the flag of the State at the time the offenses is committed; in the territory of that State, including its territorial sea; by a national of that State; by a stateless person whose habitual residence is in that State; in an attempt to compel that State to do or abstain from doing any act; or when a national of that State is seized, threatened, injured, or killed during the commission of the offense.

6. Based on Article 7, when jurisdiction has been established, States shall take the offender into custody and immediately make a preliminary inquiry into the facts. States Parties are required to either extradite the offender in custody or submit the case for prosecution. States Parties are also required to assist each other in connection with criminal proceedings brought under the Convention. States parties are also to cooperate in the prevention of offenses by taking all practicable measures to prevent preparations in their
respective territories for the commission of those offenses within or outside their respective territories for the commission of those offenses within or outside their territories and by exchanging information in accordance with their national laws.

7. In accordance with Article 8, the Master of the ship of a State Party (herewith “Flag State”) may deliver to the authorities of any other State Party (herewith “Receiving State”) any person who he has reasonable grounds to believe has committed one of the offenses set forth in Article 3. The Flag State shall ensure the master of its ship is obliged to give notification to the authorities of the receiving State of his intention to deliver such person before entering the territorial sea of the Receiving State. The Receiving State shall accept the delivery. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.

8. Article 9 ensures there is nothing in the Convention will affect in any way the rules of International law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

9. Article 10 mentions the State Party in the territory of which the offender or the alleged offender is found is obliged to submit the case without delay to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. It should guarantee fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which the offender or alleged offender is present.

10. Article 11 regulates the provisions concerning extradition. The offenses set forth in Article 3 shall be deemed to be included as extraditable offenses in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offenses in every extradition treaty to be concluded between them.

11. As stated in Article 12, State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offenses set forth in Article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.

12. Article 13 and Article 14 comprise provisions concerning the co-operation between State Parties, such as exchanging information and preventive measures.

13. Article 15 states the obligation of every State Party to provide the Secretary-
General, as promptly as possible, any relevant information concerning the circumstances of the offences, and the measures taken in relation to the offender or the alleged offender.

14. While, Article 19 stipulates the Convention may be denounced by any State Party at any time after the expiry of one year from the date on which the Convention enters into force for that State.

15. As stated in Article 20, a conference for the purpose of revising or amending this Convention may be convened by the IMO. Furthermore, any instrument of ratification, acceptance, approval, or accession deposited after the entry into force of an amendment will apply to the Convention as amended.

Dispute Settlement

Under the Article 16, disputes between two or more States concerning the interpretation or application of the Convention will be submitted to arbitration at the request of one of the States if the matter cannot be settled through negotiation. However, at the time of signing, ratification, or accession, a State may make a reservation that it does not consider itself bound by this paragraph, in which case other States Parties shall not be bound to it with respect to any States Party that has made such a declaration.

Entry into Force

The Convention was done in Rome on March 10, 1988 and entered into force on March 01, 1992, when it had been ratified by 15 countries. As on December 31, 2009, 156 countries have ratified the Convention to become Parties. The signature and entry into force of the Convention are regulated in Article 17 and 18.

Related Regulations

The Convention is completed with The Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. The Protocol extends the requirements of the Convention to fixed platforms such as those engaged in the exploitation of offshore oil and gas.

This 1988 SUA Protocol was amended in 2005 by the Diplomatic Con-
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Conference on the Revision of the SUA Treaties, held in London from 10-14 October 2005. The Conference was also adopted new Protocol to the SUA Convention, called as The 2005 Protocol to the SUA Convention.

Other Regulations related to this SUA Convention are the IMO Assembly Resolution A.584 (14) Measures to Prevent Unlawful Acts and The MSC Circular (MSC/Circ.443) on Measures to Prevent Unlawful Acts. (Jeska Daslita)

Agreement on the Application of Sanitary and Phytosanitary Measures

Background

The trade of food between nations was as old as the nations itself. Ever since a nation existed, they have exchange food and other agricultural products. This trade of agricultural products provides clear economic benefit. Thus, food and other products become cheaper, and the choice of products available expands. Agriculture remains a cornerstone of many economies, especially in developing countries. Agricultural production and processing are activities which offer many low-income countries the possibility to trade their way out of poverty.

One fundamental requirement is that imported (as well as domestic) agricultural products are safe, and do not pose risks to human, animal and plant health. To ensure food safety, and to avoid the introduction of diseases and pests through trade, countries impose regulations to protect human and animal health (sanitary measures) and plant health (phytosanitary measures).

GATT 1947 recognized the need to introduce trade restrictions to protect health. Exceptions from GATT rules were allowed for measures necessary to

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2 This agreement is a form of implementation of the provisions of GATT 1994 which relate to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX (b), includes also the chapeau of that Article.

3 Taken from <http://www.wto.org/english/tratop_e/sps_e/sps_agreement_ebt_e/introl_e.htm>.
Jurnal Hukum Internasional

protect human, animal or plant life or health (Article XX(b)). GATT members had the right to take these measures as long as they were not applied in a manner which would be a means of arbitrary or unjustifiable discrimination between countries, or a disguised restriction on international trade.

Through successive rounds of negotiations, tariffs were reduced, and temptation to use non-tariff barriers to protect domestic industries increased. Included in these non-tariff barriers were sanitary and phytosanitary measures. There was thus a growing need to give precision to the exceptions of Article XX of the GATT.

Among many other concerns, sanitary and phytosanitary measures were one of the areas addressed by the Uruguay Round of trade negotiations, which resulted in the creation of the World Trade Organization (WTO) in 1995. The Marrakesh Agreement Establishing the WTO contains a number of trade agreements in its annexes, including the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). The Agreement on Agriculture deals mainly with issues of market access, domestic support, and export subsidies for agricultural products. The Agreement on Technical Barriers to Trade (TBT Agreement) covers technical regulations which are not covered by the SPS Agreement.

In addition, the WTO Agreement contains a dispute settlement mechanism, and a mechanism through which member’s trade policies are regularly reviewed.

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4 Article 1 of Annex A of the Agreement stipulates, "Sanitary or phytosanitary measure—Any measure applied: (a) to protect animal or plant life or health within the territory of the Member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organisms or disease-causing organisms; (b) to protect human or animal life or health within the territory of the Member from risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs; (c) to protect human life or health within the territory of the Member from risks arising from diseases carried by animals, plants or products thereof, or from the entry, establishment or spread of pests; or (d) to prevent or limit other damage within the territory of the Member from the entry, establishment or spread of pests. Sanitary or phytosanitary measures include all relevant laws, decrees, regulations, requirements and procedures including, inter alia, end product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labeling requirements directly related to food safety."
The implementation of the WTO Agreements is overseen by committees. All Members of the WTO are automatically Members of these committees, and make almost all decisions by consensus. The implementation of the SPS Agreement is overseen by the SPS Committee.

Concept

The Agreement was made taking note that all WTO members should not take arbitrary or unjustifiable discrimination between members where the similar conditions prevail or a disguised restriction on international trade. Also noting that sanitary and phytosanitary measures are often applied on the basis of bilateral agreements or protocols. In order to harmonize sanitary or phytosanitary measures between Members, and also to establish a uniform international standards, guidelines and recommendations regarding these matters, this Agreement was made.

The Agreement consists of 14 articles and 3 Annex (Annex A – Annex C) that should be seen as an integral part of the Agreement. The definitions used in the Agreement is stored in Annex A. Annex B stipulated the transparency of sanitary and phytosanitary regulations. While Annex C stipulated control, inspection and approval procedures of sanitary or phytosanitary measures.

General Principles

This Agreement applies to all sanitary and phytosanitary measures of WTO Members which may, directly or indirectly, affect the international trade. In which such measures are to be developed and applied in accordance with the provisions of this Agreement (Article 1 (1)). Definitions apply for this Agreement are provided in Annex A (Article 1 (2)). The Annexes are an integral part of this Agreement (Article 1 (3)). This Agreement shall not affect any rights of Members under the Agreement on Technical Barriers to Trade with respect to measures not within the scope of this Agreement (Article 1 (4)).

The Agreement has two objectives. It aims to both recognize the sovereign right of Members to provide the level of health protection they deem appropriate; and ensure that the Measures do not represent unnecessary, arbitrary, scientifically unjustifiable, or disguised restriction on international trade. In order to achieve its objectives, the Agreement has a principle that is to encourage Members to use international standards, guidelines and recommendations where
they exist. Member may adopt the Measures which result in higher levels of health protection, or measures for health concerns for which international standards do not exist, provided that they are scientifically justified.

Main Features

The main features of the Agreement are:

1. Members have the rights to take sanitary and phytosanitary measures which necessary for the protection of human, animal, or plant life or health, as long as such measures are not inconsistent with the provisions of this Agreement. Members shall also ensure that their measures is applied only to the extent necessary to protect human, animal or plant life or health, is based on the scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 7 of Article 5 of this Agreement. Such measures also should not be done arbitrarily or unjustifiably discriminate between Members where identical or similar conditions prevail. Those measures should conform to the relevant provisions of this according to the provisions of GATT 1994 related to the use of sanitary or phytosanitary measures, in particular the provisions of Article XX (b). (Article 2).

2. This Agreement was aimed to harmonize the sanitary and phytosanitary measures as a wide basis. Therefore, Members should base their measures on the international standards, guidelines or recommendations. Such standards should be relevant to the provisions of this Agreement and GATT 1994. Aside from following the international standards, Members are permitted to introduce measures which are resulted in a higher level of sanitary or phytosanitary protection than will be achieved by measures based on the relevant international standards. (Article 3).

3. Members shall accept the sanitary or phytosanitary measures of other Members as equivalent of their own or from those used by other Members trading in the same product, if the exporting Member objectively

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demonstrates to the importing Member that its measures achieve the importing Member's appropriate level of sanitary or phytosanitary protection. (Article 4).

4. Prior conducting a sanitary or phytosanitary measures, a Member has to conduct an assessment of risk and determination of the appropriate level of sanitary or phytosanitary protection. In the risk assessment, Members shall take into account available scientific evidences, relevant economic factors, and the objective to minimize the negative trade effects. (Article 5).

5. Adaptation to regional conditions, including pest - or disease-free areas and areas of low pest or disease prevalence should be ensured by Members. (Article 6).

6. To ensure transparency, members shall notify changes in their sanitary or phytosanitary measures and shall provide information on their sanitary or phytosanitary measures in accordance with the provisions of Annex B. (Article 7).

7. Control, inspection and approval procedures shall follow the provisions of Annex C. (Article 8).

8. Technical assistance may be given among Members either bilaterally or through the appropriate international organization. Such assistance may be, inter alia, in the areas of processing technologies, research and infrastructure, including in the establishment of national regulatory bodies, and may take the form of advice, credits, donations and grants, including for the purpose of seeking technical expertise, training and equipment to allow such countries to adjust to, and comply with sanitary or phytosanitary measures necessary to achieve the appropriate level of sanitary of phytosanitary protection in their export markets. Where importing member required developing member to fulfill the sanitary or phytosanitary requirements, the first shall consider providing such technical assistance. (Article 9).

9. In the preparation and application of sanitary and phytosanitary measures, Members shall take account of the special needs of developing country Members, and in particular of the least-developed country Members. With a view to ensuring that developing country Members are able to comply with the provisions of this Agreement, the Committee is enabled to grant to such countries, upon request, specified, time-limited, exceptions in whole or in part from obligations under this Agreement, taking into account their financial, trade and development needs. (Article 10).
10. A committee on sanitary and phytosanitary measures is hereby established to provide a regular forum for consultations. It shall encourage and facilitate ad hoc consultations or negotiations among Members on specific sanitary or phytosanitary issues. The committee shall maintain close contact with the relevant international organizations in the field of sanitary and phytosanitary protection. The committee shall develop a procedure to monitor the process of international harmonization and the use of international standards, guidelines or recommendations. The Committee shall review the operation and implementation of this Agreement three years after the date of entry into force of the WTO Agreement, and thereafter as the need arises. Where appropriate, the Committee may submit to the Council for Trade in Goods proposals to amend the text of this Agreement having regarded, inter alia, to the experience gained in its implementation. (Article 12).

11. Members are fully responsible under this Agreement for the observance of all obligations set forth herein. (Article 13).

12. The least-developed country Members may delay application of the provisions of this Agreement for a period of five years following the date of entry into force of the WTO Agreement. Other developing country Members may delay the application of the provisions of this Agreement for two years following the date of entry into force of the WTO Agreement. (Article 14).

Dispute Settlement

As elaborated in Article 11, the Dispute Settlement Understanding shall apply to consultations and the settlement of disputes under this Agreement, except as otherwise specifically provided herein. Even though, Members still have the rights to choose other resort inter alia good offices or dispute settlement mechanism of other international organizations or established under any international agreement.

Related Regulation

The regulations related to this Agreement are the GATT 1994, in particular the provisions of Article XX (b), the International Plant Protection Convention 1952, and the Agreement on Technical Barriers to Trade 1995 (TBT Agreement).
Entry Into Force

The Agreement on the Application of Sanitary and Phytosanitary Measures entered into force with the establishment of the World Trade Organization on 1 January 1995.

(Ni Putu Anggraeni)

Locarno Agreement Establishing an International Classification for Industrial Design

Background

This agreement is called the Locarno Agreement Establishing an International Classification for Industrial Designs, which was concluded in 1968. This Agreement established an International Classification called the Locarno Classification which use for industrial designs. The Locarno Classification sets a procedure to facilitate industrial design searching and obviating substantial reclassification work when documents are exchanged at the international level.

The Locarno Classification consists of 32 classes and 219 subclasses with explanatory notes and an alphabetical list of goods in which industrial designs are incorporated, with an indication of the classes and subclasses into which they fall. In order to keep the Locarno Classification up to date, it is continuously revised and a new edition is published every five years. The current (ninth) edition has been entry into force since January 1, 2009. The revision is made by a Committee of Experts set under the Locarno Agreement. All States parties to the Agreement are members of the Committee of Experts. The Locarno Agreement set up a Committee of Experts which represent party. The Locarno Classification has been revised several times by the Committee of Experts. The present (ninth) edition of the Classification incorporates all the revisions made in and before October 2007.

*Loc. Cit.
*Lee.Cit.
General Principles

The main principle in this Agreement is the single classification system. As states in article 1; the Special Union shall adopt a single classification for the industrial designs. This principle means the registration for industrial designs shall be a single classification only. It shall be used in worldwide. In order to make this classification worldwide, the Contracting Parties agree that international classification will be monitor by the Special Offices in the Special Union. The sovereignty principle also appears in this agreement. Article 2 states the Contracting Parties may use the international classification as primary or a subsidiary system. Therefore, the Contracting Parties have the right to choose their own system of industrial designs registration within their jurisdiction.

Main Features

This Agreement consists of 15 articles and an Annex. The main features of this Agreement are:

1. Based on article 1, the Contracting States agreed to constitute a Special Union. This Special Union function is to adopt a single classification for industrial designs. Furthermore, article 1 said that the international classification for industrial designs shall comprise:
   a. A list of classes and subclasses
   b. An alphabetic list of goods in which industrial designs are incorporated, with an indication of the classes and subclasses into which they fall
   c. Explanatory notes

2. Article 2 determines the legal scope of the international classification. The international classification shall be solely of an administrative character. Nevertheless, each country may attribute to it the legal scope which it consider appropriate. In particular, the international classification shall not bind the countries of Special Union as regards the nature and scope of the protection afforded to the design in those countries.

3. Article 2 also states each Contracting State in the Special Union reserves the right to use the international classification as a principal or as a subsidiary system. For the deposit or registration of designs, The Offices of the Special Union shall include in the official document, the numbers of the classes and subclasses of the international classification into which the goods incorporating the design belongs to. Then, the Committee of Experts will
examine the document to find out whether it has any exclusive rights or not.

4. Article 3 discussed about Committee of Experts. It describes the tasks of the Committee of Experts, such as: to implement the list of classes and subclasses according to the Annex of this Agreement also include its amendments and additions, to adopt the alphabetical list of goods and the explanatory notes, to make any necessary supplementations. The Committee of Experts also has the right to vote by mail.

5. The voting mechanism in the Committee of Experts. Article 3 stated each country in Special Union shall be represented on the Committee of Experts. The Committee of Experts shall adopt the alphabetical list and explanatory notes by a simple majority of the countries represented. If a country does not appoint a representative for the session held by the Committee of Experts, or if the expert appointed has not expressed his vote during the session or within a period to be prescribed by the rules of the procedure of the Committee of Experts, the country concerned shall be considered to have accepted the decision of the Committee.

6. Amendment procedures. Article 3 stated the procedure for amendment should be proposed by a proposal first. The proposal for amendments or addition to the international classification can be made by the Office or by any countries in Special Union. The proposal should be distributed to all the member of Committee of Experts not later than two months before the next session being held. The Committee of Experts will make the decisions regarding to the proposal by a simple majority of the countries of Special Union. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, the decision should be taken with unanimity vote.

7. Article 4 describes the notification and publication process. It is stated, the alphabetical list of goods and the explanatory notes adopted by the Committee of Experts, as well as any amendment or addition to the international classification decided by the Committee shall be communicated to the Offices of the countries of the Special Union by the International Bureau. The decision is entry into force as soon as the communication is received. Nevertheless, if such decisions entail the setting up of a new class or any transfer of goods from one class to another, it shall entry into force within six months from the date of the communication. Article 4 also states the International Bureau as the depository of the international classification. Therefore, International Bureau shall incorporate therein the amendments.
and additions which have entered into force. Announcement of the amendments and additions shall be published periodicals by the Assembly.

8. The Assembly of the Special Union is discussed in article 5. The Assembly shall consist of the countries of the Special Union. The Government of each country in Special Union shall be represented by one delegate. The delegation may be assisted by alternate delegates, advisors, and experts. The Assembly also has the right to adopt its own rules of procedures.

9. Article 5 also described the tasks of the Assembly. It is said the Assembly shall be:
   a. deal with all matters concerning the maintenance and development of the Special Union and the implementation of this Agreement.
   b. give directions to the International Bureau concerning the preparation for conferences of revision.
   c. review and approve the reports and activities of the Director General of the Organization concerning the Special Union, and give him all necessary instructions concerning matters within the competence of the Special Union.
   d. determine the program and adopt the biennial budget of the Special Union, and approve its final accounts.
   e. adopt the financial regulations of the Special Union.
   f. decide on the establishment of official texts of the international classification in languages other than English and French.
   g. establish, in addition to the Committee of Experts set up under Article 3, such other committees of experts and working groups as it deems appropriate to achieve the objectives of the Special Union.
   h. determine which countries not members of the Special Union and which intergovernmental and international non-governmental organizations shall be admitted to its meetings as observers.
   i. adopt amendments to Articles 5 to 8.
   j. take any other appropriate action designed to further the objectives of the Special Union.
   k. perform such other functions as are appropriate under this Agreement.
   l. with respect to matters which are of interest also to other Union administered by the Organization, the Assembly shall make its decisions after having heard the advice of the Coordination Committee of the Organization.

10. Voting procedures elaborates in article 5, states each country member of
the Assembly shall have one vote. A quorum is defined when one-half of the countries members vote.

11. The meeting of the Assembly discussed in article 5, said the Assembly shall meet once in every second calendar year in ordinary session upon convocation by the Director General and, in the absence of exceptional circumstances, during the same place as the General Assembly of the Organization. The agenda of each session shall be prepared by the Director General.

12. In article 6, the Agreement discuss about the International Bureau. The tasks of International Bureau consist of: administrative tasks concerning the Special Union prepare the meeting and provide the secretariat of the Assembly, the Committee of Experts, and such other committees of experts and working groups as may have been established by the Assembly or the Committee of Experts.

13. Article 7 discuss about budget of the Special Union. The budget consists of income and expenses of the Special Union. The income shall appropriate with the expenses of the Special Union. The sources of the budget shall come from: contributions of the countries of the Special Union, fees and charges due for services rendered by the International Bureau in relation to the Special Union, sale of or royalties on, the publications of the International Bureau concerning the Special Union, gifts, bequests, and subventions, rents, interests, and other miscellaneous income. The annual contribution of each country of the Special Union shall be an amount in the same proportion to the total sum to be contributed to the budget of the Special Union by all countries as the number of its units is to the total of the units of all contributing countries. Contributions shall become due on the first of January of each year.

14. Article 8 contains provision on the amendment of this Agreement. It is may be initiated by any Contracting Party of the Special Union or by the Director General. This amendment proposal shall be communicated by the Director General to others Contracting Parties of the Special Union for at least six months in advance of their consideration by the Assembly. The amendment shall enter into force one month after written notifications. Furthermore, article 9 states this agreement is inconsistent with the Paris Convention for the Protection of Industrial Property. Article 9 also states this Agreement shall enter into force three months after the date on which its ratification or accession has been notified by the Director General. Article 10 of this
Article shall have the same force and duration as the Paris Convention for the Protection of Industrial Property.

Related Regulations

One Annex was attached to this Agreement. This Annex provides List of Classes and Subclasses of the International Classification. According to this Annex, there are 32 classes, such as10:

1. Foodstuff
2. Clothing and haberdashery
3. Travel goods, cases, parasols and personal belongings
4. Brush ware
5. Textile piece goods, artificial and natural sheet material
6. Furnishing
7. Household goods
8. Tools and hardware
9. Packages and containers for the transport or handling of goods
10. Clocks and watches and other measuring instruments
11. Adornment
12. Means of transport or hoisting
13. Equipment for production, distribution or transformation of electricity
14. Recording, communication or information retrieval equipment
15. Machines
16. Photographic, cinematographic and optical apparatus
17. Musical instruments
18. Printing and office machinery
19. Stationery and office equipment, artists' and teaching materials
20. Sales and advertising equipment, signs
21. Games, toys, tents and sports goods
22. Arms, pyrotechnic articles, articles for hunting, fishing and pest killing
23. Fluid distribution equipment, sanitary, heating, ventilation and air conditioning equipment, solid fuel
24. Medical and laboratory equipment
25. Building units and construction elements
26. Lighting apparatus
27. Tobacco and smokers' supplies

10 Loc. Cit. Note 1.
28. Pharmaceutical and cosmetic products, toilet articles and apparatus
29. Devices and equipment against fire hazards, for accident prevention and for rescue
30. Articles for the care and handling of animals
31. Machines and appliances for preparing food or drink
32. Miscellaneous

According to World Intellectual Property Organization (WIPO), there are four international classifications that use worldwide, such as: the Strasbourg Agreement regarding the International Patent Classification, the Nice Agreement regarding the International Classification of Goods and Services for the Purposes of the Registration of Marks, the Vienna Agreement establishing the International Classification of the Figurative Elements of Marks and the Locarno Agreement establishing the International Classification for Industrial Designs

Entry into Force

This Agreement was entry into force on 8 October 1968 and was amended in 197912. This Agreement is also open to States party of the Paris Agreement for the Protection of Industrial Property (1883) by instruments of ratification or accession that must be deposited to the Director General of WIPO.

Up until now, there are 51 parties to this Agreement13. Moreover, four organizations and the International Bureau of WIPO in the administration of the Hague Agreement actually use the Locarno Classification. The Classification is also applied by the International Bureau of WIPO in the administration of the Hague Agreement Concerning the International Registration of Industrial Designs (1925), by the African Intellectual Property Organization (OAPI), by the African Regional Intellectual Property Organization (ARIPO), by the Benelux Organization for Intellectual Property (BOIP) and by the Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM) of the European Communities

(Jenny Maria Doan)

13 Loc. Cit.
14 Loc. Cit. Note 2.
Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques\textsuperscript{15}

Background

Vietnam War happened in 1974. The Cold War between Soviet Union and United States was also a big concern. During such period, the military power was active and has massive development. People believe the use of weapons could endanger the environmental and threat human life. Soviet Union brought this issue to the General Assembly of United Nations, through its General Assembly in 1974\textsuperscript{16}. In the supporting statement, Soviet Ambassador Malik indicated some of the extreme possibilities which the world might witness without any prevention actions.

This draft then became concern of the General Assembly. They initiated the Conference of the Committee on Disarmament (CCD).\textsuperscript{17} This Conference discusses the draft made by Soviet Union and a joint United States-Soviet Union draft treaty\textsuperscript{18}. In 1975 and 1976, the Conference of the Committee on Disarmament (CCD) had a meeting in Geneva. They devoted much attention to the prevention of the use of environmental forces for military ends.

Previously, there were bilateral talks between the United States-Soviet Union. On August 21, 1975, the United States-Soviet Union submitted to the CCD identical drafts of the this Convention called “The Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques”\textsuperscript{19}. In December 1975, UN General Assembly requested the CCD to continue negotiations with a view to reach early agreement, and to prepare a

\textsuperscript{15} http://www.un-documents.net/enniod.htm
\textsuperscript{17} General Assembly Resolution 3265 (XXIX), 7 January 1975. This decision was taken by voting in which the United States government abstain. Ibid., p. 977.
\textsuperscript{18} United States-USSR draft treaty was the treaty that had been signed between President Nixon (US) and Brezhnev (Soviet Communist Party Chief) in July 1974. This bilateral treaty was an agreement regarding the environmental warfare. Ibid.
\textsuperscript{19} Loc. Cit., Note 2.
special report based on the results. This report was submitted on September 3, 1976, as a result of multilateral talks lasting several months. It contained an amended version of the United States-Soviet Union draft The Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques Convention, an Annex setting out functions and rules of procedure for a consultative committee of experts, provided for in the convention, as well as "understandings" relating to four articles out of ten.\(^{20}\)

On December 10, 1976, the United Nations General Assembly adopted a resolution sponsored by some 30 delegations, which referred the Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modification Techniques Convention to all states for their consideration, signature and ratification, and requested the UN Secretary-General to open for signature and ratification at the earliest possible date.\(^{21}\)

**General Principles**

This Convention has two main principles, precautionary principle and State responsibility.

Precautionary principle is commonly used in the environmental law. It is stated if an action or policy has suspected risk of causing harm to the public or environment, in the absence of a scientific consensus that harm would not ensue, the burden of proof falls on those who would advocate taking the action.\(^{22}\) This principle can be shown from article 1 and 5. These articles stated clearly states parties have the obligation to monitor the use of its own military or other hostile use. Therefore, article 5 of this Convention stated the Contracting States should cooperate or consult with other Contracting States or international organizations. States that use any military or hostile should have been aware with its risk. Basically, it means the Contracting States that use the military or any hostile, are responsible for any damage that might occurs even though there are no scientific evidences. Therefore, the Contracting States should estimate any possible risks of the scientific or non-scientific risks.

Precautionary principle relates with State responsibility. State responsibility means that states are entitled for any acts done by their actors or their or-

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\(^{20}\) Ibid.

\(^{21}\) Ibid.

\(^{22}\) Ibid.
gans, regardless where it happens. For example, a damage resulted from the military act of a state is become the state responsibility. In this Convention, it is obviously clear that the states parties are entitled to the use of military or any other hostile of environmental modification techniques. Article 1 provides obligation to states parties whether in its own jurisdiction or its relation with other states and international organizations. Military is an organ of a state, therefore state should also responsible for any military act.

Main Features

This Convention consists of ten articles, one annex, and one Additional Understanding. The main features are:

1. On article 1 of the Convention, Contracting States to this Convention agree not to engage in military or any other hostile use of environmental techniques that could give effects as the means of destruction. It is also means that the Contracting States agree not to assist, encourage or induce any state, group of states or international organization to involve in such activity.

2. In accordance to article 2, definition of “environmental modification techniques” refers to any technique for changing-through the deliberate manipulation of natural processes-the dynamics, composition or structure of the Earth, including its biota, lithosphere, hydrosphere and atmosphere, or of outer space.

3. Even though the Convention gave limited right for the military and any other hostile use, article 3 of this Convention provides the right and opportunities for the states parties to the use of environmental modification techniques for peaceful purposes. It shall be without any prejudice to the generally recognized principles and applicable rules of international law regarding such use.

4. Regarding to the sovereignty, article 4 obliges the states parties to adjust its national law with this Convention. Each state party is entitled for the adjustment from the national law with this Convention. As the highest organization in his jurisdiction, the Government needs to control the use of military or any other hostile.

5. According to article 5, in applying this Convention, states parties are allowed to do any consultation and cooperation regarding any problems which may arise. This consultation and cooperation can be done with another state
party or through appropriate international procedures within the framework of the United Nations and in accordance with its Charter. The international procedures may include the services of appropriate international organizations, as well as of a Consultative Committee of Experts as provided for in paragraph 2 of this article.

6. For the dispute settlement process, article 5 also provides that any other state parties can submit a complaint to the Security Council of the United Nations. Material of the complaint shall show the breach and also all possible evidence regarding its validity. It shall also include a request of consideration from the plaintiff to the Security Council. After the Security Council accepts the request, they would initiate an investigation which the states parties will cooperate. The result would be informed by the Security Council to the states party. It is also request each state party to provide or support assistance for another state party if the Security Council decides that such party has been exposed to danger as a result of violation of the Convention. This request shall be made by Security Council.

7. Final Provisions. Article 6-10 provide that this Convention is open for signature for all states. Then, article 7 provides that this Convention shall be of unlimited duration. States that willing to be parties to this Convention shall ratify or accessed it. This convention also opens for amendments. The amendment shall take effect after the majority accepts it. Unlike the Bacteriological (Biological) Weapons Convention, this Convention shall be registered by the Depositary in accordance with Article 102 of the Charter of the United Nations.

Related Regulations

An annex was attached to this Convention. The annex consists of five articles concerning the Consultative Committee of Experts. Pursuant to this Annex, the tasks of this Consultative Committee of Experts are to provide expert views relevant to any problem raised between The States Parties to this Convention regarding the consultation and cooperation in relation to the objectives of, or in the application of the provisions of, the Convention; and to perform the functions set forth in paragraph 1 of this annex.23

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21 Ibid.
22 http://www.greenpeace.org/international/campaigns/trade-and-the-environment/the-precautionary-principle
Another regulation regarding to this Convention is the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction. This Convention was established to ban the production and use of an entire category of weapons. It entered into force on 26 March 1975. 24

Entry into Force

In accordance to article IX paragraph 3, this Convention shall entry into force upon the deposit of instruments of ratification by twenty Governments. Therefore, this Convention was entry into force on 5 October 1978. Up until now, this Convention has 75 Contracting Parties and 49 signatories.

(Jenny Maria Doan)

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24 http://www.sunshine-project.org/enmod/enmodtxt.html