

transfer of climate change adaptation and mitigation will be “guided by a country-driven approach” and be based on “national circumstances and priorities.”⁷¹

5. UN Convention to Combat Desertification (1996)

Climate change negotiators can also refer to certain provisions of the UN Convention to Combat Desertification (UNCCD).⁷² Article 18 of the UNCCD governs obligations regarding transfer, acquisition, adaptation and development of relevant technology and provides for commitments on technology diffusion from developed countries to developing countries. Parties must take into account the need to protect IP under UNCCD Article 18(1)(b) and (e) and take appropriate measures to create domestic market conditions and incentives conducive to development, transfer, acquisition and adaptation of suitable technology, knowledge, know-how and practices. Parties may employ different technology transfer models such as standards or joint ventures (Article 18(1)(d) of the UNCCD). Pursuant to Article 18(2)(a) of the UNCCD, parties shall publish inventories of technology, knowledge, know-how and practices.⁷³

6. Kyoto Protocol (1997)

The Kyoto Protocol to the UNFCCC,⁷⁴ adopted in December 1997 and entered into force in February 2005, imposes binding obligations on Annex I countries to reduce greenhouse gas emissions, whereby the benchmark is the 1990 level of greenhouse gases.⁷⁵ The Kyoto Protocol provides for flexible market-based mechanisms including emission trading, a Clean Development Mechanism (CDM) and Joint Implementation (JI) options for greenhouse gas reduction.⁷⁶ The CDM allows developed countries to invest in emission reduction projects in developing countries and to receive credit for the emission reduction or removal achieved. The resulting emission allowances can be used by developed countries to meet their emission

71 Conference of the Parties on its 15th Session, Copenhagen, Denmark, Dec. 7-19, 2009, Decision 2/CP.15 Copenhagen Accord, UNFCCC Doc. FCCC/CP/2009/11/Add.1 (Mar. 30, 2010).

72 U.N. Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, June 17, 1994 33 I.L.M. 1328 [hereinafter UNCCD].

73 *Id.* at art. 18.

74 Kyoto Protocol to the UNFCCC, *adopted* Dec. 10, 1997, 37 I.L.M. 22 (*entered into force* Feb. 16, 2005) [hereinafter Kyoto Protocol].

75 Conference of the Parties on its 3rd Session, Kyoto, Japan, Dec. 1-11, 1997, Decision 2/CP.3 Methodological issues related to the Kyoto Protocol, UNFCCC Doc. FCCC/CP/1997/7/Add.1 (Mar. 25, 1998).

76 Kyoto Protocol, *supra* note 74 at art. 12.