

# A Copenhagen Climate Treaty

## Version 1.0

A Proposal for a Copenhagen Agreement by Members of the NGO Community

LEGAL TEXT



David  
Suzuki  
Foundation



GREENPEACE

# **A PROPOSAL FOR A COPENHAGEN AGREEMENT BY MEMBERS OF THE NGO COMMUNITY**

Version 1.0 – DRAFT Legal Text

*This document contains a draft version of how the agreement in Copenhagen could look like - in legal form. This is very much a work in progress. The purpose of this exercise is two fold: to outline to Parties how the agreement could fit together substantively and b) to demonstrate that the two Protocol option is a feasible and desirable outcome for the legal form. Attempts have been made through provisions in both the proposed Copenhagen Protocol and the amendments to the Kyoto Protocol to unify the accounting, reporting and verification of as well as compliance with emission reduction targets for industrialized countries and to create a forum for these bodies (CMCP & CMKP) to jointly develop rules in the future. It is possible that not every T has been crossed or i dotted and further provisions or amendments linking the two may be required. (Developing country mitigation aims and their MRVed support are all under the Copenhagen Protocol).*

*Many Articles are cross-referenced throughout the Protocol and Amendment; information in () is intended to guide the reader. Should any discrepancies exist, the accompanying narrative is authoritative.*

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# COPENHAGEN PROTOCOL TO THE UNFCCC

## **Preamble**

*The Parties to this Protocol,*

*Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as “the Convention”,*

*Determined to achieve the ultimate objective of Article 2 of the Convention to prevent dangerous anthropogenic interference with the climate system in a timely manner,*

*Recalling the provisions of the Convention,*

*Recalling also the provisions of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and of decisions taken pursuant to its implementation, particularly the Marrakech Accords,*

*Being guided by Article 3 of the Convention,*

*Being guided by the Fourth Assessment Report of the Intergovernmental Panel on Climate Change,*

*Determined to act in light of the best available science,*

*Cognizant of the work and results of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol,*

*Recognizing that the wealthiest and most capable countries should substantially contribute to the financial and technological support required to enable developing countries to pursue a low-carbon development path, stop deforestation and adapt to the inevitable impacts of climate change,*

*Emphasizing that significant co-benefits to human health, economic and social development, biodiversity protection and nation security exist from implementing emissions reduction measures,*

*Recognizing that neither adapting to the impacts of climate change nor reducing GHG emissions alone can avoid all climate change impacts, but that reducing GHG emissions is the best adaptation strategy and that mitigation efforts in the near-term have a significant impact on the ability to achieve lower stabilization levels,*

*Pursuant to the Bali Action Plan adopted by decision 1/CP.13 of the Conference of the Parties to the Convention at its thirteen session,*

Have agreed as follows:

## **Article 1 – Definitions**

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. “Bali Action Plan” means decision 1/CP.13 adopted by the thirteen Conference of the Parties in Bali on 15 December 2007.
2. “Conference of the Parties” means the Conference of the Parties to the Convention.
3. “Convention” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.
4. “Global carbon budget” means the total global anthropogenic emissions of all greenhouse gases from the sources listed in Annex A weighted by the 100 year global warming potentials for greenhouse gases as accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties that are allowed to be emitted over a specified period of time and expressed in gigatonnes of carbon dioxide equivalence.
5. “Intergovernmental Panel on Climate Change” means the Intergovernmental Panel on Climate Change established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme.
6. “Kyoto Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change, adopted in Kyoto on 11 December 1997 and as subsequently amended.
7. “Marrakesh Accords” means decisions 2/CP.7 to 24/CP.7 inclusive adopted by the seventh Conference of the Parties in Marrakesh on 10 November 2001 and affirmed at the first Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.
8. “Montreal Protocol” means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended.
9. “Parties present and voting” means Parties present and casting an affirmative or negative vote.
10. “Party” means, unless the context otherwise indicates, a Party to this Protocol.
11. “**Party included in Annex B**” means, unless the context otherwise indicates, a Party included in Annex B of the Kyoto Protocol as amended or in Annex B of this Protocol, as may be amended.
12. “Party included in Annex I” means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2 (g), of the Convention.
13. “**Party not included in Annex B**” means a Party not included in Annex B of the Kyoto Protocol as amended or in Annex B of this Protocol, as may be amended.

*This article is similar to Article 1 of the Kyoto Protocol except for the references to the Bali Action Plan (para. 1), the global carbon budget (para. 4), the Kyoto Protocol (para. 6), the Marrakesh Accords (para. 7) and Annex B/non-Annex B Parties (paras. 11 and 13). The corresponding amendments to the Kyoto Protocol should include the definitions for the Copenhagen Protocol, the global carbon budget, the Marrakesh Accords and Annex B/non-Annex B Parties.*

## **Article 2 – A Shared Vision for Long-term Cooperative Action**

1. In order to achieve the ultimate objective of the Convention to prevent dangerous anthropogenic interference with the climate system in a timely manner, the global mean temperature must peak as far below 2°C above the pre-industrial period as possible and drop to the pre-industrial level as fast as possible. Even an increase of 1.5°C above pre-industrial levels may lead to irreversible impacts and put into jeopardy the ability of Parties to meet the ultimate objective of the Convention. Global anthropogenic emissions of all greenhouse gases from all sources listed in Annex A must therefore peak during the first commitment period of this Protocol, namely 2013-2017.
2. A global carbon budget shall guide the emission reduction targets and actions of all Parties pursuant to paragraph 1. A global carbon budget for 2020 is hereby defined as no higher than 36.1 Gt CO<sub>2</sub>e<sup>1</sup>; the budget for 2050 shall be no higher than 7.2 Gt CO<sub>2</sub>e.
3. Effort sharing to achieve the ultimate objective of the Convention and pursuant to the shared vision of this Article and that of the Kyoto Protocol should be based on the criteria of responsibility, capability and potential to mitigate and take into account the principles of common but differentiated responsibility and respective capability, equity, fairness and consider that economic and social development, poverty eradication and adaptation to climate change are the top priorities for developing countries.
4. The carbon budget for the industrial GHG emissions of Parties included in Annex B shall be 11.7 Gt CO<sub>2</sub>e for 2020 and 1.0 Gt CO<sub>2</sub>e for 2050. To stay within this carbon budget, Parties included in Annex B shall, as a group, reduce their industrial GHG emissions by at least 40% per cent below 1990 levels by 2020, at least 60% below 1990 levels by 2030 and 95% below 1990 levels by 2050.
5. Parties not included in Annex B should aim to stay within a carbon budget of 23.5 Gt CO<sub>2</sub>e in 2020 and 6.3 Gt CO<sub>2</sub>e in 2050. The type, scale and scope of enhanced actions undertaken by Parties not included in Annex B shall vary greatly given the wide range of national circumstances and shall be supported by technology, financing and capacity building from Parties included in Annex B. This level of ambition shall guide any new commitments, institutions, instruments and mechanisms established under this Protocol and any related legal instruments or decisions, including the Kyoto Protocol as amended.

*The developing country carbon budget would require a [3-35%] reduction in emissions below the SRES business as usual scenario baselines for industrial greenhouse gas emissions by 2020, with the most common estimate at around 21-24%. Please see the explanatory text for Art. 4 for further explanation on the range of action anticipated on the part of developing countries.*

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<sup>1</sup> 11.7 Gt CO<sub>2</sub>e for industrialized countries' industrial GHG emissions; 23.5 Gt CO<sub>2</sub>e for developing countries' industrial GHG emissions and 1.0 Gt CO<sub>2</sub>e for emissions from land-use change (differences in the addition are due to rounding).

6. Reducing emissions from deforestation is necessary to stay within the global carbon budget specified in paragraph 2 and to achieve the ultimate objective of the Convention. The vast majority of gross emissions from deforestation and forest degradation in Parties not included in Annex B shall be eliminated by 2020, with a view to eliminating nearly all human induced forest emissions by 2030. All efforts to reduce emissions from deforestation should be fully consistent with the rights of indigenous peoples and should contribute to the conservation of biological diversity.

*Emissions from land-use change should be kept to no more than 1 Gt CO<sub>2</sub>e in 2020 and brought down to zero by 2030 at the latest.*

7. All peoples, cultures and nations have the right to survive and the right to develop sustainably. The responsibility for adequately dealing with, and adapting to, the adverse consequences of climate change, including for the protection of cultures, especially those of Arctic peoples, and nations, especially the Small Island Development States, whose existence is threatened, must be fairly shared according to agreed principles. Developed countries and other countries with the capacity to do so shall support the building of adaptive capacity and climate resilience in developing countries, particularly the most vulnerable.
8. Life on earth is an intricately interconnected web helping to maintain the conditions for its own survival. Because of their intrinsic worth and because of the services they provide, the viability of all ecosystems should be maintained, in accordance with the ultimate objective of the Convention, requiring stabilization of greenhouse gas concentrations in the atmosphere at a level achieved within a time-frame sufficient to allow them to adapt naturally to climate change.
9. The carbon budget and emissions reduction targets shall be reviewed at regular intervals and in a timely manner, continually strengthened and revised in light of the best available science. Should new and emerging science suggest that more stringent budgets and targets are required to avoid dangerous climate change and ensure the right of all peoples, cultures and nations to survive, these budgets and targets shall be adjusted immediately.
10. A massive scaling up of financial resources, from both the public and private sources, is required in order to adequately, sufficiently and swiftly reduce anthropogenic GHG emissions, adapt to climate change and achieve the ultimate objective of the Convention and the shared vision of this Protocol. For the first commitment period of this Protocol, 2013-2017, this will require at least 160 billion USD to support capacity building, adaptation, reducing emissions from deforestation and technology diffusion in developing countries. These financial resources should primarily be raised through the auctioning of assigned amount units in a predictable and timely manner.
11. A Technology Development Objective is required to meet the challenge of avoiding dangerous climate change. The Objective should be visionary in scope but outline, through detailed Technology Action Programmes, how to shift the world onto a low-carbon development path. To spur innovation and advances in

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new mitigation and adaptation technology, total investment in research, development and deployment should increase to at least double current levels by 2012 and four times current levels by 2020. Collaborative efforts are essential, particularly between developed and developing countries and between developing countries themselves. Large scale diffusion of proven low-carbon technologies, especially renewable energy technologies, and the adoption of energy efficient measures must commence immediately, with a view to obtaining at least two thirds of the world's primary energy from renewable energy sources by 2050. Parties should strive to improve the average energy intensity of the global economy by at least 2.5 per cent per year until 2050. Significant emphasis must also be placed on increasing the access by all to modern energy services, with a view to eliminating energy poverty by 2025.

*For an example of how to achieve these renewable energy targets, see the European Renewable Energy Council and Greenpeace International's Energy Revolution Scenario at <http://www.energyblueprint.info> .*

12. All institutions, instruments, mechanisms and policies and actions developed pursuant to this Protocol shall be governed in an open, transparent, fair and effective system under the ultimate authority of the Conference of the Parties serving as the meeting of the Parties.
13. All Parties acknowledge and agree that it will only be possible to meet the goals of this shared vision if commitments under both the Copenhagen Protocol and Kyoto Protocol as amended are fulfilled. This Protocol shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Protocol for each Party.

*The Kyoto Protocol should be amended to include a shared vision that mirrors the one outlined in this Article.*

### **Article 3 – Deep Reductions for Industrialized Countries**

1. All industrialized country Parties shall commit to emission pathways that are in line with limiting global temperature rise to as far below 2°C above pre-industrial levels as necessary, peaking global GHG emissions in the 2013-2017 commitment period and staying within the global carbon budget, and to deliver finance and technology according to their responsibilities and respective capabilities and the needs of developing country Parties pursuant to the principles and provisions of Article 2 (Shared Vision).
2. The Parties included in Annex I that had ratified<sup>2</sup> the Kyoto Protocol as of 15 December 2007 shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of that Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission reduction commitments inscribed in the third column of the table contained in Annex B of the that Protocol as amended.

*This paragraph should mirror an amended Article 3.1 in the Kyoto Protocol. 15 December 2007 is the day the Bali Action Plan was adopted.*

3. The Parties included in Annex I that had not ratified the Kyoto Protocol as of 15 December 2007 shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of this Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission reduction commitments inscribed in Annex B of this Protocol. The quantified emission reduction commitments inscribed in Annex B of this Protocol shall be comparable in nature and scale to those quantified emission reduction commitments undertaken in Article 3 and inscribed in the third column of the table contained in Annex B of the Kyoto Protocol as amended, and shall be consistent with achieving the shared vision of both Protocols.

All relevant provisions of the Kyoto Protocol as amended and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords, shall apply *mutatis mutandis* to the provisions governing the actions, accounting rules, commitments and obligations of Parties included in Annex I that had not ratified the Kyoto Protocol as of 15 December 2007 contained in this Protocol.

*The US and other AI non-ratifying parties should take on reduction targets of a comparable nature and scale to AI parties that have ratified the Protocol as well as be able to participate in the Kyoto Flexible Mechanisms, emissions trading and be bound by the Kyoto compliance regime.*

4. All Parties with [insert threshold] that were not listed in Annex B of the Kyoto Protocol and are not otherwise covered by the provisions of paragraphs 2 and 3

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<sup>2</sup> For the sake of clarity, only ratification is referred to here, however the provision is meant to cover ratification, acceptance, accession and approval.

shall adopt quantified emissions reduction or limitation commitments. These commitments shall be inscribed in Annex B of this Protocol. The Parties shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts.

*Under this provision Newly Industrialized Countries, such as Singapore, South Korea and Saudi Arabia, would be required to take on a quantitative limitation or reduction target set in absolute terms. These commitments need not be identical in stringency or scale to Annex I countries, i.e. they do not need to be in the range of -25-40% below 1990s levels, however they should contribute towards any Annex I group target.*

*The threshold for inclusion in this paragraph would need to be negotiated. We have left the threshold blank here, however GDP at purchasing power parity (PPP) per capita of greater than 20,000 USD could be an appropriate indicator.*

5. All Parties governed by the provisions of this Article shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of the Kyoto Protocol as amended or of this Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in the third column of the table contained in Annex B of the Kyoto Protocol as amended or of this Protocol, with a view to reducing their overall emissions from industrial sources of such gases by at least 23 per cent below 1990 levels in the commitment period 2013 to 2017.

*All developed and newly industrialized countries should reduce their emissions, as a group, by 23 percent below 1990 levels in the 2013-2017 commitment period. This target is consistent with an emissions reduction trajectory that yields a 40 % reduction in emissions by 2020 and represents the annual average reduction for the commitment period (i.e. what the target in 2015 would be).*

6. All Parties included in Annex B shall produce a Zero Carbon Action Plan (“ZCAP”). The purpose of the Plan is three-fold:
  - a) To assist in the development and implementation of a visionary long-term plan for a low GHG emissions trajectory for each Party included in Annex B based on the global carbon budget in 2050 and the interim targets for Parties included in Annex B, as a group, in accordance with the provisions of Article 2;
  - b) To assist Parties in the identification and achievement of the timely investments required for the economy-wide transformation needed to achieve low carbon sustainable development in accordance with the provisions of Article 2; and
  - c) To assist Parties in undertaking the necessary policies, measures and actions to fulfill their support obligations in accordance with the provisions of this Protocol.
7. A Zero Carbon Action Plan shall:
  - a) Be holistic in nature;

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- b) Define a national emissions pathway to 2050, including 2020, 2030 and 2040 goals, in line with a Party's commitment under this Article or Article 3 of the Kyoto Protocol as amended and the shared vision of the Copenhagen and Kyoto Protocols;
- c) Detail and outline the policies and measures, including financial arrangements, institutional structures and relevant domestic legislation, in place or planned that will ensure this emissions pathway is followed and that the Party's quantified emission limitation and reduction commitment is met;
- d) Detail and outline how a country proposes to meet its finance, technology and capacity building support obligations, including measures to avoid double counting of offset credits or financial support and information on relevant domestic legislation;
- e) Detail and outline national technology roadmaps and research, development, and demonstration plans that are commensurate with the 2050 vision for emissions reductions and the Technology Development Objective in accordance with Article 8; and
- f) [...]

*Each industrialized country should submit a Zero Carbon Action Plan (ZCAP). This Plan should be **visionary** and outline the country's mitigation policies and measures that will ensure that it meets its QERC/QELRC and stays on track to follow the emissions pathway agreed upon in the shared vision (e.g. 2020, 2030 and 2050 goals). It should also describe how a country intends to meet its support obligations. ZCAPs will not only assist in setting a pathway towards a low carbon economy for each country, they will also build trust globally that each country is indeed making adequate institutional and financial investments/arrangements to meet its QERC/QELRC and support obligations.*

8. All Parties included in Annex B shall submit a draft Plan for review to the Mitigation Board of the Copenhagen Climate Facility, provided for in Article 6, paragraph 3, at the earliest possible date and no later than 1 March 2010 and a full Plan to the Board by 1 January 2011 in accordance with the provisions of Article 6 (CCF).

*ZCAPs should be initially reviewed by the Mitigation Board of the Copenhagen Climate Facility (see Article 6) to ensure that the proposed policies and measures are in line with the level of ambition of the national targets. The reporting on the implementation of the ZCAPs should be integrated into biennial national communications reporting and reviewed as part of a strengthened reporting and review process based on Articles 5, 7 and 8 of the Kyoto Protocol. Provisions on review are covered in depth in Article 10 (MRV).*

9. Parties included in Annex B shall update their Zero Carbon Action Plans before the commencement of each subsequent commitment period, including completing the review process by the Mitigation Board in accordance with Article 6.
10. The Conference of the Parties serving as the meeting of the Parties shall develop guidelines, including a common reporting format, for ZCAPs by its first session. These guidelines should build on those developed for the preparation of national communications by Parties included in Annex I adopted by the Conference of the

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Parties, as appropriate. Interim guidelines shall be developed by the Conference of the Parties to be used only for the development of the first ZCAP.

*Guidelines for the initial Plans should be agreed by Copenhagen and a more detailed version agreed by COP16. These guidelines should build upon those for national communications, but rather than being a retrospective review, ZCAPs should project future intentions. We have included some initial requirements (in para. 7), like a 2050 emissions pathway from which countries should back cast to develop their policies and measures, however further work needs to be done to flesh out these details. In the first ZCAP, the level of detail included up until 2020 will necessarily need to be more elaborate than for subsequent budget periods.*

## **Article 4 – Low Carbon Development in the Developing World**

1. All developing country Parties shall commit to emission pathways that are in line with limiting global temperature rise to as far below 2°C above pre-industrial levels as necessary, peaking global GHG emissions in the period from 2013 to 2017 and staying within the global carbon budget, according to their responsibilities and respective capabilities pursuant to the principles and provisions of Article 2 and taking into consideration that economic and social development, poverty eradication and adaptation to climate change are the top priorities for developing countries.
2. Actions to be taken by the Parties not included in Annex B shall aim, as a group, to stay within a carbon budget of not more than 25 Gt CO<sub>2</sub>e for all aggregate industrial anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A during the period from 2013 to 2017. To achieve this the Parties not included in Annex B shall:
  - i) Undertake nationally appropriate mitigation actions (“NAMAs”) driven by their sustainable development objectives, including *inter alia*, energy security, air quality, and job creation with their own domestic resources; and
  - ii) Adopt further nationally appropriate mitigation actions, subject to the provision of sufficient financial and technological support and in line with each Party’s national circumstances and development priorities. The provision of financial and technological support from industrialized countries should incentivize further nationally appropriate mitigation actions. Nationally appropriate mitigation actions include, but are not limited to, sectoral approaches, use of carbon market mechanisms and sustainable development policies and measures.

*The more nationally appropriate mitigation actions developing countries undertake and achieve, the more financial and technological support should be made available to support their efforts.*

3. The type, scale and scope of nationally appropriate mitigation actions undertaken by Parties not included in Annex B shall vary greatly given the wide range of national circumstances, with specific nationally appropriate emission pathways determined through the application of a set of criteria related to responsibility, capability and potential to mitigate and taking into account the principles of common but differentiated responsibility, equity and fairness. Support to undertake further nationally appropriate mitigation actions received by Parties not included in Annex B shall be inversely proportional to the level of development of the country.

*A gradient of countries should be established through the application of a set of criteria related to responsibility, capability and potential to mitigate and taking into account the principles of common but differentiated responsibility, equity and fairness.*

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*More developed countries should receive less MRVed support on a percentage basis compared to lesser developed countries; however greater action taken by countries should receive greater support. Thus countries with great mitigation potential will likely receive more support on an absolute basis.*

4. Parties not included in Annex B shall register all of their NAMAs with the Copenhagen Climate Facility, provided for in Article 6, including those already in place, planned or proposed and the support for which is or will be derived from domestic resources, the Copenhagen Climate Facility or other bilateral or multilateral sources in accordance with Article 11 paragraph 5 of the Convention and Article 7, paragraph 9 (Bilateral Support) of this Protocol.
5. When registering a planned, proposed or extant NAMA, a Party not included in Annex B shall include the following information:
  - a) A description of the nature and type of the action;
  - b) Expected GHG emissions reductions and the associated timelines for the achievement of those reductions;
  - c) Type, nature and scale of financial, technology and capacity building support requested from the Copenhagen Climate Facility, if any;
  - d) If the action builds on other actions already in place or planned, a breakdown of the expected GHG emission reductions and associated timelines for the achievement of those reductions for the portion supported by the concerned Party and the portion supported by the Copenhagen Climate Facility or other bilateral or multilateral means, including carbon market mechanisms;
  - e) If the action seeks support from two or more sources, measures to avoid double counting of the GHG emission reductions achieved; and
  - f) Proposed indicators to measure the success of the NAMA.

The Conference of the Parties serving as the meeting of the Parties shall develop further guidelines, including a uniform reporting format, for registering NAMAs at its first session.

*The guidelines for registering NAMAs should build upon those developed for Activities Implemented Jointly.*

6. NAMAs may be registered by Parties not included in Annex B and may receive support from the Copenhagen Climate Facility or other bilateral, regional or multilateral sources now, up to and beyond 2012 in line with the Bali Action Plan, Article 11 paragraph 5 of the Convention and Articles 6 and 7 of this Protocol.

*Industrialized countries should commit considerable funds at Copenhagen to support early implementation of NAMAs so as to help build confidence in the new mechanisms, trust amongst Parties as well as seize cost-effective opportunities to reduce emissions.*

*These 'pilot' NAMAs will help with the development of the NAMA registration infrastructure (guidelines for registry, review of proposals, support matching and review of implementation) through 'learning by doing'.*

*The provisions on matching support for NAMAs are included in Article 6 (CCF).*

7. A Party not included in Annex B may develop a Low Carbon Action Plan (“LCAP”) and is encouraged to do so. The Plan should be developed through a bottom-up country-driven process. The purpose of the Plan is to outline a trajectory for a Party’s GHG emissions, in line with the Party’s sustainable development priorities, that will lead to the development of a low carbon economy and provide a roadmap on how to get there, including financial, technological and capacity building support.
8. The Plan shall present and describe all of a Party’s NAMAs. The Plan shall include:
  - a) Nature and type of each NAMA;
  - b) An indication of the level of ambition of all planned, proposed or extant NAMAs and their collective contribution to achieving the overarching aim of Parties not included in Annex B as specified in paragraph 2;
  - c) Expected GHG emission reductions from unilateral NAMAs and the associated timelines for the achievement of those reductions;
  - d) Barriers to undertaking further nationally appropriate mitigation action;
  - e) Financial, technology and capacity building support required to undertake further NAMAs;
  - f) Estimated GHG emission reductions for those NAMAs referred to in subparagraph (e) and the associated timelines for the achievement of those reductions;
  - g) Proposed indicators to measure the success of each NAMA;
  - h) Proposed mechanism through which a Party could receive support for implementing further NAMAs; and
  - i) The identification of the role foreseen for carbon market mechanisms.

A Party not included in Annex B may integrate their National Adaptation Action Strategy in line with the provisions of Article 5 (Adaptation) to provide a coherent and comprehensive plan to address climate change, should the Party find doing so useful.

The Conference of the Parties serving as the meeting of the Parties shall develop further guidelines, including a uniform reporting format, for LCAPs at its first session.

*LCAPs should provide an integrated framework where a country’s NAMAs can be pulled together in a coherent way. The LCAPs should clarify the link between actions, expected emission reductions and financial, technological (including R&D) and capacity building support needs. NAMAs should form the essential building blocks of a LCAP, the cumulative impact of which should result in the shift to a low carbon economy. To make the development of LCAPs less onerous in the short term they should build upon national plans already in place in many countries.*

9. Notwithstanding paragraph 7, Parties not included in Annex B [insert threshold] shall develop a Low Carbon Action Plan containing all of their nationally appropriate mitigations actions. In addition to the information required under paragraph 8, the following supplementary information should be provided:
  - a) An estimation of the contribution to the overall mitigation aim for Parties not included in Annex B, as specified in paragraph 2;

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- b) Details on action being implemented or to be undertaken in all major emitting sectors; and
- c) A national emissions pathway for 2030 and 2050 in line with Article 2.

The Conference of the Parties serving as the meeting of the Parties shall develop further guidelines on the supplementary information to be included in the required LCAPs at its first session.

*The threshold for inclusion in this paragraph would need to be negotiated. We have left the threshold blank here; however countries whose GHG emissions contribute to more than 1% of global GHG emissions could be an appropriate indicator.*

*Guidelines for these Plans should be agreed by Copenhagen. They should be as simple and straightforward as possible with the necessary level of detail.*

- 10. All LCAPs produced shall be reviewed by the Mitigation Board, provided for in Article 6, paragraph 3. Parties not included in Annex B required to develop an LCAP under paragraph 9 shall submit a draft Plan for review to the Mitigation Board at the earliest possible date and no later than 1 June 2010 and a full Plan to the Board by 1 January 2011 in accordance with the provisions of Article 6 (CCF).

*While the timeline to produce the LCAPs is ambitious, it is not unrealistic, especially considering that many countries already have domestic plans to combat climate change which can be built upon. This strict timeline for both industrialized and developing country Plans is crucial so that all countries will know at the time of ratification what the level of ambition for all other countries will be and for developing countries, what level of financial, technology or capacity building support they will receive for their enhanced efforts.*

- 11. A Party not included in Annex B for which emissions from deforestation and forest degradation are a significant source of its emissions shall develop and incorporate its National Action Plan for REDD, pursuant to Article 9, paragraph 7, into its Low Carbon Action Plan. The review of National Action Plans for REDD and the allocation of financial support for activities contained therein shall be undertaken by the REDD Board in line with the provisions of Article 9 (REDD).
- 12. Financial support for the registration of NAMAs, pursuant to paragraphs 4 and 5, and for the development and revision of the Low Carbon Action Plans, pursuant to paragraphs 7, 9, and 10, for all Parties not included in Annex B shall be provided by Parties included in Annex B on an agreed full cost basis.

*The details on the a priori review of the NAMAs/LCAPs, the support matching forum for NAMAs and their inclusion into a registry are covered under Article 6 (CCF), while the reporting on their implementation is covered under Article 10 (MRV).*

## **Article 5 – Adaptation Action Framework**

1. The world has already crossed the threshold beyond which it is no longer possible to avoid negative impacts of anthropogenic climate change. Adapting to, and coping with, the impacts of unavoidable climate change are therefore critical elements of the climate challenge.
2. All Parties shall take nationally appropriate actions to reduce impacts from climate change through adaptation, including disaster risk reduction, with a view to reducing vulnerabilities, enhancing and ensuring climate-resilient development and poverty reduction, and enhancing existing or developing new, appropriate in-country institutions or processes for transparent and participatory adaptation planning and implementation, and effective monitoring and evaluation systems.

### ADAPTATION ACTION FRAMEWORK

3. Recognizing the urgency of adaptation needs, an Adaptation Action Framework (AAF) is hereby established. Its objectives are to:
  - a) Strengthen international activities to facilitate, and massively scale-up, financial, technological and capacity building resources for developing countries, for country driven adaptation planning and implementation, and to manage loss and damages from current and future impacts of climate change;
  - b) Prioritise the needs of the most vulnerable developing countries – particularly LDCs, SIDS and African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries – as well as the needs and interests of communities and people most vulnerable to climate change, in particular women, children and indigenous peoples, protecting and fulfilling their fundamental rights;
  - c) Ensure that all Parties meet their adaptation-related commitments under the Convention and the Bali Action Plan, in particular the provision of financial support by industrialized countries to support developing countries, adhering to the principles of responsibility and capability in the provision of resources;
  - d) Promote an integrated approach to adaptation which is aimed at enhancing resilience by reducing people’s vulnerability. Such integrated approaches should be incorporated into existing development processes, institutions and mechanisms, poverty reduction and disaster risk reduction strategies as well as natural resource management strategies, and support integrated adaptation approaches that link community and ecosystem based adaptation;
  - e) Provide easy and direct access to much-needed resources for governments, communities and people most vulnerable to climate change, to gather and generate information on the local impacts of climate change and to take immediate measures to plan, implement and monitor measures to adapt to climate change, reduce vulnerabilities, increase resilience and cope with loss and damages from climate change;
  - f) Facilitate the exchange of experience, expertise and knowledge relevant to adaptation planning and implementation, including local and traditional knowledge;
  - g) Establish publicly funded, global and regional risk management and insurance mechanisms to cover large-scale disaster losses, and support and assist in establishing (micro-) insurance systems for addressing medium-sized impacts;

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- h) Initiate a process with the aim of establishing an international compensation and rehabilitation mechanism to deal with the loss and damages from the immediate and slow-onset impacts where adaptation is no longer possible and that cannot be covered through insurance;
- i) Establish and strengthen regional adaptation centres and initiatives for adaptation planning, forecasting and information sharing on projected climate change impacts;
- j) Support the application, dissemination and the development of adaptation technologies in accordance with identified needs through, *inter alia*, international cooperation; and
- k) Support effective monitoring and evaluation systems, building on in-country experience and processes.

### PRINCIPLES FOR THE ADAPTATION ACTION FRAMEWORK

- 4. Actions under this framework, including the financing, planning and implementation of adaptation actions, shall adhere to the following principles:
  - a) Respect, protect and promote fundamental human rights and basic rights as outlined in the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and other relevant conventions and treaties;
  - b) Prioritize the adaptation needs of, and ensure that resources reach, the most vulnerable including marginalised groups, women and children, indigenous peoples, local communities and those disproportionately impacted, as well as vulnerable ecosystems, through the inclusion at every stage of planning and implementing adaptation activities as appropriate, including in the governance and disbursement of adaptation finance, planning, implementation, monitoring and reporting;
  - c) Recognize that climate change impacts are transboundary and vary between and within countries, and responses will have to be based on local assessment of risks, needs and circumstances, and be relevant to local people and communities;
  - d) Protect and sustainably manage the natural resource base, recognizing that ecosystems and the goods and services they provide, such as water, food, soil protection and carbon capture, underpin resilience and are fundamental to supporting human adaptation and sustainable development;
  - e) Maximize national, sub national and community level ownership over adaptation planning and implementation processes and disbursement of adaptation finance, in order to enable and encourage participatory local-level planning and implementation;
  - f) Plan and implement adaptation actions in a transparent and well documented way that is open to public scrutiny and discourse;
  - g) Support the establishment of flexible long-term processes and mechanisms for adaptation, in recognition of the long-term nature of climate change impacts, respective adaptation and climate-resilient development. Adaptation should be integrated into existing development planning and implementation processes at the national level, and consider ecosystem feedbacks to promote poverty reduction and long-term resilience;
  - h) Ensure adaptation actions deliver no-regret and multiple-benefit measures and avoid mal-adaptation and conflict, and support documentation and the scaling

up of good practices of implementation in community and national adaptation projects;

- i) Ensure gender equity in planning and decision-making when implementing adaptation actions, recognizing the special needs, interests and knowledge of women, their particular vulnerability to climate change and their capacity to contribute to adaptation strategies;
- j) Adopt a process driven by a learning-by-doing approach on adaptation planning and implementation, recognizing the urgency to adapt, even in the absence of complete information and the need to develop and implement flexible plans and programmes that can be updated on the basis of new information and learning;
- k) Adhere to the precautionary principle, agreed upon in Principle 15 of the Rio Declaration and Article 3, paragraph 3 of the Convention, in adaptation planning, decision-making and implementation, with regard to the scale and nature of adaptation actions and to prevent mal-adaptation. Any lack of full scientific certainty should not be used as a reason to postpone or scale down action on adaptation; and
- l) Build upon, and integrate adaptation actions with, existing experience from relevant processes and measures within and outside the UNFCCC, including, but not limited to, the lessons learned and outcomes from, *inter alia*, the Nairobi Work Programme on Impacts, Vulnerability and Adaptation to Climate Change, the Hyogo Framework of Action and the Convention on Biological Diversity, when planning and implementing adaptation actions.

#### ADAPTATION BOARD

5. The Adaptation Board, provided for in Article 6, paragraph 3, shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
  - a) Co-ordinate, support, implement, monitor and review progress on the implementation and enhancement of the Adaptation Action Framework;
  - b) Develop and adopt guidelines for the preparation of National Adaptation Action Strategies;
  - c) Adopt entitlement allocations for financial support to Parties not included in Annex B for implementation of their NAAS and Urgent Action and Adaptation Readiness related activities, upon recommendation from the Adaptation Technical Panel;
  - d) Develop the modalities and procedures for the operation, and supervise the implementation, of the Climate Risk Insurance Mechanism, referred to in paragraph 18, with the assistance of the Adaptation Technical Panel. These modalities and procedures should ensure transparency, efficiency and accountability through independent auditing and verification of the assistance provided for middle-layer risk through the Climate Insurance Assistance Facility and risk transfer activities through the Climate Insurance Pool for high level risks, in accordance with paragraph 19.
  - e) Forward its recommendations to the Executive Committee for adoption.

The Adaptation Board may provide guidance to the In-Country Coordinating Mechanism(s), provided for in Article 6, paragraph 11, as requested.

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6. The Adaptation Board shall coordinate its operation with other institutions relevant to adaptation, insurance and disaster risk management, including United Nations organizations and other relevant international organizations.

*The Adaptation Board should be based on the governance and operational principles of the Adaptation Fund. The existing Adaptation Fund Board could be expanded to take up the role of, and essentially become, the Adaptation Board.*

### ADAPTATION TECHNICAL PANEL

7. The Adaptation Board shall be supported by a Technical Panel. The Panel shall, *inter alia*:
  - a) Assist in the preparation of the National Adaptation Action Strategies and make recommendations to the Adaptation Board regarding the adoption of entitlements for periodic grant instalments;
  - b) Assist in the operation of the Climate Risk Insurance Mechanism;
  - c) Provide support in the establishment of an international Compensation and Rehabilitation Mechanism in accordance with paragraph 26;
  - d) Ensure the gathering and dissemination of relevant knowledge and information produced by subsequent phases of the Nairobi Work Programme; and
  - e) Provide information on, and assist in the evaluation of, the ongoing work to implement adaptation under the Convention, including through international technology cooperation.

### NATIONAL ADAPTATION ACTION STRATEGIES

8. Each Party not included in Annex B shall prepare a National Adaptation Action Strategy (“NAAS”). The purpose of the Strategy is to provide a long-term guiding, flexible framework which can be gradually implemented with appropriate actions, respecting in their timing, quality and scale different national circumstances, and which initiates the required in-country processes to cope with the long-term challenge of climate change. The NAAS may include, *inter alia*, actions suitable for:
  - a) Developing appropriate and comprehensive assessments of vulnerability to climate change, including a contextualized understanding of the most vulnerable groups of society and the identification of major expected impacts from climate change and their impacts on sustainable development;
  - b) Planning and implementing proactive adaptation actions in all relevant components of the national economy, society and the environment, including concrete adaptation projects and programmes and including compensation and restitution for extreme adaptation such as relocation or restitution, where other forms of adaptation are no longer considered available;
  - c) Developing and operating national, sub-national and local, publicly funded insurance schemes, such as micro-insurance;
  - d) Integrating adaptation measures into all development and relevant policy decisions at all levels in both private and public sectors;
  - e) Promoting adaptation through multilateral bodies, the public and private sector and civil society;
  - f) Researching, supporting, developing, sharing and increasing the use of new and available technology that decreases impacts of climate change and increases adaptive capacity;

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- g) Providing fiscal incentives, tax and duty exemptions and regulations for adaptation measures and initiatives;
  - h) Implementing measures to decrease barriers to adaptation by promoting the building of adaptive capacity;
  - i) Establishing international and regional cooperation on adaptation initiatives, measures and programmes for the management of transboundary and multi-national adaptation issues, in accordance with Article 3, paragraph 3 of the Convention;
  - j) Identifying and implementing general institutional requirements and approaches required for coping with the long-term challenge, including national and sub-national mechanisms for governance and disbursement of adaptation finance, planning, implementation, monitoring and reporting;
  - k) Developing and implementing regional co-operation initiatives, jointly with other countries in the region, including establishing new, or enhancing or reforming existing regional adaptation centres or networks; and
  - l) Identifying adaptation technology needs and providing incentives for the dissemination and development of adaptation technologies through, where appropriate, the Technology Action Programmes under Article 8.
9. The NAAS shall be reviewed initially by the Technical Panel, pursuant to the guidelines adopted by the Board under sub-paragraph (b) of paragraph 5 and updated regularly by the Party concerned.
10. Implementation of the Strategy shall be evaluated by existing or newly established nationally appropriate institutions and processes, through the In-Country Co-ordinating Mechanism (ICM) provided for in Article 6.
11. The NAAS shall inform the decisions of the Adaptation Board on entitlements pursuant to paragraphs 5 and 14.
12. LDCs, SIDS and African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries, shall receive upfront support for operationalizing the provisions above related to the ICM and the preparation of their NAAS.

### SUPPORT FOR THE IMPLEMENTATION OF THE ADAPTATION ACTION FRAMEWORK

13. The major share [at least 75%] of the financial resources available to the Adaptation Board shall be used to support country-driven adaptation in developing countries and another [10%] for the operation of the Climate Risk Insurance Mechanism. Further funding purposes include regional cooperation activities, the continuation of the Nairobi Work Programme and activities by international and non-governmental organizations.
14. Parties not included in Annex B, particularly LDC, SIDS and African countries prone to droughts, desertification and flooding and other extremely poor and vulnerable countries, shall be entitled to receive periodic grant instalments to cover the full additional costs of on-going adaptation planning and implementation.

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15. These entitlements shall be based on a country-specific pre-allocation of a share of the resources available to the Board, taking into account the particular vulnerability of countries mentioned in paragraph 14.
16. Each Party not included in Annex B may receive a share of its pre-allocated annual entitlement as a first instalment for implementing Adaptation Readiness activities and for immediate needs until the proper process to develop National Adaptation Action Strategies is in place.

### *URGENT ACTIONS AND ADAPTATION READINESS*

17. Parties not included in Annex B, in particular LDCs, SIDS and African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries, shall receive support in the form of upfront financing as well as technology and capacity-building support to:
  - a) Plan and implement urgent adaptation action, including, where appropriate, full implementation of their National Adaptation Programmes of Action (“NAPAs”), to minimise climate impacts on the poorest and most vulnerable, contributing to sustainable development and building and expanding on NAPA experiences or comparable in-country processes;
  - b) Generate information, including to guide funding allocation, on local impacts, vulnerabilities, demographic analyses and risk assessments (with reference to basic human rights standards such as those from the ICESCR) by supporting scientific and institutional capacity where it exists and investing in it where it does not;
  - c) Invest in setting up sustainable systems for the dissemination of the information of climate impacts to ensure that stakeholders are sufficiently informed so that they can fully participate effectively in adaptation planning; and
  - d) Invest in the processes and institutions needed for sustaining planning, implementation and monitoring activities in a manner that enables and encourages the participation of relevant stakeholders, laying the foundation for more comprehensive, large-scale and long-term strategic adaptation planning and implementation.

*The Copenhagen Agreement should also include COP decisions to a) fill the NAPA funding gap, b) develop processes to remove other barriers to full NAPA implementation and c) establish a work programme to bring the provisions related to urgent actions and adaptation readiness into operation as early as 2010, in order to increase the adaptation readiness of vulnerable countries until the entry into force of the Copenhagen Protocol.*

### CLIMATE RISK INSURANCE MECHANISM

18. A Climate Risk Insurance Mechanism (“CRIM”) is hereby established to assume a proportion of the climate-related risks to which eligible developing country Parties are exposed.
19. The Insurance Mechanism shall consist of two tiers: a Climate Insurance Pool (“CIP”), which shall cover a pre-defined proportion of high-level, climate-related risks of disaster losses, and a Climate Insurance Assistance Facility (“CIAF”), which shall provide technical support and other forms of assistance to enable

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regional private and public-private insurance systems for middle layers of climate-related risks.

20. Participation in the CRIM shall be based on the principles set out in this Article for financing and disbursing adaptation funds. The COP shall provide further guidance to the nature, rules and modalities of the CRIM in subsequent sessions.
21. The operational costs for the CRIM shall be covered by the Adaptation Board. Specifically, for Climate Insurance Pool the full premium shall be paid by resources allocated to the CRIM. The activities that vulnerable countries take as prevention and building public private partnerships for the middle layer of risk shall be supported as part of the implementation of their NAAS, where participation in the CRIM is indicated. By this the CIAF enables private financing for insurance and investment in insured activities.

*The proportion of pre-defined risk assumptions should be on a per country basis according to criteria to be agreed by the CMCP, including vulnerability and adaptive capacity and relative GDP losses rather than absolute dollars.*

22. The overall performance of the CRIM shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Protocol and be supervised by the Adaptation Board.

### COMPENSATION AND REHABILITATION MECHANISM

23. Recognising that climate change can only be limited and not all adverse impacts can be avoided, Parties underline the need to take action and support countries particularly affected by these impacts, based on the principle of common but differentiated responsibilities and respective capabilities.
24. Where such impacts can be dealt with nationally, Parties not included in Annex B may include necessary measures in their NAAS and obtain the respective resources out of their pre-allocated budgets, pursuant to paragraph 14.
25. For dealing with climate impacts where adaptation is no longer a viable option and which cannot be covered within a country but need international or cross-border co-operation (e.g. for some forms of migration), specific modalities for cooperation, finance and dispute settlement will be needed with a view to establishing an international Compensation and Rehabilitation Mechanism.
26. All Parties, under the coordination of the UN, shall work together to develop an appropriate mechanism as soon as possible.
27. The Conference of the Parties serving as the meeting of the Parties may provide further guidance on the procedures and modalities of a compensation and rehabilitation mechanism, as appropriate.

### NAIROBI WORK PROGRAMME

28. Given the continuous need for all Parties for further knowledge sharing and based on the valuable past experience, the NWP shall be extended. At subsequent meetings, SBSTA and SBI shall jointly develop a work programme for the next

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phase of the NWP, building on past experience and suggestions made by Parties, and taking into account the regular reviews of the activities.

29. Further activities under the NWP shall be financed, in particular by the Adaptation Board.

### MONITORING, REPORTING AND EVALUATION

30. Parties shall undertake a review of all matters relating to adaptation every three years, with a view to ensuring the effectiveness and adequacy thereof, and shall take the appropriate action. Submissions from observer organisations shall be considered as part of the review.
31. Activities supported through this Framework shall be subject to reporting and monitoring, including external monitoring, with the objective to support Parties in assessing progress towards developing effective adaptation strategies, to facilitate exchange and learning from each other's experience in implementing adaptation, to measure the effectiveness of activities carried out under this Framework and to ensure effective use of resources provided by the Adaptation Board. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall establish the modalities and procedures for the reporting and monitoring of adaptation activities at its first session, building upon the experiences from the national communications process.
32. The modalities and procedures for the review and monitoring shall be developed in a way that they ensure effectiveness and efficiency and that they minimise conflicts of interests at whatever level.
33. The costs for reviewing and monitoring shall be covered by the general operational budget of the Adaptation Board and not by the individual countries' allocations to avoid conflict of interests.
34. The Adaptation Board, with the assistance of the Adaptation Technical Panel, shall draft criteria for independent monitoring entities to be registered with the Adaptation Board who would report on, monitor and evaluate the implementation of activities undertaken under this framework. The Board shall forward these criteria to the Conference of the Parties serving as the meeting of the Parties for consideration and adoption. The Board shall also draft criteria and procedures for the certification of such monitoring entities.

## **Article 6 – Copenhagen Climate Facility**

1. A Copenhagen Climate Facility, hereinafter referred to as “the Facility”, is hereby established.

*To avoid dangerous climate change and build climate resilience, the way society is structured will need to change fundamentally - from investment patterns to development programs. This cannot be accomplished by the fragmented set of existing institutions. In order to enhance the implementation of the Convention in accordance with the Bali Action Plan and its four building blocks, a new institution, the Copenhagen Climate Facility (CCF), is needed.*

2. The Facility shall enjoy such legal capacity as is necessary for the exercise of its functions and the protection of its interests, in particular the capacity to enter into contracts, to acquire and dispose of movable and immovable property and to institute legal proceedings in defense of its interests.
3. The Facility shall have:
  - a) an Executive Committee, as the supreme body of the Facility, to supervise and monitor the implementation of operational policies, guidelines and administrative arrangements, including the disbursement of resources;
  - b) At least four Boards to assist Parties in fulfilling their actions, aims, objectives and commitments, in accordance with the provisions of this Protocol, related to mitigation, adaptation, reducing emissions from deforestation and technology respectively;
  - c) A Committee for Reporting and Review to monitor and verify reporting from Parties submitted in accordance with Articles 3, 4 and 9 (ZCAPs, LCAPs, National Action Plans for REDD);
  - d) A Registry of nationally appropriate mitigation actions undertaken by Parties not included in Annex B and financial, technology and capacity building support activities undertaken by Parties included in Annex B; and
  - e) An Executive Secretary and such staff as shall be necessary for the Facility to carry out its functions.

### GOVERNANCE

4. The Facility shall function under the guidance and authority of, and be accountable to, the Conference of the Parties serving as the meeting of the Parties to this Protocol. The Committee for Reporting and Review shall function under the guidance and authority of, and be accountable to, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol, through the Facility.

*The Committee needs to be accountable to both bodies (CMCP & CMKP) as its mandate covers reporting from all Parties.*

5. The Boards shall have decision-making power, including the allocation of funding and other support, over their respective area in accordance with the provisions of Articles 4, 5, 8 and 9. The Executive Committee may only review decisions of a Board in cases where the Board has exceeded its mandated functions pursuant to

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this Article and as may be elaborated on by the Conference of the Parties serving as the meeting of the Parties to this Protocol from time to time or as may be assigned to it by the Executive Committee.

6. The Executive Committee and its Boards shall each have equitable and balanced geographical representation, especially representation from Small Island Developing States and Least Developed Countries, as appropriate. Parties shall nominate members for the Executive Committee and its Boards and the Conference of the Parties serving as the meeting of the Parties shall appoint these members based on nominations received. Members shall serve in their personal capacities.
7. The Executive Committee and Boards may include representation from relevant intergovernmental and non-governmental stakeholders. The meetings of the Executive Committee and its Boards shall be open to attendance by, as observers, Parties to the Convention and accredited observer organizations and shall be webcast.
8. Decisions shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions may be adopted through voting. A one-member-one-vote rule shall be observed.
9. The Executive Committee and its Board may, individually or jointly, establish any expert groups, technical panels or sub-committees they deem necessary to support them in the pursuit of their functions. Expert groups, technical panels or sub-committees shall be coordinated by the Executive Committee or the respective Board they serve. Experts may be nominated from the public, private or non-profit sectors. Expert groups, technical panels or sub-committees may vary in size and composition taking into account the different expertise required by the tasks assigned to them by the various Boards or the Executive Committee. Participating experts shall serve in their personal capacity and shall have the requisite skills required for the task.
10. Specific operational policies and guidelines, the necessary legal arrangements and additional rules of procedure shall be developed and forwarded to, and appropriate action taken by, the Conference of the Parties serving as the meeting of the Parties, at its first session, and shall reflect the needs and requirements of each Board pursuant the provisions of this Protocol.

*Some of the governance modalities included in this Article reflect those of the Adaptation Fund Board. Any deviation from these modalities would represent a step backwards.*

### DOMESTIC INSTITUTIONS

11. Parties not included in Annex B shall designate one or more In-Country Coordinating Mechanism(s), including a National Climate Change Trust, to:
  - a) Submit and regularly update the reports and strategies in accordance with Articles 4, 5, 9 and 10;
  - b) Receive financial and other support from the Facility and other sources through the National Climate Change Trust;

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- c) Disburse financial support nationally and provide the financial accountability in line with international standards and those developed by the Facility for said support;
- d) Ensure that all relevant stakeholders are represented and allowed to participate, as appropriate, in the actions implemented in the country;
- e) Monitor carbon market activities within the country;
- f) Select domestic expert reviewers and coordinate the review of unilateral NAMA implementation, based on the guidelines adopted by the Conference of the Parties serving as the meeting of the Parties in accordance with Article 10, paragraphs 29 and 30; and
- g) Evaluate the implementation of the NAAS, pursuant to Article 5, paragraph 10.

The In-Country Mechanism(s) may request and the Copenhagen Climate Facility, through its Boards, shall provide advice on low-carbon development, adaptation, technology and reducing emissions from deforestation and forest degradation.

*The In-Country Coordinating Mechanism should be the domestic entit(y)(ies) that interacts with the Facility regarding financial, technology and capacity building support and oversees the country's reporting requirements. The specific modalities of the Mechanism should be decided upon by the country, with guidance by the Executive Committee, and will likely vary from country to country depending on their needs and level of capacity.*

*The National Climate Change Trust is the entity that shall receive any resources disbursed directly to the country from the Facility. The Trust should provide the requisite financial oversight of these funds in line with international standards and those developed by the Facility.*

### FUNDING WINDOWS

12. The Facility shall oversee and manage all financial resources raised through the means provided for in Article 7, taking into account paragraph 9 (Bilateral Support) of that Article.

Specifically:

- a) The Adaptation Board shall allocate funding apportioned to it pursuant to paragraph 13 to support the implementation of the Adaptation Action Framework, in particular through periodic grant installments for nationally-identified adaptation activities in Parties not included in Annex B in accordance with Article 5 (Adaptation). Priority shall be given to the needs of the Least Developed Countries, the Small Island Developing States, African countries prone to droughts, desertification and flooding, and other extremely poor and vulnerable countries;
- b) The REDD Board shall allocate funding apportioned to it pursuant to paragraph 13 for reducing emissions from deforestation and forest degradation in accordance with Article 9 (REDD);
- c) The Mitigation and Technology Boards shall allocate funding apportioned to them pursuant to paragraph 13 for supporting nationally appropriate mitigation action in Parties not included in Annex B and the Technology Action Programmes in accordance with paragraph 17 below and Article 8 (Technology). This funding window shall consist of two pillars: a Research,

Development and Demonstration Pillar (for both mitigation and adaptation) and a Mitigation Technology Diffusion Pillar. The RD&D Pillar should provide grant financing for research, development and demonstration activities. Public, private and hybrid entities may be eligible for funding. The Diffusion Pillar should provide blended finance through a range of different instruments, including, but not limited to, grant financing and risk guarantees, in order to rapidly scale-up the use of existing and near market solutions. Parties included in Annex B shall contribute to the RD&D Pillar as part of their commitments under the Technology Development Objective in accordance with Article 8, paragraph 1. Resources for the Diffusion Pillar shall be provided pursuant to paragraph 13 below.

*RD&D and Diffusion should be thought of in a broad sense. RD&D is both about core research and applied measures. Diffusion is for both creating the enabling environment for diffusing technologies and supporting diffusion itself. For instance, policies and measures geared towards regulatory changes to improve building codes would be funded from the diffusion window as it supports the diffusion of energy efficient measures. It is anticipated that the majority of funding disbursed by the Mitigation Board would come from the Diffusion pillar. As Technology Action Programmes may have both a RD&D and diffusion component to them, the Technology Board should also have access to this funding window.*

The Executive Committee shall disburse funds based on the recommendations from the Boards.

13. For the first commitment period of this Protocol, the financial resources specified in paragraph 2 of Article 7 shall be apportioned as follows:
- a) 56 billion USD per year for adaptation activities;
  - b) 7 billion USD per year for a multilateral insurance mechanism;
  - c) 42 billion USD per year for reducing emissions from deforestation; and
  - d) 55 billion USD per year for the technology diffusion and policies and measures through NAMAs.

Further resources raised shall be apportioned on the following basis: 40 per cent for adaptation activities, including insurance and 60 per cent for mitigation of which, for the purpose of the 2013-2017 commitment period, 25 per cent will go towards activities related to reducing emissions from deforestation and 35 percent will go towards technology diffusion activities. The Conference of the Parties serving as the meeting of the Parties may review and revise the apportionment for subsequent commitment periods.

*As REDD emissions will be successfully reduced and essentially eliminated over the 2020/2030 timeframe, it is assumed that the portion for REDD financing will decrease and the support for industrial GHG reductions through technology support will increase over time.*

14. The support provided by the Facility may take a number of forms, including but not limited to, grants or concessional loans and on an incremental or agreed full cost basis.

15. Transparent and fair eligibility criteria, in line with the provisions of this Protocol shall be developed and adopted by the Conference of the Parties serving as the meeting of the Parties at its first session. Eligible Parties, in a position to do so, shall be able to submit their proposals directly to the Boards or through implementing or executing entities, approved by the Facility and chosen by the eligible Party. Resources shall be disbursed to the National Climate Change Trusts referred to in paragraph 11. The Boards may also allocate and the Executive Committee may also disburse resources to public or private entities as well as non-governmental organizations. The Boards should allocate their resources in a manner that catalyzes, leverages and incentivizes additional private investments, where appropriate.

The Conference of the Parties serving as the meeting of the Parties shall, at its first session, adopt provisions to ensure the financial accountability of all supported actions. Regional centers may play a role in ensuring such accountability is met.

*Financial accountability provisions should be included in the Protocol. These provisions should be in line with current international standards and best practices.*

#### MITIGATION BOARD

16. The purpose of the Mitigation Board, provided for in paragraph 3, shall be to assist Parties in achieving their commitments and aims under Articles 3 and 4.
17. The Mitigation Board shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
  - a) Maintain the Registry referred to in paragraph 3;
  - b) Review and assess the nationally appropriate mitigation actions which a Party not included in Annex B seeks international support in terms of financial, technology or capacity building;
  - c) Facilitate a matching forum in which nationally appropriate mitigation actions of Parties not included in Annex B are provided with financial, technological and capacity building support, including the allocation of funds;
  - d) Conduct an initial review of the Zero Carbon Action Plans of Parties included in Annex B referred to in Article 3, paragraph 6 and the Low Carbon Action Plans of Parties not included in Annex B referred to in Article 4, paragraphs 7 and 9; and
  - e) Forward its recommendations to the Executive Committee for adoption.
18. Pursuant to paragraph 17 sub-paragraphs (b) and (c), the Mitigation Board shall review all NAMAs, submitted in accordance with Article 4, paragraphs 4 and 5, as received or as part of the LCAP review provided for in Article 4, paragraph 10. The Board may initiate a dialogue with the Party concerned, as appropriate. The Board shall determine, on the basis of its assessment, the type and level of financial or technological support to be provided, if any.
19. The Board and the Party concerned shall agree upon the baseline for each action to be registered and the indicator(s) by which the success of the action should be measured.

*Baselines for each proposed supported action as well as indicator(s) by which the success of the action would be measured should be jointly agreed by the Mitigation Board and the country concerned (which should provide the initial baselines). Actions could be reviewed based on activities or outcomes (i.e. emission reductions). For instance, it may be more challenging to measure emission reductions associated with certain SD PAMs and thus a review based on the activities implemented may be a better approach. For some sectoral approaches, an outcomes/emission reduction basis may be easier or more appropriate. Whether actions should be reviewed on an activities or outcome basis should be decided a priori when deciding on the level of support to be provided.*

20. Nationally appropriate mitigation actions for which credits from emission reductions achieved may be sold on a carbon market and may be used for compliance with commitments under Article 3 of this Protocol or Article 3 of the Kyoto Protocol, hereinafter referred to as “credited mitigation actions” (“CMA”), shall be referred to the Carbon Market Regulatory Agency, pursuant to Article X, and shall meet the additional reporting and review requirements established by that Agency.
21. Pursuant to paragraph 17 sub-paragraph (d), all Zero Carbon Action Plans and Low Carbon Action Plans shall be reviewed initially by the Mitigation Board. For Parties included in Annex B, the purpose of the review is to ensure that the proposed policies and measures are in line with a Party’s emission reduction commitment under Article 3 of this Protocol or Article 3 of the Kyoto Protocol, the shared vision of the Copenhagen and Kyoto Protocols and its support obligations. For Parties not included in Annex B, the purpose of the review is to assist Parties in the development of robust plans to ensure they achieve low carbon development and to assess the contribution implementation of the proposed LCAP would make to staying within the carbon budget aim of Parties not included in Annex B, as a group, pursuant to Article 4, paragraph 2.

The Conference of the Parties on behalf of the Conference of the Parties serving as the meeting of the Parties shall develop separate guidelines for the review of the ZCAPs and LCAPs reflecting the differing purposes of the review.

*As the first reviews will take place in 2010, the COP needs to develop the guidelines.*

22. The Board shall complete an initial review of a Party’s Plan within three months of receiving that Plan. The Board may initiate a dialogue with the Party concerned. The Board shall publish its assessment, including concerns, requests for additional measures or actions to be taken and recommendations.
23. All Parties shall submit a revised version of their Plans no later than three months after the publication of the assessment referred to in paragraph 22, including information on how the Party has addressed the concerns, requests and recommendations made by the Board.
24. The Board shall complete its final review of a Party’s Plan within three months of receiving the revised version referred to in paragraph 23. A Plan shall be forwarded to the Facilitation Branch, provided for in Article 11, in instances

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where the Board determines that its concerns and requests were not adequately addressed.

*The first version of industrialized country ZCAPs are due on 1 March 2010. The first version of developing country LCAPs are due on 1 June 2010. The Mitigation Board should review all of these plans – though using different guidelines that reflect the different purposes of the reviews. Countries would then have the last quarter of 2010 to revise their plans in light of the comments received. Final plans for both industrialized and developing countries are due on 1 January 2011 in order to ensure enough time for ratification. The Mitigation Board will review these final versions. If it finds that the Party has not properly addressed all of its concerns it shall forward the situation, namely the “questions of concern”, to the Facilitative Branch.*

*The provisions for dealing with Facilitative Branch are in Article 11. Briefly, if outstanding issues remain after another dialogue with the Party concerned, the Facilitative Branch may issue a statement of concern. This applies to both industrialized and developing countries. In the case of industrialized countries, the Branch may also require the country concerned to post a bond representing a portion of the penalties a country would be required to pay in the case of non-compliance. If at the end of the commitment period, the country is in compliance, the bond is returned. If not, it is forfeited and the remainder of the penalty is due.*

25. The Mitigation Board shall consider any advice received from the Technology Board or its expert groups, technical panels or sub-committees regarding actions proposed in the Plans referred to in paragraph 21 and the level of ambition to be achieved through the Technology Action Programmes, and may also request such advice.

*It is very important that the Technology Board be allowed to input into the ZCAP/LCAP review so as to ensure that measures in the ZCAPs/LCAPs (which are bottom-up) will deliver the technology innovation outlined in the (global) Technology Action Programmes (which are top-down).*

*The roles and functions of the other Boards and the Committee on Reporting and Review are included under the respective Articles on Adaptation, Technology, REDD and MRV.*

## **Article 7 – Finance**

1. A massive scaling up of financial resources, from both the public and private sectors, is required in order to adequately, sufficiently and swiftly reduce anthropogenic GHG emissions, adapt to climate change and achieve the ultimate objective of the Convention and the shared vision. Developing country Parties will require significant, stable and predictable financial support from industrialized country Parties in order to fulfill their commitments under this Protocol.
2. Parties included in Annex B shall, as a group, provide at least 160 billion USD per year for the 2013-2017 commitment period as financial support to developing country Parties for their low carbon development, technology, adaptation and reducing emissions from deforestation efforts in line with Articles 4, 5, 8 and 9. Additional financing is required and shall be made available for the reporting requirements and capacity building efforts under this Protocol. The scale of resources required shall be reviewed for each subsequent commitment period.

*The CCF should oversee and manage all financial resources raised through the means outlined in this Article, with the exception of a certain proportion that should be allowed through bilateral or other multilateral initiatives (see paragraph 9 below). These other initiatives must meet established MRV criteria in order to count towards fulfillment of a Party's support obligations. The provisions for the funding window structure are provided for in the CCF Article.*

3. Auctioning of assigned amount units of all Parties included in Annex B shall be the primary means of raising the level of resources necessary, pursuant to paragraph 2, to support developing country Parties in achieving their aims and implementing actions under this Protocol. [Ten] per cent of the assigned amount units of each Party shall be auctioned per year of the 2013-2017 commitment period; this percentage should increase in each subsequent commitment period.

*This provision should also be included mutatis mutandis in the amendments to the Kyoto Protocol.*

4. The rules and modalities governing the auctioning process shall be adopted jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol. The rules and modalities shall consider, *inter alia*, the effect banking of assigned amount units from the first commitment period of the Kyoto Protocol may have on the price of assigned amount units obtained from auctioning and shall be flexible as per Parties' national circumstances. A certain degree of flexibility, including the percentage of assigned amount units, shall be allowed by the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol as amended to those Parties included in Annex I undergoing the transition to a market economy and other Parties for which flexibility would also be warranted.

*[10%] of the AAUs of industrialized countries should be auctioned to raise some of the financial resources required by developing countries for their mitigation and*

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*adaptation efforts. The CMCP & CMKP should be flexible in the design of the auctioning rules allowing for auctioning at the international or national level (with subsequent transfer of resources to the Copenhagen Climate Facility) depending on the national circumstances of Parties. Flexibility should also be shown for those countries, particularly some economies in transition or newly industrialized countries, for which the 10% figure would be significantly burdensome. These countries should be allowed to auction fewer AAUs in the first commitment period. Any differentiation of countries' auctioning amounts should be based on capacity to pay criteria, e.g. GDP per capita and in relation to their assessed amounts (see below). All countries currently listed in Annex II of the Convention must take on the [10%] amount.*

*Banking rules are relevant for determining the amount of AAUs that should be auctioned. The price of auctioned AAUs could be significantly reduced should countries decide to purchase the aggregate potential surplus of AAUs from the first commitment period (around 7.4 billion AAUs or about 4%).*

*This provision should also be included mutatis mutandis in the amendments to the Kyoto Protocol.*

5. Other means may also be used to raise financial resources to support developing country Parties in their efforts, including, but not limited to, a levy on aviation and maritime transport, pursuant to Article X (Aviation and maritime transport).

*A levy on aviation and maritime transport is envisioned as part of the Copenhagen Protocol (see Article X later in the text).*

6. Each Party included in Annex B shall be responsible for a portion, its assessed amount, of the financial resources required for the 2013-2017 commitment period, as outlined in paragraph 2. Responsibility shall be determined on the basis of the scale of assessments as outline in Annex C to this Protocol, taking into account a Party's historical responsibility and capacity to pay.

*Each industrialized country should be responsible for part of the 160 billion USD per year required to support action in developing countries as part of its binding obligations for the 2013-2017 commitment period. Fulfillment of each industrialized country's financial commitment would be measured, reported and verified in accordance with the provisions of Article 10.*

7. Means for which attribution to individual Parties included in Annex B is not possible or arising from contributions made by other Parties shall be subtracted from the overall level of financial resources outline in paragraph 2. The assessed amounts of Parties included in Annex B shall be adjusted accordingly while maintaining the portions established pursuant to paragraph 6.

Contributions by other Parties shall be encouraged.

*Some means, like a levy on international aviation, are not attributable to any one country. Resources raised through this means would be subtracted from the \$160 USD per year total. The remaining sum would be apportioned to countries using the*

*scale of assessed contributions outlined in Annex C. Other countries may also contribute resources; these would similarly be subtracted from the total.*

8. If the means outlined in paragraphs 3 and 5 of this Article are insufficient to raise the level of resources required, pursuant to paragraph 2, and to fulfill a Party's assessed amount, a Party included in Annex B shall contribute the difference to the Copenhagen Climate Facility or through bilateral or other multilateral means in accordance with paragraph 9 in order to fulfill its obligation under paragraph 6.

*If the 10% auctioning of AAs and the levies on international transport prove insufficient to raise the level of financing required, industrialized countries would be required to make up the difference in order to ensure that developing countries receive the stable, consistent and predictable financial resources they need to assist them in fulfilling their obligations. This would either involve additional auctioning of AAs, over and above the usual 10%, or MRVed contributions from other sources.*

9. Bilateral and, in particular cases agreed by a decision of the Conference of the Parties serving as the meeting of the Parties, regional or other multilateral cooperation may, up to a maximum of [x] per cent be considered part of a Party's assessed amount provided that such cooperation is in accordance with criteria to be adopted by the Conference of the Parties serving as the meeting of the Parties at its first session. Resources not in accordance with these criteria shall not contribute to the fulfillment of the obligations contained in paragraph 6.

A Party included in Annex B may only use overseas development aid to fulfill its financial obligations under the following circumstances. After 2015, new and additional financing is defined as any resources above 0.7% of a Party's GDP, pursuant to industrialized country Parties' obligations under the Millennium Development Goals. Prior to 2015, new and additional financing is defined as any resources above the linear growth path between a Party's present ODA contribution and the 0.7% goal to be achieved in 2015. 'Present' is defined as the average ODA contribution made by the Party between the years 2006 and 2008.

Financial resources that support or in any way contribute to activities related to nuclear energy shall not contribute towards the fulfillment of a Party's financial obligations.

*A portion of an industrialized country's assessed amount could be met through bilateral or other multilateral initiatives up to a maximum amount and so long as it was in accordance with the criteria developed to measure such financial flows (particularly governance criteria). These bilateral initiatives would also need to be reported and verified using in the same manner as fulfillment of a Party's other support obligations.*

*The Multilateral Fund for the Implementation of the Montreal Protocol has a similar bilateral provision.*

## **Article 8 – Technology Cooperation**

1. Parties shall be guided by a Technology Development Objective to shift the world onto an equitable low-carbon development path. Meeting this Objective will be key to ensuring that Parties respect and stay within the global carbon budget specified in paragraph 2 of Article 2. To meet this Objective, all Parties shall promote, facilitate, cooperate on, and finance, as appropriate, the development, deployment, transfer, diffusion or access to environmentally sound mitigation and adaptation technologies and know-how, in accordance with their national circumstances. Specifically, Parties shall seek, *inter alia*, to:
  - a) At least double financing for mitigation and adaptation related research, development and demonstration by 2012, increasing it to at least four times its current level by 2020. Part of this new financing should support bilateral and multilateral cooperative efforts, including the research, development and demonstration pillar of the technology funding window of the Copenhagen Climate Facility, referred to in Article 6, paragraph 12, particularly between industrialized and developing countries and among developing countries themselves;
  - b) Obtain at least two thirds of the world's primary energy demand from renewable energy sources by 2050, with the mid-term goal of achieving at least 20 per cent by 2020;
  - c) Improve the average energy intensity of the global economy by 2.5 per cent per year until 2050;
  - d) Secure access to modern energy services for all people by 2025, without locking them into a high GHG intensity development path; and
  - e) [...].

The Conference of the Parties serving as the meeting of the Parties to this Protocol may elaborate on the Technology Development Objective as necessary.

*Support for technology cooperation and diffusion needs to be rapidly expanded in order to meet the mitigation and adaptation challenges posed by climate change – nothing less than a climate friendly technology revolution is needed. A robust and comprehensive approach is necessary in order to correct market failures, provide support along the entire technology innovation chain and make modern energy services available to all. This approach should leverage public and private finance to spur innovation and technology cooperation.*

*To address the need for rapid technology development and diffusion in the near-term the Parties should agree on a Technology Development Objective. We have outlined the minimum the Objective should include above.*

2. The Technology Board, provided for in paragraph 3 of Article 6, shall undertake the following functions in accordance with the Technology Development Objective and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
  - a) Develop, co-ordinate, support, implement, monitor and review progress on a defined set of Technology Action Programmes, pursuant to paragraph 3, adopted by the Conference of the Parties serving as the meeting of the Parties,

- including the allocation of funds from the Technology window provided for in paragraphs 12 and 13 of Article 6;
- b) Provide advice to the Mitigation and Adaptation Boards, particularly during their respective reviews of the Zero-Carbon and Low Carbon Action Plans, pursuant to paragraph 21 of Article 6 and National Adaptation Action Strategies, pursuant to paragraph 9 of Article 5;
  - c) Coordinate with, engage with and facilitate information sharing between Parties, international organizations, the private sector and other relevant stakeholders.
  - d) Forward its recommendations to the Executive Committee for adoption.

The Technology Board may provide guidance to the In-Country Coordinating Mechanism(s) provided for in paragraph 11 of Article 6, as requested.

3. Each Technology Action Programme shall be global in nature and focus on the development, demonstration and diffusion of certain key mitigation and adaptation technology areas, and include, *inter alia*:
  - a) Capacity building in developing countries for research, development, demonstration and diffusion, including enhancing enabling conditions and absorptive capacity; and
  - b) Transfer of skills and know-how; technology information, technological goods and equipment.

No Technology Action Programme shall be developed for any unsustainable technology, particularly and especially nuclear energy-related technology.

*Technology Action Programmes (TAPs) are top-down and global, Low Carbon Action Plans (LCAPs) and Zero Carbon Action Plans (ZCAPs) are bottom-up and national; when read together the three should ensure that the world is on track to meet the global carbon budget.*

*We envisage about 20 TAPs would be developed for key technologies. Strategic prioritization of certain technologies is necessary in order to spur innovation, stay within the carbon budget and avoid dangerous climate change. The CMCP would decide upon the key technologies and the general parameters of the Action Programmes, while the Tech Board would elaborate the details in line with those guidelines and the Objective.*

4. An expert group shall be established, in accordance with paragraph 9 of Article 6, for each Technology Action Programme to advise the Board during the development and subsequent review of that specific Programme. The Technology Action Programmes may be informed by technology needs assessments of developing country Parties, Parties' Zero Carbon and Low Carbon Action Plans, existing international and national technology roadmaps and other relevant material. Where intellectual property rights prove to be a barrier to technology deployment, diffusion and transfer, the Technology Action Programme shall include initiatives to reduce and eliminate these barriers, in accordance with paragraph 6 below. The Technology Action Programmes shall be reviewed by the Technology Board every 5 years and the appropriate action taken.

5. Regional centers may assist in the implementation of the Technology Development Objective and specific Technology Action Programmes, including providing financial accountability in accordance with paragraph 15 of Article 6 for support received by the center or those Parties the center is working with from the Copenhagen Climate Facility.
6. In relation to intellectual property rights for low carbon and adaptation technologies, Parties shall abide by the principle of ‘protect and share’. In accordance with this principle, Parties shall undertake measures to encourage patent sharing, joint ventures and public-private partnerships and initiatives to the extent possible, in order to increase accessibility to key environmentally sound technologies that are protected by intellectual property rights, while strengthening incentives for research and development through intellectual property right protection. The Technology Board shall undertake initiatives to eliminate intellectual property rights as a barrier to technology deployment, diffusion and transfer beyond those encountered in the development and implementation of the Technology Action Programmes.

*Where IPRs are a barrier increased access to technologies could be provided by establishing a clear framework for using existing mechanisms such as patent buyouts, patent pools (including patent libraries), compulsory licensing, segmented markets and Global Commons measures.*

## **Article 9 – Reducing Emissions from Deforestation and Forest Degradation**

### EMISSION REDUCTION AIMS

1. Reducing emissions from deforestation and forest degradation is necessary to achieve the ultimate objective of the Convention, the shared vision and to stay within the global carbon budget. The vast majority of gross emissions from deforestation and forest degradation in Parties not included in Annex B shall be eliminated by 2020, with a view to eliminating nearly all human induced forest emissions by 2030, in a manner that protects biodiversity and fully respects the rights of local and indigenous peoples.

*A specific REDD target should be set to drive the level of ambition of activities and to ensure that the overall carbon budget is respected. Emissions from land-use change should be kept to no more than 1 Gt CO<sub>2</sub>e in 2020 and brought down to zero by 2030 at the latest.*

2. All Parties shall develop and implement strategies, programs, policies and measures to address the underlying causes and drivers of deforestation. All Parties shall undertake nationally appropriate actions and sustainable development policies and measures to address and reduce GHG emissions, and seek to minimize the international displacement of emissions, from deforestation and forest degradation, taking into account Parties' differing circumstances, responsibilities, capabilities and needs.

*As the drivers of deforestation are complex, interlinked and often global in nature, this provision creates a general obligation on the part of all parties to take efforts to reduce deforestation, even if tropical deforestation is not occurring within their territory (for instance, parties could adopt measures related to the international timber trade).*

3. Parties not included in Annex B shall aim to reduce GHG emissions from deforestation and forest degradation against a national reference emission level in accordance with their national circumstances with a view to ensuring the goals specified in paragraph 1 are met and shall be supported in their efforts as provided for in paragraph 4.
4. Parties included in Annex B shall provide, through the Copenhagen Climate Facility, pursuant to their obligation in Article 7, paragraph 2 (Finance), adequate financial resources and other support to ensure that all Parties may fulfill their commitments under paragraphs 1, 2 and 3 of this Article.

*This paragraph reiterates the general MRV support obligation of industrialized countries in the REDD context. If Parties are serious about reducing deforestation and forest degradation and its associated emissions, significant resources will be required, including financing, technology and capacity building, to assist in achieving this aim. As outlined in the Finance Article, industrialized countries should provide at least 42 billion USD per year to support REDD activities, with the urgent need for immediate funding to build capacity to enable developing countries to meet a high*

*level of MRV and to implement effective national REDD strategies. The vast majority of funding for REDD during the 2013-2017 period should come from market-linked sources such as auctioning revenues.*

#### REDD BOARD

5. A mechanism to reduce emissions from deforestation and forest degradation (“REDD”) is hereby established. The mechanism shall be supervised and managed by the REDD Board.
6. The REDD Board, provided for in Article 6, paragraph 3, shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties:
  - a) Allocate financing from the funding window referred to in Article 6, paragraph 12 to support reducing emissions from deforestation and forest degradation in Parties not included in Annex B, in line with the provisions of this Article and on the basis of National Action Plans for REDD. Financial support and other incentives may be provided for the following:
    - i) National level emission reductions against a historic baseline, pursuant to paragraph 12, including direct financing for sub-national actions consistent with paragraph 11;
    - ii) The implementation of, and measurable progress towards, achieving objectives identified in the National Action Plans on REDD, including, *inter alia*, actions that successfully limit the international displacement of these emissions and prevent increases in future emissions in developing country Parties not included in Annex B with low historic rates of deforestation and degradation but with forests at significant risk of deforestation, and performance-based results that achieve mitigation objectives through the use of readily available proxies (such as deforestation rates, presence of infrastructure, such as roads, or the cancellation of concessions); and
    - iii) Capacity building efforts, now, up to and beyond 2012, to develop institutional arrangements to measure, monitor, report and verify reductions in GHG emissions or, on a transitional basis, the deforested and forest degraded area.

*REDD initiatives will require significant amounts of up-front financing to support building institutional and technical capacity. (As the CDM has shown, market-based financing will not provide this capacity building). While the Board would primarily provide payment for emission reductions achieved after ex post verification, the Board could also provide up-front financing on the basis of the National Action Plans as well as for activities that achieve mitigation objectives and prevent the international displacement of these emissions. While developing national approaches, public financing should be used to support early action pilot activities at the sub-national level as well as capacity building. Measures should be put in place to ensure transparency and accountability of such financing.*

- b) Assist in the development of the National Action Plans on REDD, including the establishment of reference emission levels;

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- c) Assist in the monitoring and review of the implementation of the Plans by the Committee on Reporting and Review, referred to in Article 6, paragraph 3, pursuant to the provisions of Article 10 (MRV);
- d) Forward its recommendations to the Executive Committee for adoption;
- e) Monitor and enforce the provisions referred to in paragraph 13 (Indigenous rights) and 14 (Biodiversity protection), including, *inter alia*, through the creation and maintenance of an independent office of the ombudsman to oversee complaints;

*An Independent Ombudsman position should be created to monitor compliance with international standards, as standards without a means to monitor them are meaningless.*

- f) Develop and approve independent conflict-resolution mechanism(s) to address any conflicts which might arise between governments, communities and other stakeholders; and

*An appeals/arbitral mechanism for countries and others seeking to review decisions of the Board will minimize conflict and increase transparency. This mechanism would address conflicts among and within Parties. The interplay between an international mechanism and these domestic mechanisms would need to be decided upon. The role of the ombudsman could be expanded to include some of these functions.*

- g) Facilitate information sharing between Parties and other relevant stakeholders.

Any further functions assigned to the Board must ensure stability, equity, effectiveness and environmental integrity of the Convention and its Protocols and be consistent with the ultimate objective of the Convention and the shared vision of this Protocol.

### REPORTING AND REVIEW

7. Parties not included in Annex B wishing to avail themselves of financial and other support relating to this Article to assist in their strategies, programs, policies, measures and activities to reduce emissions from deforestation and forest degradation shall develop a National Action Plan for REDD. Parties not included in Annex B required to develop a Low Carbon Action Plan, pursuant to Article 4, paragraph 9 shall develop a National Action Plan for REDD and shall incorporate the Plan into their Low Carbon Action Plans. Parties not included in Annex B choosing to produce Low Carbon Action Plans pursuant to Article 4, paragraph 7 are encourage to integrate their National Action Plans for REDD into these Plans. All Plans shall outline the strategies, programs, policies and measures and activities a Party plans to undertake to address the direct and underlying causes of deforestation and therefore reduce its emissions from deforestation and forest degradation. The Plan shall also outline how a Party shall observe the standards referred to in paragraphs 13 and 14 and be in line with its National Biodiversity Strategy and Action Plan, if available.

*The National Action Plan should outline the various areas in which the country plans to undertake measures to address the direct and underlying causes, such as policies to*

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*reduce land conversion (through e.g. increasing opportunities for off-farm employment), improving forest monitoring and governance, clarifying land tenure rights, improving infrastructure planning (e.g. road-intensive rather than extensive development), removing perverse policy and tax incentives and so on. The Plans should also indicate areas in which they would welcome investment and involvement by sub-national actors, if any. Finally, countries must outline how these activities will conform to provisions to ensure the protection of biodiversity and the rights of indigenous and forest peoples.*

*Countries choosing or required to develop an LCAP should include their National Action Plans for REDD as part of their more comprehensive LCAP. All other countries, who may not have the capacity to complete an LCAP, but wishing to access REDD financing, must at least develop a National Action Plan for REDD as well.*

8. The REDD Board shall review all Plans submitted in accordance with paragraph 7. The Board may initiate a dialogue with the Party concerned, as appropriate. The Board shall determine, on the basis of its assessment, the type and level of support to be provided in accordance with paragraph 6, sub-paragraph (a). The review process should follow the procedures of the LCAP review provided for in Article 6, as appropriate.
9. Parties not included in Annex B shall report on their reductions in emissions from deforestation and forest degradation on a biennial basis in line with the provisions of paragraphs 11 and 12 (Methodology) and as part of their enhanced national communications in accordance with the provisions of Article 10 (MRV). The Committee on Reporting and Review, referred to in Article 6, paragraph 3, shall review these reports in accordance with the provisions of Article 10. The REDD Board may assist the Committee in its reviews.

*The stringency of reporting requirements should be a function of a Party's technical capacity. The financial incentives provided for emission reductions achieved should be a function of how robust the reductions are likely to be given Parties' differing capacities.*

10. The Conference of the Parties serving as the meeting of the Parties shall, at its first session, develop and adopt modalities to address instances in which a Party's emissions from deforestation and forest degradation increase subsequent to receiving financial support for the reduction of emissions.

*The liability of Parties for subsequent increases in their emissions should be proportional to their technical capacity (and thus the level of payment received for reductions). An insurance scheme is one method that is worth exploring further.*

### METHODOLOGY

11. National approaches, including, but not limited to, national-level accounting, regulatory frameworks, reference emission levels, monitoring and enforcement systems, shall be adopted by participating Parties not included in Annex B in order to address domestic leakage, ensure the integrity of baselines and improve the cost-effectiveness of REDD activities. Sub-national actors undertaking sub-

national activities, where deemed appropriate by the participating Party, may be allowed within the national-level accounting framework.

*National approaches are necessary to address the issues of leakage, additionality and permanence. If allowed by the participating developing country Parties, sub-national actors may participate in the mechanism, however payment should be determined on the basis of national-level emissions. The Board may pay sub-national actors directly to ensure equitable benefit sharing. The modalities for determining the level of payment for such activities within the context of the national emissions framework needs to be determined.*

12. The Intergovernmental Panel on Climate Change guidelines shall inform the development of standards to measure, report and verify emission reductions by the Conference of the Parties serving as the meeting of the Parties. The Intergovernmental Panel on Climate Change shall develop further guidance related to biome-based definitions for forests. In accounting for emission reductions, incentives should be provided for reductions of gross emissions based on a national reference emission level.

#### SAFEGUARDING BIODIVERSITY & LOCAL AND INDIGENOUS RIGHTS

13. All strategies, programs, policies, measures and activities undertaken pursuant to this Article shall be fully consistent with the United Nations Declaration on the Rights of Indigenous Peoples, ILO Convention 169 and specifically recognize and respect the rights of indigenous peoples to their lands and territories, not to be displaced there from, their social, economic or religious uses of the forest, and their right to choose their own development.

The Conference of the Parties serving as the meeting of the Parties shall, at its first session, adopt rules, modalities and standards for ensuring the full and effective participation of all relevant stakeholders and to protect the rights of indigenous peoples and local communities, including, *inter alia*:

- i) Ensuring the free prior and informed consent of indigenous peoples and local communities in all stages of decision making and implementation;
- ii) Ensuring equitable benefit sharing, especially with regard to indigenous peoples and local communities, through, *inter alia*, the ability of the Board to disburse resources to private entities, as necessary and appropriate;
- iii) Securing representation of indigenous peoples and local communities on the Board.

*It is the sovereign prerogative to decide how to address REDD, however if countries chose to access international financial support for these activities they should be required to meet international standards to protect biodiversity and the rights of indigenous peoples and vulnerable communities. There can be no justification for mandating international standards for measuring GHG reductions, but not the latter. The failure of the CDM to create large sustainable development benefits for developing countries due to the lack of standards is a key lesson to be learned here.*

14. All strategies, programs, policies, measures and activities undertaken pursuant to this Article shall be fully consistent with the Convention on Biological Diversity and shall contribute to the conservation of biological diversity. REDD activities

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shall encourage retention of carbon in natural forests, especially those of high conservation value, and exclude the conversion of natural forests to industrial forests or plantations. The Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol shall, at its first session, adopt rules, modalities and standards for ensuring the protection of biological diversity.

*The rationale for standards is the same as the above paragraph.*

## **Article 10 – Measuring, Reporting and Verifying Efforts**

### NATIONAL SYSTEMS

1. Each Party included in Annex B to **this Protocol** shall have in place, no later than one year prior to the start of the 2013-2017 commitment period, a national system for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. All relevant provisions of the Kyoto Protocol and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords shall apply *mutatis mutandis* to the provisions of this paragraph. Any future revision to the guidelines referred to in paragraph 1 of Article 5 of the Kyoto Protocol shall be jointly agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and to this Protocol.

*This paragraph mirrors that of Article 5.1 of the Kyoto Protocol. The US and the Newly Industrialized Countries should be required to develop national systems under the same rules of the Kyoto AI Parties. Any future revisions of the guidelines for national systems should be jointly agreed by both the CMCP and the CMKP.*

2. Each Party not included in Annex B required to submit an LCAP pursuant to paragraph 9 of Article 4 shall have in place, no later than six months prior to the start of the 2013-2017 period, a national system, including the establishment of national baselines, for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems shall be based on the methodologies, procedures and approaches specified in the Kyoto Protocol to the extent possible and taking into consideration the common but differentiated responsibilities and capacities of Parties and shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

*To the extent possible, the advanced developing countries should put into place national systems similar to those of industrialized countries.*

3. A Party not included in Annex B that is not covered by the provisions of paragraph 2 may put in place a national system, including the establishment of national baselines, for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol and is encouraged to do so.
4. Methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its corresponding session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session and the

Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly and regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 of this Protocol or the Kyoto Protocol in respect of any commitment period adopted subsequent to that revision.

*This paragraph mirrors that of KP Article 5.2. Countries should agree on the methodologies ideally at COP15 or soon there after. These methodologies should apply across the Copenhagen and Kyoto Protocols. Any revisions to the methodologies should be agreed jointly by the CMCP and CMKP.*

5. The global warming potentials used to calculate the carbon dioxide equivalent of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change in its Fourth Assessment Report and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly and regularly review and, as appropriate, revise the global warming potential of each such greenhouse gases, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments under Article 3 of this Protocol or the Kyoto Protocol in respect of any commitment period adopted subsequent to that revision.

*This paragraph mirrors that of KP Article 5.3. Countries should agree on the GWPs ideally at COP15 or soon there after. These GWPs should apply across the Copenhagen and Kyoto Protocols. Any revisions to the GWPs should be agreed jointly by the CMCP and CMKP.*

#### NATIONAL REGISTRY

6. Each Party included in Annex B of this Protocol shall have in place, no later than one year prior to the start of the 2013-2017 commitment period, a national registry to accurately account for the issuance, holding, transfer, acquisition, cancellation and retirement of any emissions unit established under the Kyoto Protocol or this Protocol. All relevant provisions of the Kyoto Protocol as amended and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords shall apply *mutatis mutandis* to the provisions of this paragraph.

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*The US and the Newly Industrialized Countries should be required to develop a national registry based on the rules for modalities for accounting assigned amounts under KP Art. 7.4.*

### GHG INVENTORIES

7. Each Party included in Annex B to **this Protocol** shall incorporate in its annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol and in its national communication, submitted under Article 12 of the Convention, the necessary supplementary information for the purposes of ensuring compliance with its commitments under this Protocol, in accordance with *mutatis mutandis* the relevant provisions of the Kyoto Protocol and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords.

*The US and the Newly Industrialized Countries should be required to submit annual GHG inventories under the same provisions of the Kyoto AI Parties.*

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly periodically review and, as appropriate, revise the guidelines for the preparation of the information required under Article 7 of the Kyoto Protocol and paragraphs 6 and 7 of this Article and the modalities for the accounting of assigned amounts.

*Any changes to the KP Article 7 rules should be agreed jointly by the CMCP and CMKP.*

9. Each Party not included in Annex B, required to submit an LCAP pursuant to paragraph 9 of Article 4, shall incorporate in its inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol the necessary supplementary information for the purposes of measuring progress with respect to Articles 4, 9 and 10 and any sectoral crediting. Inventories shall be submitted biennially.

The Parties may choose which sectors listed in Annex A the inventory should cover. Only those sectors included in the national inventory will be eligible for sector-wide support initiatives under the Registry referred to in paragraph 3 of Article 6 or sectoral market mechanisms.

The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt, at its first session, and review periodically thereafter, guidelines for the preparation of the information required under this paragraph.

*Ideally the inventories for advanced developing countries would be comprehensive and include all sectors. However at least those sectors for which LCAP support or sectoral market mechanisms are pursued should be included. The purpose of biennial inventory submission is to build trust amongst Parties as to the state of emissions and to build the capacity of advanced developing countries to report robustly.*

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*The guidelines developed should be modeled after those used for industrialized countries as much as possible.*

10. A Party not included in Annex B that is not covered by paragraphs 9 and 11 shall submit its inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol once every three years. The guidelines adopted under paragraph 9 shall apply *mutatis mutandis*.

*Other developing countries should submit inventories every three years - with increased frequency over time; again as a trust building exercise. This represents a more rapid timeline than the current reporting regime.*

11. Least developed country Parties may submit their inventories of anthropogenic emissions by sources and removal by sinks of greenhouse gases not controlled by the Montreal Protocol at their discretion. The guidelines adopted under paragraph 9 shall apply *mutatis mutandis*.

REPORTING ON ZCAP IMPLEMENTATION

12. Each Party included in Annex B shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate compliance with its commitments under Article 3 of this Protocol or the Kyoto Protocol and its obligation to provide financial, technological and capacity building support to developing countries in a measurable, reportable and verifiable way. Each Party shall submit its national communication including the supplementary information biennially.
13. Supplementary information to measure compliance commitments under Articles 3, 5, 8 and 9 of this Protocol or the Kyoto Protocol shall include, but are not limited to, the following:
  - a) A quantitative estimate of the effects of implemented policies and measures, individually and collectively;
  - b) An assessment of the reported policies and measures and past and projected GHG emissions trends for 2015, 2020, 2030, 2040 and 2050, including scenarios without measures, scenarios with measures and with additional measures;
  - c) A summary of the action taken to achieve the timely investments required for an economy-wide transformation to a zero carbon sustainable development path;
  - d) A summary of action taken to build climate resilience and adapt to the impacts of climate change in accordance with Article 5 (Adaptation);
  - e) A summary of the action taken pursuant to the Technology Development Objective and its Technology Action Programmes in accordance with Article 8 (Technology); and
  - f) A summary of the action taken pursuant to Article 9 (REDD).
14. Supplementary information to measure compliance with support obligations shall include, but are not limited to, the following:
  - i) An account of a Party's contributions to date in accordance with its assessed amount specified in Annex C, including the amount of financial resources

transferred to the Copenhagen Climate Facility and bilateral or other multilateral initiatives, if any; (Financial support obligation)  
*Financial resources may be transferred to the Facility in cases of domestic auctioning or if the corrective mechanism mandates further financial resources be contributed in order for each Party to reach its assessed amount (i.e. in instances where auctioning and levies on maritime and aviation transport were not sufficient achieve the 160 billion USD financial obligation).*

- ii) The amount of financial resources transferred to the RD&D pillar of the technology funding window of the Copenhagen Climate Facility; (Joint RD&D support obligation);
- iii) Information and the financial amount of other cooperative RD&D activities;
- iv) The amount of financial resources provided to support the reporting activities of developing countries and the establishment of national systems; and (LCAP reporting, GHG inventories, national systems obligation)
- v) Information to demonstrate that all financial resources provided were new and additional.

A set of performance indicators shall be developed and adopted by the Conference of the Parties serving as the meeting of the Parties, at its first session, to assist in measuring compliance with the above obligations. Biennial reporting shall provide up-to-date information on these indicators. Reporting on these indicators and other relevant information shall be included as part of the final submission of Parties included in Annex B at the end of a commitment period.

*Biennial reporting should be based on a set of indicators (levels of financing, technology cooperation programs, etc) and a brief narrative. The final report on which compliance will be assessed should include a longer narrative on a Parties' actions. The tables currently included in Parties' national communications are insufficient for this task and need to be elaborated upon significantly.*

15. The Conference of the Parties serving as the meeting of the Parties shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under paragraphs 13 and 14, taking into account guidelines for the preparation of national communications by the Parties included in Annex I adopted by the Conference of the Parties.

#### REPORTING ON NAMA/LCAP IMPLEMENTATION

16. Each Party not included in Annex B shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate the implementation of all of their registered nationally appropriate mitigation actions. This supplementary information should be based on the indicator(s) by which the success of each action would be measured as jointly agreed by the Party concerned and the Mitigation Board pursuant to paragraph 19 of Article 6 or the REDD Board pursuant to paragraph 8 of Article 9, as appropriate. Each Party shall submit its national communication including the supplementary information biennially.
17. Each Party not included in Annex B required to submit an LCAP pursuant to paragraph 9 of Article 4 shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information

necessary to demonstrate the implementation of its registered nationally appropriate mitigation actions as specified in paragraph 16 above and the implementation of its LCAP. This supplementary information shall also include:

- a) An estimation of the Party's contribution to date to the overall mitigation aim for Parties not included in Annex B specified in paragraph 2 of Article 4;
- b) Further details on action being implemented in all major emitting sectors; and
- c) An assessment of those actions implemented, the results achieved and the Party's national emissions pathway for 2030 and 2050.

Each Party shall also submit its national communication, including the supplementary information required under this paragraph and paragraph 16, biennially.

18. The Conference of the Parties serving as the meeting of the Parties shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under paragraphs 16 and 17, taking into account guidelines for the preparation of national communications by the Parties not included in Annex I adopted by the Conference of the Parties.

*Reporting on the implementation of adaptation activities is dealt with under the Adaptation Article.*

*Note that while both industrialized and developing countries have to report on a biennial basis – the material reported and the guidelines for that reporting are entirely different.*

#### FINANCIAL SUPPORT FOR DEVELOPING COUNTRY REPORTING

19. Parties included in Annex B shall provide, on an agreed full cost basis, adequate financial support to enable all Parties not included in Annex B to undertake the activities and submit the reports specified in paragraphs 2, 3, 9, 10, 11, 16 and 17, whether such activities or reports are required or encouraged.

#### COMMITTEE FOR REPORTING AND REVIEW

20. The Committee for Reporting and Review (“the Committee”) shall undertake the following functions and any other functions assigned to it by the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol:

- a) Coordinate the reviews by expert review teams for:
  - i. Annual GHG inventories of Parties included in Annex B;
  - ii. Biennial or otherwise GHG inventories of Parties not included in Annex B;
- b) Conduct the reviews for:
  - i. Biennial ZCAP reporting through the national communication process of Parties included in Annex B pursuant to paragraph 12;
  - ii. Biennial LCAP reporting through the national communication process of Parties not included in Annex B pursuant to paragraph 17;
  - iii. Individual NAMA reporting pursuant to paragraph 16, for applicable Parties;
  - iv. The inventories referred to in sub-paragraph (a) under the conditions provided for in paragraph 23 below;

- c) Coordinate the assessment by expert review teams at the end of the 2013-2017 period of the actions undertaken and the results achieved by Parties not included in Annex B, as a group, in light of the carbon budget specified in paragraph 2 of Article 4;
- d) Conduct training programmes for both domestic and international expert reviewers;
- e) Forward reports of the reviews to the Conference of the Parties serving as the meeting of the Parties to this Protocol or the Kyoto Protocol as appropriate and to the Facilitative Branch as may be required under the provisions of this Article; and
- f) Report annually to the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol.

21. Members of the Committee shall be experts with extensive experience in the preparation of greenhouse gas inventories, the management of national institutional arrangements for greenhouse gas inventory preparation, emission scenario development or trend analysis and/or the development and implementation of sustainable development policies and measures. Members of the Committee shall be permanent staff of the Facility. Members shall be appointed to the Committee jointly by the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol upon recommendation by the Executive Secretary of the Facility.

*The current capacity of the secretariat and the expert review teams is severely limited. This permanent committee should alleviate some of those constraints. By having a permanent staff of experts it will be able to undertake some of the reviews itself on the basis of guidelines agreed by the CMCP/CMKP. It will also have the in-house capacity to train more expert reviewers and more staff generally to coordinate the reviews. There is still a role for expert review teams, but only to review the more sensitive matters as outlined in paragraph 23 below.*

22. Expert review teams shall be coordinated by the Committee and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with the guidance provided for this purpose by the Conference of the Parties.

*This paragraph mirrors KP Art. 8.2.*

#### STREAMLINING THE REVIEW PROCESS

23. The expert review teams shall review the greenhouse gas inventories submitted in accordance with paragraphs 7, 9, 10 and 11 at least once per commitment period for those submitted annually or biennially as well as the final inventory submitted for that commitment period. The expert review team may review inventories submitted in other years or may request that the Committee undertake those reviews. All greenhouse gas inventories submitted in accordance with paragraphs 7, 9, 10 and 11 shall be reviewed.

The expert review teams may request that the Committee undertake the review when the two previous reviews have raised no questions of implementations and the team has made no substantive and significant recommendations for

improvements. The expert review team may also choose to review only one section of the inventory and request that the Committee complete the review of the remaining sections provided that for those sections no questions of implementations have been raised and the team has not made any substantive and significant recommendations for improvements over the previous two reviews.

*As noted above the capacity to undertake reviews is currently strained. As more countries report more frequently on more areas, this situation will only worsen. Efforts should be made to streamline the process so that ERTs focus on the most important (and the most sensitive) sections of a review and leave the rest of the reporting to be reviewed by international experts on the Committee. To be sure, ERTs should review at least one inventory per country per commitment period as well as the final assessment at the end of the commitment period, however if a review continually raises no questions of implementation or other concerns then the Committee should be allowed to conduct the review. ERTs should also be allowed to retain certain sections of a review (e.g. the LULUCF section) and request the Committee to review all others.*

24. The expert review teams shall prepare a report to the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol assessing the implementation of commitments or aims of the Party and identifying any potential problems in, and factors influencing, the fulfillment of commitments or aims. Such reports shall be circulated by the secretariat to all Parties to the Convention.

#### REVIEW OF ZCAPS OF INDUSTRIALIZED COUNTRIES

25. The information submitted under paragraphs 12, 13 and 14 by each Party included in Annex B shall be reviewed by the Committee pursuant to the relevant decisions of the Conference of the Parties and in accordance with the guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session. The guidelines shall contain provisions by which the problems to be identified during the assessment by the Committee shall relate to the fulfillment of the set of indicators referred to in paragraph 14. The guidelines shall build on those adopted pursuant to paragraph 27 for the annual compilation and accounting of emissions inventories and assigned amounts and shall include an assessment of emissions trends and scenario analysis.

*Review of the ZCAPs should focus on the general emissions trends of a Party towards its 2050 goal, the measures it has put in place to ensure this long-term objective has been met and whether a Party is fulfilling its support obligations. The review on the GHG inventories (below) should focus on the quality of the inventory.*

*The guidelines for this review should build on the model of Decision 22/CMP.1, however limiting the review of the Committee to the transparency, completeness and timeliness of the support obligation information would not fulfill the requirement that support be MRVed. Instead the Committee should focus on how well countries are fulfilling their obligations with respect to the set of indicators to be developed.*

*The guidelines should also be streamlined with those developed for KP Art. 7.2, the latter guidelines should be subsumed within the ZCAP review process.*

26. The guidelines referred to in paragraph 25 shall include a provision by which the Committee shall assess a Party's individual financial contribution toward the means of implementation, its assessed amount, prorated over the five years of each commitment period. If this contribution is 15% below the accumulative amount, the Committee shall deem this a problem identified and raise it as a question of implementation.

*An 'automatic referral' should happen with a Party's financial contribution is 15% below what it should have been for that year of the commitment period on a prorated basis.*

#### REVIEW OF INDUSTRIALIZED COUNTRY NATIONAL SYSTEMS, NATIONAL REGISTRIES AND GHG INVENTORIES

27. The information related to national systems, submitted under paragraph 1, national registries, submitted under paragraph 6 and inventories, submitted under paragraph 7, shall be reviewed by expert review teams, in accordance with *mutatis mutandis* the relevant provisions of the Kyoto Protocol and the elaboration of these provisions in decisions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, including the Marrakech Accords. Any revision to the guidelines for review shall be jointly agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and to this Protocol.

*The review provisions of the Kyoto Protocol as amended should apply to the US and newly industrialized countries. Any future revisions of the guidelines for review of GHG inventories should be jointly agreed by both the CMCP and the CMKP.*

28. During the annual review of inventories, the expert review team shall calculate the difference, if any, between a Party's current emissions level and its quantified emission limitation and reduction commitment on a prorated basis. If Party's emissions are 15% above its prorated quantified emission limitation and reduction commitment, the expert review team shall deem this a problem identified and raise it as a question of implementation.

*An 'automatic referral' to the Compliance Committee should happen when a Party's emissions are 15% above the trajectory needed to meet its emission reduction target. Such an automatic trigger would ensure that countries like Canada get referred to the Compliance Committee and contribute towards the early-warning function of the Facilitative Branch. The details of this trigger should be included in the 'Identification of problems' section of Decision 22/CMP.1.*

*This provision should also be included in Art. 8 of the Kyoto Protocol for greater clarity and an update of Decision 22/CMP.1.*

#### REVIEW OF NAMAS/LCAPS

29. The information submitted under paragraph 16 (NAMA implementation reporting) by each Party not included in Annex B shall be reviewed by the Committee pursuant to the relevant decisions of the Conference of the Parties and in accordance with the guidelines adopted for this purpose by the Conference of the

Parties serving as the meeting of the Parties to this Protocol at its first session. The guidelines for review shall apply to all types of NAMAs including those undertaken unilaterally, those with international support and the CMAs that is those supported through market mechanisms.

30. The guidelines for review shall be informed by the indicators agreed pursuant to paragraph 19 of Article 6 (CCF). The review of unilateral NAMAs shall take place in-country with domestic experts and be supported by a centralized review by the Committee. The Committee shall also review the supported NAMAs during this time. Domestic experts shall undertake the same training programmes provided by the Committee and fulfill the same expertise requirements as international expert reviewers. The In-Country Coordinating Mechanism, referred to in Article 6, paragraph 11, shall select the domestic experts and coordinate the national review.

A report of each review shall be published and indicate if there are any questions of implementation, namely if any of the agreed indicators suggest a discrepancy between the approved action and the implemented action. Questions of implementation shall be forwarded to the Facilitative Branch for consideration.

31. Credited mitigation actions, which were referred to the Carbon Market Regulatory Agency, pursuant to paragraph 20 of Article 6 (CCF) shall also meet any reporting and review requirements established by that Agency. The Agency may be informed by the review undertaken by the Committee; however the Agency retains the decision-making power for the review of the CMAs referred to it, including, ultimately, the issuance of credits.
32. The information submitted under paragraph 17 (LCAP implementation reporting) by each Party not included in Annex B shall be reviewed by the Committee pursuant to the relevant decisions of the Conference of the Parties and in accordance with the guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session, taking into account those guidelines developed under paragraph 29. The Committee shall publish a report of each review and indicate if there are any questions of implementation. Questions of implementation shall be forwarded to the Facilitative Branch for consideration.

#### REVIEW OF DEVELOPING COUNTRY NATIONAL SYSTEMS & GHG INVENTORIES

33. The information related to national systems, submitted under paragraphs 2 and 3, and inventories, submitted under paragraphs 9, 10 and 11 of this Article by each Party not included in Annex B shall be reviewed by expert review teams. The guidelines for the review should be based upon those in Decision 22/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its first session, to the extent possible and taking into consideration the common but differentiated responsibilities and capacities of Parties. The guidelines shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.

*The guidelines for review of the national systems and GHG inventories of developing countries should be similar to those contained in Dec. 22/CMP.1.*

ASSESSMENT OF DEVELOPING COUNTRY CARBON BUDGET

34. An expert review team shall review the final reports submitted under paragraphs 9, 10, 11, 16 and 17 (GHG, NAMA and LCAP reporting) at the end of the 2013-2017 period for all Parties not included in Annex B. The expert reviewers shall assess the action taken by Parties not included in Annex B taking into account the carbon budget specified in paragraph 2 of Article 4. The expert review team shall prepare a report of its findings for the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol and forward its report to the Facilitative Board, if required. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopted, at its first session, guidelines for this assessment.

## **Article 11 – Compliance**

1. The procedures and mechanisms, as contained in Decision 27/CMP.1, to determine and to address cases of non-compliance with the provisions of the Kyoto Protocol shall apply *mutatis mutandis* to Parties to the Copenhagen Protocol, including the Rules of Procedure contained in Decision 4/CMP.2 and as amended in Decision 4/CMP.4.

*The purpose of this provision is to import the structure and process of the Compliance Committee into the Copenhagen Protocol. As there are no provisions under the Kyoto Protocol that apply to developing countries, only those outlined in this Article would subject them to the Compliance Committee and then only to the Facilitative Branch. The purview of the Committee would also need to be expanded to cover the US and the NICs and all industrialized country support obligations.*

2. The objective of the procedures and mechanisms shall be to facilitate, promote and enforce compliance with commitments under this Protocol and the Kyoto Protocol and to facilitate and promote the achievement of aims under this Protocol, as provided for in 27/CMP.1 and elaborated upon in this Article and Article 18 bis of the Kyoto Protocol as amended.

*The objective contained in Decision 27/CMP.1 reads:*

*The objective of these procedures and mechanisms is to facilitate, promote and enforce compliance with the commitments under the Protocol.*

*The objective outlined above reflects the agreement achieved under the two Protocols.*

### FACILITATIVE BRANCH

3. The facilitative branch shall be responsible for providing advice and facilitation to all Parties in implementing the Protocol, promoting compliance by Parties included in Annex B with their commitments and support obligations under this Protocol and the Kyoto Protocol and promoting the achievement by Parties not included in Annex B of their mitigation aims under Article 4 of this Protocol, taking into account the principle of common but differentiated responsibilities and respective capabilities as contained in Article 3, paragraph 1, of the Convention. It shall also take into account the circumstances pertaining to the questions before it.

*This provision builds on paragraph 4 of section IV of the Annex to Decision 27/CMP.1 which outlines the mandate of the facilitative branch.*

### INDUSTRIALIZED COUNTRIES

4. The facilitative branch shall be responsible for addressing questions of concern and implementation:
  - i) Relating to Article 8, paragraph 1 (Technology Development Objective); and
  - ii) Relating to Article 9, paragraph 2 (PAMs underlying causes of REDD);
  - iii) Relating to Article 6, paragraph 24, including questions of concern arising from the review of a Party's ZCAP by the Mitigation Board;

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in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

5. With the aim of building trust amongst Parties, promoting compliance and providing for early warning of potential non-compliance, the facilitative branch shall be responsible for providing advice and facilitation for compliance with:
  - i) Commitments under Article 3, paragraphs 3, 4 and 5, of the Protocol, prior to the beginning of the relevant commitment period and during that commitment period (QERCs/QERLCs);
  - ii) Commitments under Article 7, paragraphs 2 and 6 (Financial support and assessed amounts), of the Protocol, prior to the beginning of the relevant commitment period and during that commitment period;
  - iii) Commitments under Article 4, paragraph 12 and Article 10, paragraph 19 (support for developing country reporting);
  - iv) Commitments under Article 8, paragraph 1 (technology cooperation and joint R&D support), of the Protocol, prior to the beginning of the relevant commitment period and during that commitment period;
  - v) Commitments under Article 3, paragraph 6, of the Protocol, prior to the beginning of the relevant commitment period (ZCAP preparation), taking into account the timeline specified in Article 3, paragraph 8;
  - vi) Commitments under Article 7, paragraph 3, of the Protocol, prior to the beginning of the relevant commitment period (auctioning of AAUs); and
  - vii) Commitments under Article 10, paragraphs 1, 4, 6, 7, 12, 13, 14 and 15, of the Protocol, prior to the beginning of the relevant commitment period (national systems and national registries, GHG inventory and ZCAP implementation reporting);in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*These provisions are in addition to what the facilitative branch already covers (i.e. targets before and during the CP and reporting requirements before the CP) for Kyoto Parties.*

6. In addition to the consequences the facilitative branch may apply under Dec. 27/CMP.1, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide on the application of one or more of the following consequences:
  - i) Issuance of a statement expressing concern with respect to early warning signs of non-compliance on the part of a Party included in Annex B;
  - ii) Development of a plan in accordance with paragraphs 7 and 8 below; and
  - iii) Payment of a bond in accordance with paragraph 9 below.
7. The Party included in Annex B at risk of being in non-compliance under paragraph 5 above, shall, within three months after the determination that a risk of non-compliance exists, or such longer period that the facilitative branch considers appropriate, submit to the facilitative branch for review and assessment a plan that includes:
  - i) An analysis of the risks of non-compliance of the Party;

- ii) Measures that the Party intends to implement in order to eliminate those risks; and
  - iii) A timetable for implementing such measures within a time frame not exceeding twelve months which enables the assessment of progress in the implementation.
8. The Party at risk under paragraph 5 above shall submit to the facilitative branch progress reports on the implementation of the plan on a regular basis.
9. If the facilitative branch has little confidence that a Party included in Annex B at risk of being in non-compliance will undertake the measures necessary to bring itself back into compliance, it may require the Party concerned to post a bond. This bond shall be equal to a certain portion of the penalties, pursuant to paragraph 15 below, that a Party would be required to pay at the end of the commitment period in the case of non-compliance. The bond shall be returned if the Party concerned is ultimately found to be in compliance or forfeited in cases on non-compliance. The interest on the bond shall be transferred to the Copenhagen Climate Facility, referred to in Article 6.

*In essence, a Party would be required to pre-pay, if it looked like the Party could be in non-compliance. The loss of the interest is the penalty for the poor planning and slow action that risked non-compliance in the first place.*

#### *DEVELOPING COUNTRIES*

10. With the aim of building trust amongst Parties, promoting the achievement of aims and providing for early warning identification of difficulties with achieving aims, the facilitative branch shall be responsible for providing advice and facilitation for the achievement of, including being responsible for addressing all questions of concern and implementation with respect to:
- i) Aims under Article 4, paragraph 2, of the Protocol, prior to the beginning of the 2013-2017 period, during that period and at the end of that period (carbon budget aim);
  - ii) Reporting under Article 4, paragraphs 4, 5 and 9, of the Protocol, prior to the beginning of the 2013-2017 period and during that period (NAMA registration/ LCAP preparation);
  - iii) Actions and reporting under Article 6, paragraph 23, of the Protocol, prior to the beginning of the 2013-2017 period (Mitigation Board *a priori* review);
  - iv) Actions and reporting under Article 10, paragraphs 2, 3, 9 and 10, of the Protocol, prior to the beginning of the 2013-2017 period and during that period (National systems and GHG inventories); and
  - v) Implementation activities and reporting under Article 10, paragraphs 16 and 17, of the Protocol, prior to the beginning of the 2013-2017 period and during that period (NAMA/LCAP implementation).
11. In addition to the consequences the facilitative branch may apply under Dec. 27/CMP.1, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide to issue a statement expressing concern with respect to any of the aims, actions or reports provided for in paragraph 10.

12. In addition to those consequences provided for in paragraph 10, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide on the application of one or more of the following consequences in relation to matters covered under subparagraph (v) of paragraph 10, particularly in instances where the facilitative branch determines that a discrepancy between the agreed and implemented action exists:
- i) Require the Party concerned to develop a remediation plan;
  - ii) Discontinue its financial support of other registered actions, pursuant to Article 4, paragraph 4, of the Party concerned, in whole or in part; and
  - iii) Prohibit access of the Party concerned to the carbon market and inform the Carbon Market Regulatory Agency of its decision.
13. The consequences specified in paragraph 12 may only be applied if the facilitative branch has undertaken a detailed dialogue with the Party concerned and an amicable solution could not be found. The dialogue shall last no longer than six months from the time the Party concerned has been notified of a question of implementation. The Conference of the Parties serving as the meeting of the Parties, shall, at its first session, adopt further procedures for the dialogue and its outcomes.

#### ENFORCEMENT BRANCH – INDUSTRIALIZED COUNTRIES

14. The enforcement branch shall be responsible for determining whether a Party included in Annex B is not in compliance with:
- i) Its quantified emission limitation or reduction commitment under Article 3, paragraphs 3, 4 and 5, of the Protocol;  
*Other industrialized countries would be covered under the KP provisions.*
  - ii) The methodological and reporting requirements under Article 3, paragraph 6 (ZCAPs), Article 6, paragraph 23 (revised ZCAPs) and Article 10, paragraphs 1, 4, 6, 7, 12, 13 and 14;
  - iii) The auctioning of [ten] per cent of its assigned amount units per year under Article 7, paragraph 3, of the Protocol; and
  - iv) The financial, technology and capacity building support obligations under Article 7 (Finance), Article 4, paragraph 12, Article 10, paragraph 19 (Developing country reporting support) and Article 8, (technology cooperation) of the Protocol;
- in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*These responsibilities are in addition to the areas the enforcement branch already covers, i.e. targets for Kyoto Parties.*

15. In addition to the consequences the enforcement branch may apply under Dec. 27/CMP.1, the enforcement branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide to apply financial penalties. Financial penalties shall be applied for non-compliance with quantified emission limitation and reduction commitments or support obligations. All financial penalties shall be paid to the Copenhagen Climate Facility and shall be allocated to the adaptation funding window of that Facility.

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In cases where a Party has paid a bond as provided for in paragraph 9 and proves to be in non-compliance, the amount of the bond shall be subtracted from the total amount of financial penalties to be paid.

*The 1.3x emission reduction penalty is ineffective and should be replaced by financial penalties. Other means to encourage compliance could also be considered.*

16. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly adopt at the first session of the Conference of the Parties serving as the meeting of the Parties to this Protocol and the corresponding session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol modalities for calculating the financial penalties to be applied pursuant to paragraph 15.

17. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Kyoto Protocol shall jointly elaborate on the procedures and mechanisms, including the rules of procedure, as required.

*The CMCP and CMKP should jointly elaborate, but not detract from, the procedures and mechanisms in light of the provisions of this Article.*

## **Article 12 – Review of Adequacy of Commitments and Subsequent Negotiations**

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts as well as relevant technical, social and economic information with a view to ensuring that the ultimate objective of the Convention and the shared vision of this Protocol and the Kyoto Protocol are met. Such reviews shall be coordinated with pertinent reviews under the Convention and under Article 9 of the Kyoto Protocol as amended. Submissions from non-governmental organizations and interested stakeholders shall be considered as part of the review. Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action, jointly with the Kyoto Protocol where appropriate and including increasing the stringency of commitments, as necessary.
2. The first review shall take place by 2014 and shall be based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change. Further reviews shall take place at regular intervals and in a timely manner.
3. Knowledge of climate change and its impacts, climate sensitivity and tipping points is rapidly evolving and often at a speed greater than the assessment process of the Intergovernmental Panel on Climate Change. An emergency review based on emerging science may be necessary to protect the climate from threshold changes and to be consistent with the precautionary principle enshrined in Article 3 of the Convention. Notwithstanding the provisions of this Article, a three-fourths majority vote may trigger a review process, including examining the need to increase the stringency of commitments, including reductions and limitations in the emission of the greenhouse gases listed in Annex A, at any time. This vote may occur and the review shall proceed, when a three-fourths majority vote of Parties present and voting is obtained, irrespective of whether the rules of procedure of the Conference of the Parties serving as the meeting of the Parties have been adopted or are being provisionally applied.

*An emergency review clause is necessary to avoid dangerous climate change. Parties should make every effort to adopt the rules of procedure in Copenhagen, if this is done the last part of this paragraph may be removed, however the majority requirement should remain.*

4. In the absence of any amendment in force to the contrary, the quantified emission reduction commitments for Parties included in Annex B that are inscribed in Annex B of both the Kyoto Protocol as amended and this Protocol shall decrease by [x] per cent per year starting 1 January 2018. In the absence of any amendment in force to the contrary, the carbon budget which Parties not included in Annex B, as a group, seek to stay within shall decrease by [x] per cent per year starting 1 January 2018.

*The default reduction figures should be set high enough to serve as an incentive for Parties to start negotiations.*

5. Notwithstanding paragraph 4 and with a view to ensuring that the ultimate objective of the Convention and the shared vision of this Protocol and the Kyoto Protocol are met, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations regarding effort sharing for the next commitment period, 2018-2022, in 2013 and adopt the results of these negotiations, including further quantified emission reduction commitments, as early as possible, in time to ensure that there is no gap between commitment periods, and no later than 2015. The level of ambition of these negotiations and the quantified emission reduction commitments or nationally appropriate mitigation actions adopted in order to achieve the ultimate objective of the Convention and the shared vision of this Protocol and the Kyoto Protocol shall be guided by and based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change as well as relevant scientific, technical, social and economic information. These negotiations should be conducted in parallel with the negotiations on the third commitment period of the Kyoto Protocol, pursuant to Article 3.9 bis of that Protocol.

*A similar clause triggering negotiations in 2013 should be included in the Kyoto Protocol as amended.*

6. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations for subsequent commitment periods, including the adequacy of commitments, at least five years before the end of the commitment period that immediately precedes the commitment period under consideration.

*A similar clause should be included in the Kyoto Protocol as amended.*

## **Article X - Emissions from International Aviation & Maritime Transport**

[Placeholder]

*Revenue from international maritime and aviation transport should be raised through either levies or auctioning. This should be done at the global or near-global level. The Copenhagen Climate Facility should manage the revenue generated; however the ICAO and IMO could receive part of these funds to promote the transfer of clean technology within their sectors. ICAO and IMO have the technical expertise to design global policies and the institutions to enforce them; however the UNFCCC is responsible for climate protection.*

*Countries should strive to minimize negative impacts that could be felt by the most vulnerable countries arising from these measures through, inter alia:*

- a) Establishing de minimus threshold that may be applied in order to exempt routes to the most vulnerable countries;*
- b) Earmarking a portion of the revenues within the Copenhagen Climate Facility to go towards those most affected; and*
- c) Reviewing the reporting received from countries (through the national communications) on any of the negative impacts and taking the appropriate action.*

*The provisions drafted under this section should reflect the above and corresponding changes should be made to Article 2.2 of the Kyoto Protocol. Amendments to Annex A across both Protocol should be made to include emissions from these sections into the accounting for Parties included in Annex B.*

## **Article X – Carbon Market Regulatory Agency**

[Placeholder]

1. A Carbon Market Regulatory Agency is hereby established.

*In order to provide credibility for the carbon market and ensure that it maintains high quality standards, a new Carbon Market Regulatory Authority should be established. This Authority should have full oversight of preparations for Parties to participate in the carbon market, whether on the national, sectoral or project level. The Authority should be made up of carbon market experts, not government representatives and have a fair amount of independence to operate. The Authority should also be empowered with a strong capacity building function to assist countries in developing the institutional and technical capacity and the know-how to participate in the carbon market if they so choose. Provisions to this effect should be included in the Protocol.*

### **Article X – Secretariat**

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Protocol.
2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention on arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Protocol. The secretariat shall, in addition exercise the functions assigned to it under this Protocol.

*These two paragraphs are identical to those contained in Article 14 of the Kyoto Protocol.*

3. For the two year period from 1 January 2010 to 31 December 2011 or until such time as the Copenhagen Climate Facility is operational, the secretariat shall serve as the interim facility. The interim facility is established for the purposes of providing immediate financial and technical cooperation to Parties not included in Annex B and to ensure the prompt start of all mechanisms, reporting and review activities and other actions contained in the Articles of the Protocol.

*It will take some time to fully established and operationalize the Copenhagen Climate Facility. As some of the Boards are tasked with functions that need to be completed in 2010, particularly the review of the ZCAPs/LCAPs and support for pilot NAMAs, an entity is needed to make sure this happens in the interim. We think it is easiest that the secretariat take charge of that role.*

### **Article X – Entry Into Force**

*The Copenhagen Protocol and Kyoto Protocol as amended should be viewed as a package encompassing the international community's response to avoiding dangerous climate change. Countries should ratify the amendment of the Kyoto Protocol and the Copenhagen Protocol simultaneously (with the exception of the United States). Entry into force provisions should ensure that there is no gaming of the system and encourage rapid entry into force of the Protocol.*

### **Article X – Provisional Application**

1. This Protocol shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Protocol for each Party, except for any such Party which notifies the depositary in writing either that it will not so apply this Protocol or that it will consent to such application only upon subsequent signature or notification in writing.

### **Article X – Privileges and Immunities**

*Adequate measures shall be put into place to enable the full and effective functioning of the mechanisms and bodies established under this Protocol.*

**Article X – Reservations**

No reservations may be made to this Protocol.

**[Article X – Other Final Clauses]**

*We have not included all of the final clauses here. Provisions are need on amendments to the Protocol, adoption of and amendments to Annexes, the right to vote, the depositary, etc. Provisions are also needed clarifying the link with SBSTA and SBI.*

**Annex A of the Copenhagen Protocol**

*The same as Annex A of the Kyoto Protocol as amended (thus including emissions from international aviation and maritime transport).*

**Annex B of the Copenhagen Protocol**

*QERCs for the USA and other countries that have not yet ratified the Kyoto Protocol and QELRCs for newly industrialized countries above a certain threshold.*

**Annex C of the Copenhagen Protocol**

*The scale of assessments to be used to determine the assessed amount of financial support required of each Party included in Annex B to support the efforts of developing countries.*

# AMENDMENTS TO THE KYOTO PROTOCOL FOR ANNEX I PARTIES THAT HAVE RATIFIED IT AS OF 15 DECEMBER 2007

*This section outlines the main amendments that should be made to the Kyoto Protocol. However, it does not necessarily include all consequential amendments required. The main amendments include:*

- *Updating the Definitions article to include new terms such as the global carbon budget and Annex B/Non-Annex B countries;*
- *The shared vision from Article 2 of the Copenhagen Protocol so that the shared vision is unified across the two Protocols;*
- *Deep emission reduction targets for industrialized countries of at least 40% by 2020 as a group (at least 23% in the 2013-2017 commitment period);*
- *Modifying Art. 2.2 to be in line with the provisions related to international maritime and aviation transport included in the Copenhagen agreement and an amendment to Annex A to include those emissions;*
- *Provisions to enable the auctioning of AAs as a means to raise financing to support actions in developing countries, the revenue from which would go to the Copenhagen Climate Facility of the Copenhagen Protocol;*
- *Provision to strengthen the review process under Art. 9;*
- *Provisions to strengthen the compliance regime as well as unify reporting and review requirements for industrialized countries across the two Protocols; and*
- *Provision for the provisional application of the Amendment.*

*The legal obligations for all industrialized countries to produce zero-carbon action plans (ZCAPs) and to provide measurable, reportable and verifiable financial, technology and capacity building support for developing countries are contained in the Copenhagen Protocol and are not recreated here.*

## **ARTICLE 1 - AMENDMENTS**

### **[AMENDMENTS TO ARTICLE 1 – DEFINITIONS]**

Article 1 of the Protocol shall be deleted and replaced by the following Article:

#### **Article 1**

For the purposes of this Protocol, the definitions contained in Article 1 of the Convention shall apply. In addition:

1. “Conference of the Parties” means the Conference of the Parties to the Convention.
2. “Convention” means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992.

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3. “Copenhagen Protocol” means the Copenhagen Protocol to the United Nations Framework Convention on Climate Change, adopted in Copenhagen on 18 December 2009.
4. “Global carbon budget” means the total global anthropogenic emissions of all greenhouse gases from the sources listed in Annex A weighted by the 100 year global warming potentials for greenhouse gases as accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties that are allowed to be emitted over a specified period of time and expressed in gigatonnes of carbon dioxide equivalence.
5. “Intergovernmental Panel on Climate Change” means the Intergovernmental Panel on Climate Change established in 1988 jointly by the World Meteorological Organization and the United Nations Environment Programme.
6. “Marrakesh Accords” means decisions 2/CP.7 to 24/CP.7 inclusive adopted by the seventh Conference of the Parties in Marrakesh on 10 November 2001 and affirmed at the first Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.
7. “Montreal Protocol” means the Montreal Protocol on Substances that Deplete the Ozone Layer, adopted in Montreal on 16 September 1987 and as subsequently adjusted and amended.
8. “Parties present and voting” means Parties present and casting an affirmative or negative vote.
9. “Party” means, unless the context otherwise indicates, a Party to this Protocol.
10. “Party included in Annex B” means, unless the context otherwise indicates, a Party included in Annex B of this Protocol or in Annex B of the Copenhagen Protocol, as may be amended.
11. “Party included in Annex I” means a Party included in Annex I to the Convention, as may be amended, or a Party which has made a notification under Article 4, paragraph 2 (g), of the Convention.
12. “Party not included in Annex B” means a Party not included in Annex B of this Protocol or in Annex B of the Copenhagen Protocol, as may be amended.

*Paragraphs 3, 4, 6, 10 and 12 denote new definitions.*

**[AMENDMENTS TO ARTICLE 2.2 – INTERNATIONAL AVIATION & MARITIME TRANSPORT]**

*Article 2.2 should be amended to reflect the provisions included under the Copenhagen Protocol.*

**[AMENDMENTS TO ARTICLE 2 – ADDING SHARED VISION]**

The following Article shall be inserted after Article 2 of the Protocol:

**Article 2 bis**

1. In order to achieve the ultimate objective of the Convention to prevent dangerous anthropogenic interference with the climate system in a timely manner, the global mean temperature must peak as far below 2°C above the pre-industrial period as possible and drop to the pre-industrial level as fast as possible. Even an increase of 1.5°C above pre-industrial levels may lead to

irreversible impacts and put into jeopardy the ability of Parties to meet the ultimate objective of the Convention. Global anthropogenic emissions of all greenhouse gases from all sources listed in Annex A must therefore peak during the second commitment period of this Protocol, namely 2013-2017.

2. A global carbon budget shall guide the emission reduction targets and actions of all Parties pursuant to paragraph 1. A global carbon budget for 2020 is hereby defined as no higher than 36.1 Gt CO<sub>2</sub>e<sup>3</sup>; the budget for 2050 shall be no higher than 7.2 Gt CO<sub>2</sub>e.
3. Effort sharing to achieve the ultimate objective of the Convention and pursuant to the shared vision of this Article and that of the Copenhagen Protocol should be based on the criteria of responsibility, capability and potential to mitigate and take into account the principles of common but differentiated responsibility and respective capability, equity, fairness and consider that economic and social development, poverty eradication and adaptation to climate change are the top priorities for developing countries.
4. The carbon budget for the industrial GHG emissions of Parties included in Annex B shall be 11.7 Gt CO<sub>2</sub>e for 2020 and 1.0 Gt CO<sub>2</sub>e for 2050. To stay within this carbon budget, Parties included in Annex B shall, as a group, reduce their industrial GHG emissions by at least 40% per cent below 1990 levels by 2020, at least 60% below 1990 levels by 2030 and 95% below 1990 levels by 2050.
5. Parties not included in Annex B should aim to stay within a carbon budget of 23.5 Gt CO<sub>2</sub>e in 2020 and 6.3 Gt CO<sub>2</sub>e in 2050. The type, scale and scope of enhanced actions undertaken by Parties not included in Annex B shall vary greatly given the wide range of national circumstances and shall be supported by technology, financing and capacity building from Parties included in Annex B. This level of ambition shall guide any new commitments, institutions, instruments and mechanisms established under this Protocol and any related legal instruments or decisions.
6. Reducing emissions from deforestation is necessary to stay within the global carbon budget specified in paragraph 2 and to achieve the ultimate objective of the Convention. The vast majority of gross emissions from deforestation and forest degradation in Parties not included in Annex B shall be eliminated by 2020, with a view to eliminating nearly all human induced forest emissions by 2030. All efforts to reduce emissions from deforestation should be fully consistent with the rights of indigenous peoples and should contribute to the conservation of biological diversity.
7. All peoples, cultures and nations have the right to survive and the right to develop sustainably. The responsibility for adequately dealing with, and adapting to, the adverse consequences of climate change, including for the protection of cultures, especially those of Arctic peoples, and nations,

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<sup>3</sup> 11.7 Gt CO<sub>2</sub>e for industrialized countries' industrial GHG emissions; 23.5 Gt CO<sub>2</sub>e for developing countries' industrial GHG emissions and 1.0 Gt CO<sub>2</sub>e for emissions from land-use change (differences in the addition are due to rounding).

especially the Small Island Development States, whose existence is threatened, must be fairly shared according to agreed principles. Developed countries and other countries with the capacity to do so shall support the building of adaptive capacity and climate resilience in developing countries, particularly the most vulnerable.

8. Life on earth is an intricately interconnected web helping to maintain the conditions for its own survival. Because of their intrinsic worth and because of the services they provide, the viability of all ecosystems should be maintained, in accordance with the ultimate objective of the Convention, requiring stabilization of greenhouse gas concentrations in the atmosphere at a level achieved within a time-frame sufficient to allow them to adapt naturally to climate change.
9. The carbon budget and emissions reduction targets shall be reviewed at regular intervals and in a timely manner, continually strengthened and revised in light of the best available science. Should new and emerging science suggest that more stringent budgets and targets are required to avoid dangerous climate change and ensure the right of all peoples, cultures and nations to survive, these budgets and targets shall be adjusted immediately.
10. A massive scaling up of financial resources, from both the public and private sources, is required in order to adequately, sufficiently and swiftly reduce anthropogenic GHG emissions, adapt to climate change and achieve the ultimate objective of the Convention and the shared vision of this Protocol. For the second commitment period of this Protocol, 2013-2017, this will require at least 160 billion USD to support capacity building, adaptation, reducing emissions from deforestation and technology diffusion in developing countries. These financial resources should primarily be raised through the auctioning of assigned amount units in a predictable and timely manner.
11. A Technology Development Objective is required to meet the challenge of avoiding dangerous climate change. The Objective should be visionary in scope but outline, through detailed Technology Action Programmes, how to shift the world onto a low-carbon development path. To spur innovation and advances in new mitigation and adaptation technology, total investment in research, development and deployment should increase to at least double current levels by 2012 and four times current levels by 2020. Collaborative efforts are essential, particularly between developed and developing countries and between developing countries themselves. Large scale diffusion of proven low-carbon technologies, especially renewable energy technologies, and the adoption of energy efficient measures must commence immediately, with a view to obtaining at least two thirds of the world's primary energy from renewable energy sources by 2050. Parties should strive to improve the average energy intensity of the global economy by at least 2.5 per cent per year until 2050. Significant emphasis must also be placed on increasing the access by all to modern energy services, with a view to eliminating energy poverty by 2025.

12. All institutions, instruments, mechanisms and policies and actions developed pursuant to this Protocol shall be governed in an open, transparent, fair and effective system under the ultimate authority of the Conference of the Parties serving as the meeting of the Parties.
13. All Parties acknowledge and agree that it will only be possible to meet the goals of this shared vision if commitments under both the Copenhagen Protocol and Kyoto Protocol are fulfilled. This Protocol shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Protocol for each Party.

*This is essentially the shared vision article from the Copenhagen Protocol*

**[AMENDMENTS TO ARTICLE 3 – QERCs]**

The following paragraphs shall be inserted after paragraph 1 of Article 3 of the Protocol:

1 bis. The Parties included in Annex B shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A do not exceed their assigned amounts, calculated pursuant to their quantified emission reduction commitments inscribed in the third column of the table contained in Annex B of this Protocol.

1 ter. The Parties included in Annex B shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A of this Protocol as amended or of the Copenhagen Protocol do not exceed their assigned amounts, calculated pursuant to their quantified emission limitation and reduction commitments inscribed in the third column of the table contained in Annex B of this Protocol as amended or of the Copenhagen Protocol, with a view to reducing their overall emissions from industrial sources of such gases by at least 23 per cent below 1990 levels in the commitment period 2013 to 2017.

*All developed and newly industrialized countries should reduce their emissions, as a group, by 23 percent below 1990 levels in the 2013-2017 commitment period. This target is consistent with an emissions reduction trajectory that yields a 40 % reduction in emissions by 2020 and represents annual average reduction for the commitment period (i.e. what the target in 2015 would be).*

The following paragraph shall be inserted after paragraph 7 of Article 3 of the Protocol:

7 bis. In the second quantified emission reduction commitment period, from 2013-2017, the assigned amount for each Party included in Annex B shall be equal to the percentage inscribed for it in the third column of the table contained in Annex B of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990, or the

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base year or period determined in accordance with paragraph 5 above, multiplied by five.

In paragraph 9 of Article 3 of the Protocol, for the words:

the consideration of such commitments

there shall be substituted:

the consideration of commitments for the second commitment period

The following paragraph shall be inserted after paragraph 9 of Article 3 of the Protocol:

9 bis. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations regarding effort sharing for the third commitment period, 2018-2022 in 2013 and adopt the results of these negotiations, including further quantified emission reduction commitments, as early as possible, in time to ensure that there is no gap between commitment periods, and no later than 2015. The level of ambition of these negotiations and the quantified emission reduction commitments adopted in order to achieve the ultimate objective of the Convention and the shared vision of this Protocol and the Copenhagen Protocol shall be guided by and based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate Change as well as relevant scientific, technical, social and economic information. These negotiations should be conducted in parallel with the negotiations on the second commitment period of the Copenhagen Protocol, pursuant to Article 12.5 of that Protocol.

*Negotiations for the next commitment period, 2018-2022, should begin in 2013 and end no later than 2015. This provision is similar to Article 12.5 of the Copenhagen Protocol.*

The following paragraph shall be inserted after paragraph 9 bis of Article 3 of the Protocol:

9 ter. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate negotiations for subsequent commitment periods, including the adequacy of commitments and the need for further quantified emission reduction commitments on the part of Parties included in Annex B, at least five years before the end of the commitment period that immediately precedes the commitment period under consideration.

*A similar clause is included in Art. 12.6 of the Copenhagen Protocol*

The following paragraph shall be inserted after paragraph 9 ter of Article 3 of the Protocol:

9 quater. In the absence of any amendment in force to the contrary, the quantified emission reduction commitments for Parties included in Annex B

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that are inscribed in the third column of the table contained in Annex B of the Kyoto Protocol shall decrease by [x] per cent per year starting 1 January 2018.

*The default reduction figures should be set high enough to serve as an incentive for Parties to start negotiations. A similar provision has been included Art. 12.4 of the Copenhagen Protocol.*

**[NEW ARTICLE - AUCTIONING]**

The following Article shall be inserted after Article 3 of the Protocol:

**Article 3 bis**

1. Auctioning of assigned amount units of all Parties included in Annex B shall be the primary means of raising the level of resources necessary, pursuant to Article 7, paragraph 1 of the Copenhagen Protocol, to support developing country Parties in meeting their commitments under the Copenhagen Protocol. [Ten] per cent of assigned amount units of each Party shall be auctioned in the 2013-2017 commitment period; this percentage should increase in each subsequent commitment period.
2. The rules and modalities governing the auctioning process shall be adopted jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and the Conference of the Parties serving as the meeting of the Parties to this Protocol. The rules and modalities shall consider, *inter alia*, the effect banking of assigned amount units from the first commitment period of this Protocol may have on the price of assigned amount units obtained from auctioning and shall be flexible as per Parties' national circumstances. A certain degree of flexibility, including the percentage of assigned amount units, shall be allowed by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and to this Protocol to those Parties included in Annex I undergoing the transition to a market economy and other Parties for which flexibility would also be warranted.

*These provisions come from mutatis mutandis the Finance Article of the Copenhagen Protocol. In addition to deep emission reductions, industrialized countries should also have binding support obligations. These obligations are contained in the Copenhagen Protocol. This provision allows for auctioning under the Kyoto Protocol, then revenues from which would be transferred to the Copenhagen Climate Facility.*

**[AMENDMENTS TO ARTICLE 5 – NATIONAL SYSTEMS & METHODOLOGIES]**

The following paragraph shall be inserted after paragraph 1 of Article 5 of the Protocol:

- 1 bis. Any revisions to the guidelines referred to in paragraph 1 shall be jointly agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and to this Protocol.

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The following paragraph shall be inserted after paragraph 2 of Article 5 of the Protocol:

2 bis. For the second commitment period, specified in paragraph 7 bis of Article 3, methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to this Protocol at its corresponding session. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to this Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol shall jointly and regularly review and, as appropriate, revise such methodologies and adjustments, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to methodologies or adjustments shall be used only for the purposes of ascertaining compliance with commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

*Countries should agree on the methodologies ideally at COP15 or soon there after. These methodologies should apply across the Copenhagen and Kyoto Protocols. Any revisions to the methodologies should be agreed jointly by the CMCP and CMKP.*

The following paragraph shall be inserted after paragraph 3 of Article 5 of the Protocol:

3 bis. For the second commitment period, specified in paragraph 7 bis of Article 3, the global warming potentials used to calculate the carbon dioxide equivalent of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A shall be those accepted by the Intergovernmental Panel on Climate Change in its Fourth Assessment Report and agreed upon jointly by the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol at its first session and the Conference of the Parties serving as the meeting of the Parties to this Protocol at its corresponding session. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol shall jointly and regularly review and, as appropriate, revise the global warming potential of each such greenhouse gases, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments

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under Article 3 in respect of any commitment period adopted subsequent to that revision.

*Countries should agree on the GWPs ideally at COP15 or soon thereafter. These GWPs should apply across the Copenhagen and Kyoto Protocols. Any revisions to the GWPs should be agreed jointly by the CMCP and CMKP.*

**[AMENDMENTS TO ARTICLE 7]**

Paragraph 4 of Article 7 of the Protocol shall be amended as follows:

4. The Conference of Parties the serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review **jointly with the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol** periodically thereafter, guidelines for the preparation of the information required under this Article, taking into account guidelines for the preparation of national communications included in Annex I adopted by the Conference of the Parties. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall also, prior to the first commitment period, decide upon modalities for the accounting of assigned amounts. **The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol may revise the modalities for accounting of assigned amounts units and shall do so jointly. Any revision to the modalities shall apply only to commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.**

*Any changes to the Article 7 rules should be agreed jointly by the CMCP and CMKP.*

**[AMENDMENTS TO ARTICLE 8 – EXPERT REVIEW]**

*[Amendments should be made to Art. 8.1 to reflect that material covered under Art. 7.2 should be subsumed within the ZCAP review process which is much more extensive.]*

The phrase “Committee on Reporting and Review provided for in paragraph 3 of Article 6 of the Copenhagen Protocol” shall replace the word “secretariat” in paragraph 2 of Article 8:

2. Expert review teams shall be coordinated by the ~~secretariat~~ **Committee on Reporting and Review provided for in paragraph 3 of Article 6 of the Copenhagen Protocol** and shall be composed of experts selected from those nominated by Parties to the Convention and, as appropriate, by intergovernmental organizations, in accordance with the guidance provided for this purpose by the Conference of the Parties.

Paragraph 4 of Article 8 of the Protocol shall be amended as follows:

4. The Conference of the serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review **jointly with the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol**

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periodically thereafter, guidelines for the review of the implementation of this Protocol by expert review teams **or the Committee on Reporting and Review provided for in paragraph 3 of Article 6 of the Copenhagen Protocol** taking into account the relevant decisions of the Conference of the Parties.

*Any changes to the Article 8 rules should be agreed jointly by the CMCP and CMKP.*

The following paragraph shall be inserted after paragraph 4 of Article 8 of the Protocol:

4 bis. During the annual review of inventories, the expert review team shall calculate the difference, if any, between a Party's current emissions level and its quantified emission reduction commitment on a prorated basis. If Party's emissions are 15% above its prorated quantified emission reduction commitment, the expert review team shall deem this a problem identified and raise it as a question of implementation.

*An 'automatic referral' to the Compliance Committee should happen when a Party's emissions are 15% above the trajectory needed to meet its emission reduction target. The details of this trigger should be included in the 'Identification of problems' section of Decision 22/CMP.1. This provision is also included in the Copenhagen Protocol – Art. 10.28 (MRV).*

### [AMENDMENTS TO ARTICLE 9 – REVIEW]

Paragraph 1 of Article 9 shall be amended as follows:

1. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall periodically review this Protocol in the light of the best available scientific information and assessments on climate change and its impacts as well as relevant technical, social and economic information **with a view to ensuring that the ultimate objective of the Convention and the shared vision of this Protocol and the Copenhagen Protocol are met.** Such reviews shall be coordinated with pertinent reviews under the Convention, in particular those required by Article 4, paragraph 2 (d), and Article 7, paragraph 2 (a), of the Convention **and under Article 12 of the Copenhagen Protocol. Submissions from non-governmental organizations and interested stakeholders shall be considered as part of the review.** Based on these reviews, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall take appropriate action, **jointly with the Copenhagen Protocol where appropriate and including increasing the stringency of commitments, as necessary.**

Paragraph 2 of Article 9 shall be amended as follows:

2. The first review shall take place at the second session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. **The third review shall take place by 2014 and shall be based on the findings of the Fifth Assessment Report of the Intergovernmental Panel on Climate**

**Change.** Further reviews shall take place at regular intervals and in a timely manner.

The following paragraph shall be inserted after paragraph 2 of Article 9 of the Protocol:

2 bis. Knowledge of climate change and its impacts, climate sensitivity and tipping points is rapidly evolving and often at a speed greater than the assessment process of the Intergovernmental Panel on Climate Change. An emergency review based on emerging science may be necessary to protect the climate from threshold changes and to be consistent with the precautionary principle enshrined in Article 3 of the Convention. Notwithstanding the provisions of this Article, a three-fourths majority vote may trigger a review process, including examining the need to increase the stringency of commitments, including reductions and limitations in the emission of the greenhouse gases listed in Annex A, at any time. This vote may occur and the review shall proceed, when a three-fourths majority vote of Parties present and voting is obtained, irrespective of whether the rules of procedure of the Conference of the Parties serving as the meeting of the Parties have been adopted or are being provisionally applied.

*An emergency review clause is necessary to avoid dangerous climate change. Parties should make every effort to adopt the rules of procedure in Copenhagen, if this is done the last part of this paragraph may be removed, however the majority requirement should remain. This provision is the same as Article 12.3 in the Copenhagen Protocol*

#### **[AMENDMENTS TO ARTICLE 18 – COMPLIANCE]**

The following Article shall be inserted after Article 18:

#### **Article 18 bis**

1. Pursuant to Article 18, the procedures and mechanisms to determine and to address cases of non-compliance with the provisions of this Protocol shall be those contained in Decision 27 adopted by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its first session.
2. The objective of the procedures and mechanisms shall be to facilitate, promote and enforce compliance with commitments under this Protocol and the Copenhagen Protocol and to facilitate and promote the achievement of aims under this Protocol as provided for in Decision 27/CMP.1 and elaborated upon in this Article and Article 11 of the Copenhagen Protocol.

#### **FACILITATIVE BRANCH**

3. With the aim of building trust amongst Parties, promoting compliance and providing for early warning of potential non-compliance, the facilitative branch shall be responsible for providing advice and facilitation for compliance with:

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- i) Commitments under Article 3 bis, paragraph 1, of the Protocol, prior to the beginning of the relevant commitment period (auctioning of AAUs);

in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*Consideration of the US and NICs emissions targets are covered under the Copenhagen Protocol as are the support obligations for all industrialized countries. The current rules already address the emissions targets and reporting requirements for Annex I countries that have ratified the Kyoto Protocol.*

4. In addition to the consequences the facilitative branch may apply under Dec. 27/CMP.1, the facilitative branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide on the application of one or more of the following consequences as specified in paragraph 6 of Article x of the Copenhagen Protocol.

*The facilitative branch should be able to apply the same consequences for all industrialized countries across both protocols and all types of commitments or obligations.*

### ENFORCEMENT BRANCH

5. The enforcement branch shall be responsible for determining whether a Party included in Annex B is not in compliance with:

- i) The auctioning of [ten] per cent of its assigned amount units per year under Article 3 bis, paragraph 1, of the Protocol;

in addition to those provisions outlined in Decision 27 of the first session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

*Same as above - Consideration of the US and NICs emissions targets are covered under the Copenhagen Protocol as are the support obligations and certain reporting requirements for all industrialized countries. The current rules already address the emissions targets and reporting requirements for Annex I countries that have ratified the Kyoto Protocol.*

6. In addition to the consequences the enforcement branch may apply under Dec. 27/CMP.1, the enforcement branch, taking into account the principle of common but differentiated responsibilities and respective capabilities, may decide to apply financial penalties. Financial penalties shall be applied for non-compliance with quantified emission reduction commitments or support obligations. All financial penalties shall be paid to the Copenhagen Climate Facility and shall be allocated to the adaptation funding window.

In cases where a Party has paid a bond as provided for in paragraph 9 of Article 11 of the Copenhagen Protocol and proves to be in non-compliance, the amount of the bond shall be subtracted from the total amount of financial penalties to be paid.

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*The 1.3x emission reduction penalty is ineffective and should be replaced by financial penalties. Other means to encourage compliance could also be considered.*

7. The Conference of the Parties serving as the meeting of the Parties to this Protocol and the Copenhagen Protocol shall jointly adopt at the first session of the Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol and the corresponding session of the Conference of the Parties serving as the meeting of the Parties to this Protocol modalities for calculating the financial penalties to be applied pursuant to paragraph 6.

8. The Conference of the Parties serving as the meeting of the Parties to this Protocol and to the Copenhagen Protocol shall jointly elaborate on the procedures and mechanisms, including the rules of procedure, as required.

*The CMCP and CMKP should jointly elaborate, but not detract from, the procedures and mechanisms in light of the provisions of this Article.*

**[AMENDMENTS TO ANNEX A]**

*Annex A should be amended to include emissions from international aviation and shipping on the basis of fuels sold within Annex B Parties. This is necessary to ensure comprehensive accounting of emissions from industrialized countries.*

**[AMENDMENTS TO ANNEX B]**

The following table shall replace the table in Annex B of the Protocol:

**Annex B**

<b>Party</b>	<b>Quantified emission limitation or reduction commitment (2008-2012) (percentage of base year or period)</b>	<b>Quantified emission reduction commitment (2013-2017) (percentage of base year or period)</b>
Australia	108	
Austria	92	
Belarus*	92	
Belgium	92	
Bulgaria*	92	
Canada	94	
Croatia*	95	
Czech Republic*	92	
Denmark	92	
Estonia*	92	
European Community	92	
Finland	92	
France	92	

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Germany	92	
Greece	92	
Hungary*	94	
Iceland	110	
Ireland	92	
Italy	92	
Japan	94	
Latvia*	92	
Liechtenstein	92	
Lithuania*	92	
Luxembourg	92	
Monaco	92	
Netherlands	92	
New Zealand	100	
Norway	101	
Poland*	94	
Portugal	92	
Romania*	92	
Russian Federation*	100	
Slovakia*	92	
Slovenia*	92	
Spain	92	
Sweden	92	
Switzerland	92	
Ukraine*	100	
United Kingdom of Great Britain and Northern Ireland	92	
United States of America	93	

\* Countries that are undergoing the process of transition to a market economy.

**ARTICLE 2 – ENTRY INTO FORCE**

1. This Amendment shall enter into force in accordance with Article 20, paragraphs 4 and 5, of the Protocol.

**ARTICLE 3 – PROVISIONAL APPLICATION**

1. The provisions of this Amendment shall be applied and implemented provisionally from the date of its adoption by the Conference of the Parties serving as the meeting of the Parties and shall continue to apply and be implemented on a provisional basis until the entry into force of the Amendment for each Party, except for any such Party which notifies the depositary in writing either that it will not so apply this Amendment or that it will consent to such application only upon subsequent signature or notification in writing.

## COP15/CMP5 DECISIONS

*Many COP15 decisions are required to enhance and accelerate action before 2013 as well as to lay the groundwork for a prompt start of many of the mechanisms contained in the Copenhagen Protocol. Furthermore some negotiations may be advanced enough to start to flesh out the content of some of the Copenhagen Protocol provisions. These decisions would be adopted provisionally pending final adoption at the first Conference of the Parties serving as the meeting of the Parties to the Copenhagen Protocol similar to the process adopted with the Marrakech Accords. It is anticipated that further decisions of this nature would be adopted at the COP16 as well.*

*COP15 decisions should include capacity building support and financing for, inter alia:*

- GHG inventories/ national systems*
- NAMA/LCAP development and pilot NAMA implementation*
- REDD monitoring and measuring*
- Filling the funding gap for NAPA implementation as well as other funds to increase adaptation readiness*

*CMP decisions are need for minor changes to the rules governing LULUCF, particularly the accounting rules and well as to reform the CDM. The narrative contains the details on how the CDM could be reformed and improved.*

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**David Suzuki Foundation**

2211 West 4th Ave, Suite 219  
Vancouver, BC  
Canada V6K 4S2

Tel. 604-732-4228

Fax 604-732-0752

[www.davidsuzuki.org](http://www.davidsuzuki.org)

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**Germanwatch e.V.**

Dr. Werner-Schuster-Haus  
Kaiserstrasse 201  
D-53113 Bonn

Tel. +49 (0) 228 / 60492-0, Fax -19

[www.germanwatch.org](http://www.germanwatch.org)

[info@germanwatch.org](mailto:info@germanwatch.org)

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**Greenpeace International**

Ottho Heldringstraat 5  
1066 AZ Amsterdam  
The Netherlands

Tel. +31 (0) 20 718 2000

Fax +31 (0) 20 718 2002

[www.greenpeace.org](http://www.greenpeace.org)

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**IndyACT – The League of Independent Activists**

P.O. Box: 14-5472

Beirut

Lebanon

Tel/Fax +961-1-447192

email: [climate@indyact.org](mailto:climate@indyact.org)

[www.indyact.org](http://www.indyact.org)

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**National Ecological Centre of Ukraine**

Kominterna 1,  
01032, Kiev  
Ukrainetel

Tel. +38 (044) 238 62 60

[www.necu.org.ua](http://www.necu.org.ua)

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**WWF International**

Avenue du Mont-Blanc  
CH 1196 Gland  
Switzerland

Tel. +41 (22) 364 9111

Fax +41 (22) 364 5358

[www.panda.org](http://www.panda.org)

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