



FRAMEWORK CONVENTION ON CLIMATE CHANGE - Secretariat
CONVENTION - CADRE SUR LES CHANGEMENTS CLIMATIQUES - Secrétariat

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The secretariat of the United Nations Framework Convention on Climate Change and its Kyoto Protocol (hereinafter referred to as the secretariat) presents its compliments to the National Focal Points for climate change and to the Permanent Missions to the United Nations.

The secretariat has the honour to inform Parties to the Kyoto Protocol and Parties and signatories to the United Nations Framework Convention on Climate Change (hereinafter referred to as the Convention) that on 12 June 2009 the secretariat received a letter of the same date from Australia which sets out a proposal for amendments to the Kyoto Protocol and requests the secretariat to communicate the text of the proposed amendment to Parties to the Kyoto Protocol and Parties and signatories to the Convention. The communication is attached, and the text of the proposed amendment, as received, is contained in the annex to this note.

The procedures for adoption of amendments to the Kyoto Protocol and its annexes are contained in Articles 20 and 21 of the Protocol. Article 20, paragraph 1, of the Kyoto Protocol states that “any Party may propose amendments to this Protocol”. Article 20, paragraph 2, of the Kyoto Protocol provides that “amendments to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depository”.

Article 21, paragraph 2, of the Kyoto Protocol states that “any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol”. Article 21, paragraph 3, of the Kyoto Protocol provides that “annexes to this Protocol and amendments to annexes to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed annex or amendment to an annex shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed annex or amendment to an annex to the Parties and signatories to the Convention and, for information, to the Depository”.



Such proposals will be included in the provisional agenda of the fifth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol. The full text of the proposal will also be issued as an official document of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol in all of the official languages of the United Nations.

The secretariat avails itself of this opportunity to renew to the National Focal Points for climate change and to the Permanent Missions to the United Nations the assurances of its highest consideration.





**Letter dated 12 June 2009 from Australia addressed to the
Executive Secretary of the secretariat of the United Nations Framework
Convention on Climate Change proposing amendments to the
Kyoto Protocol**

We refer to the letter of 4 June 2009 from Mr Howard Bamsey, Special Envoy for Climate Change, in which we requested, *inter alia*, the secretariat of the United Nations Framework Convention on Climate Change make the necessary arrangements pursuant to Article 17 of the Convention and Article 20 of the Kyoto Protocol in order that our text proposals contained in FCCC/AWGLCA/2009/MISC.4/Add.2 may be adopted at the fifteenth session of the Conference of the Parties to the Convention (COP15) and/or the fifth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP5). Thank you for making the necessary arrangements in relation to our request under Article 17 of the Convention.

Further to discussions with the secretariat, we respectfully withdraw the above request made pursuant to Article 20 of the Kyoto Protocol. We have made revisions to our initial text proposals contained in FCCC/AWGLCA/2009/MISC.4/Add.2 to clarify that these are proposals to amend the Kyoto Protocol (attached). With respect to the attached text proposals, we respectfully request the secretariat make the necessary arrangements pursuant to Article 20 of the Kyoto Protocol in order that they may be adopted at CMP5.

In the letter of 4 June 2009, we also requested the secretariat to make the necessary arrangements pursuant to Article 20 of the Kyoto Protocol in order that the proposals contained in FCCC/KP/AWG/2009/MISC.11 (relating to land use, land use change and forestry) and FCCC/KP/AWG/2009/MISC.8 (relating to legal aspects of a second commitment period in the context of the Kyoto Protocol) may be adopted at CMP5. We respectfully reiterate this request to the secretariat. For your convenience, we reattach the proposals contained in these submissions.

Louise Hand
Ambassador for Climate Change



AMENDMENTS TO THE KYOTO PROTOCOL

The following textual proposals modify or replace the preamble, articles and Annexes of the Kyoto Protocol:

[Preamble]

The Parties to this Protocol,

Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention"

In pursuit of the ultimate objective of the Convention as stated in its Article 2

Being guided by the principles of the Convention as outlined in its Article 3

Recalling the provisions of the Convention, in particular the commitments of all Parties in its Articles 4 and 12

Noting also the need to take account of future changes in the economic and social circumstances of Parties, as well as the constant evolution of scientific knowledge relating to climate change, its causes and effects

Recognising the need to further enhance the implementation of the Convention through long-term cooperative action and that deep cuts in global emissions will be required in order to achieve its ultimate objective

Pursuant to the mandate of decision 1/CMP.1 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, relating to further commitments for Parties included in Annex I for the period beyond 2012, and the Bali Action Plan adopted by decision 1/CP.13 of the Conference of the Parties to the Convention at its thirteenth session

Have agreed as follows:

Article #

[DEFINITIONS]

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

[Provisions to be inserted...]

**Article #****[OBJECTIVE]**

1. The objective of this Protocol is to achieve an environmentally sound response to climate change through effective implementation of the Convention, with a view to achieving its ultimate objective as provided in its Article 2, by:

(a) stabilising atmospheric greenhouse gases at 450 parts per million carbon dioxide-equivalent or lower, through unified long-term action that sets the world on a path to peak global emissions by [X] and then reduce global greenhouse gas emissions by [X] per cent by [X] on [X] levels; and

(b) galvanising greater attention and efforts towards adaptation at all levels to minimise the adverse impacts of climate change, to assist in building climate resilient communities and to enhance sustainable development.

Article #**[PRINCIPLES]**

1. In addition to the principles outlined in Article 3 of the Convention, the Parties shall be guided, inter alia, by the following:

(a) developed country Parties should take the lead in combating climate change and the adverse effects thereof;

(b) all Parties should contribute to the global effort to combat climate change, in accordance with their common but differentiated responsibilities and respective capabilities – a spectrum of effort is envisaged;

(c) all Parties should aim to undertake a similar level of effort to others at a similar level of development and with similar national circumstances;

(d) those Parties whose national circumstances reflect greater responsibility or capability should make a greater contribution to the global effort;

(e) those Parties whose national circumstances reflect the least capability should be prioritised for support in their efforts to mitigate climate change;

(f) those Parties whose national circumstances reflect the least capability and the most vulnerability to the adverse effects of climate change should be prioritised for support in their efforts to adapt to the adverse effects of climate change.

**Article #****[NATIONAL SCHEDULES OF MITIGATION
COMMITMENTS AND ACTIONS]**

1. Each Party shall:
 - (a) maintain a national schedule;
 - (b) meet and/or implement the nationally appropriate mitigation commitments and/or actions registered in their national schedule; and
 - (c) measure and report on the outcomes of the nationally appropriate mitigation commitments and/or actions registered in their national schedule, in accordance with the provisions set out in Article 20 (MRV).
2. Consistent with the principles outlined in Article 3 (Principles), and with a view to achieving the objective outlined in Article 2 (Objective), national schedules shall register for each Party:
 - (a) a national emissions pathway to 2050;
 - (b) nationally appropriate mitigation commitments and/or actions for the commitment period [20XX] to [20XX].
3. Nationally appropriate mitigation commitments and actions registered in national schedules shall have outcomes that are measurable, reportable and verifiable in quantitative terms, in accordance with the provisions set out in Article 20 (MRV), and may include, inter alia:
 - (a) quantified emission limitation or reduction commitments in economy-wide or sectoral terms;
 - (b) quantified emission limitation or reduction actions on an economy-wide or sectoral basis;
 - (c) emissions intensity commitments or actions;
 - (d) clean energy commitments or actions;
 - (e) energy efficiency commitments or actions;
 - (f) emissions thresholds aimed at protecting and enhancing sinks and reservoirs [*for example national forest emissions levels*];



(g) other actions aimed at achieving quantified emission limitation or reduction outcomes;

(h) [.....].

4. The following Parties shall, as a minimum, with a view to achieving the objective of this Protocol outlined in Article 2 (Objective) and consistent with the principles of this Protocol outlined in Article 3 (Principles), register in national schedules:

(a) for all developed country Parties, an economy-wide quantified emission limitation or reduction commitment;

(b) for developing country Parties whose national circumstances reflect greater responsibility or capability, nationally appropriate mitigation commitments and/or actions aimed at achieving substantial deviation from baselines.

5. Parties shall set out in their national schedule, for each nationally appropriate mitigation commitment and action, the following information:

(a) a brief description, including whether it is a commitment or an action;

(b) whether it is to be taken on an economy-wide basis, or, if not, the sector in which the commitment or action is to be taken;

(c) the baseline or reference case for the commitment or action, against which the commitment or action shall be measured, reported and verified, in accordance with Article 20 (MRV);

(d) an estimate of the emissions limitation or reduction outcomes expected from the commitment or action or an aggregation of commitments and/or actions;

(e) whether the commitment or action is to be taken unilaterally and/or is enabled by previously agreed financial, technology and/or capacity-building support.

6. National schedules shall be annexed (in Annex #) to this Protocol and shall form an integral part thereof.

7. LDCs are invited to establish a national schedule for the commitment period [20XX] to [20XX] at their discretion.

[NOTE: Provisions to be inserted would clarify that nationally appropriate mitigation actions registered in Parties' National Schedules would not be subject to the compliance regime referred to in Article 21 (Compliance), except for the purpose of maintaining the integrity of the international carbon market and its mechanisms.]

**Article #****[ENHANCEMENT OF COMMITMENTS AND ACTIONS IN NATIONAL SCHEDULES]**

1. During the commitment period [20XX] to [20XX], any Party may amend its national schedule to register additional nationally appropriate mitigation commitments or actions which enhance its overall mitigation outcome.
2. A Party shall submit to the Secretariat the text of any amendment proposed pursuant to paragraph 1 above. In accordance with paragraph 2 of Article 29, the Secretariat shall communicate the text of any such amendments to the Parties and signatories to the Convention six months prior to the meeting of the [Supreme Body] at which amendments are proposed for adoption.
3. Any Party may lodge an objection in writing to an amendment proposed pursuant to paragraph 1 above, on grounds that the proposed amendment does not enhance the overall mitigation outcome of the Party seeking to make the amendment, prior to the meeting of the [Supreme Body] at which amendments are proposed for adoption.
4. If no Party lodges with the Secretariat an objection in writing to an amendment proposed pursuant to paragraph 1 above prior to the meeting of the [Supreme Body] at which amendments are proposed for adoption, the procedures set out under paragraphs [X] and [X] of Article 29 (Amendment of Annex # during a commitment period - processes for verification of the information supporting proposed amendments) shall not apply. Such amendments shall be deemed adopted by the [Supreme Body] at the relevant meeting and shall be registered in the Party's national schedule.
5. If any Party lodges with the Secretariat in writing an objection to an amendment proposed pursuant to paragraph 1 above prior to the meeting of the [Supreme Body] at which amendments are proposed for adoption, the amendment shall be considered and adopted in accordance with Article 29 (Amendment of Annex # during a commitment period) in its entirety.

Article #**[MODIFICATION OF ACTIONS IN NATIONAL SCHEDULES]**

1. During the commitment period [20XX] to [20XX], a Party may amend its national schedule to modify or replace an existing action provided the overall mitigation outcome is maintained or enhanced by the modification or replacement.



2. Amendments to national schedules proposed pursuant to paragraph 1 above shall be considered and adopted in accordance with Article 29 (Amendment of Annex # during a commitment period).

[NOTE: Provisions to be inserted would limit modification, where necessary, for the purpose of maintaining the integrity of the international carbon market and its mechanisms.]

Article #

[LOW EMISSION DEVELOPMENT STRATEGY]

[NOTE: A number of Parties have proposed that the concept of low carbon or low emission development strategies or plans be included in the post-2012 architecture. We envisage this concept could be included here. Provisions could be inserted to require Parties to prepare and provide such Strategies, and describe their function and relationship to the National Schedules described above, and a potential Facilitative Platform as identified below.]

Article #

[QUANTIFIED EMISSION LIMITATION OR REDUCTION COMMITMENTS]

[NOTE: Provisions would be inserted to establish the parameters for calculating the assigned amount for each Party with an economy-wide or sectoral quantified emission limitation or reduction commitment registered in its National Schedule, and calculating emissions for the purpose of verification of those commitments. These provisions would establish a common form for such commitments, but could provide for Parties, in their National Schedules, to also represent their commitments against other (additional) forms, for example as absolute emissions, as a percentage against an alternative baseline, or as a reduction against multiple baselines.]

Article #

[JOINT FULFILMENT OF QUANTIFIED EMISSION LIMITATION OR REDUCTION COMMITMENTS]

[NOTE: Provisions would be inserted to enable Parties with economy-wide quantified emission limitation or reduction commitments registered in their National Schedules to meet these commitments jointly, if they so chose, so as to accommodate the needs of regional economic integration organisations.]



Article #

[INTERNATIONAL AVIATION AND MARITIME TRANSPORT]

[NOTE: Provisions would be inserted to address emissions from these sectors, including appropriate direction to develop separate sector-specific agreements, and to clarify the relationship of these to the National Schedules.]

Article #

[SPILLOVER EFFECTS]

[NOTE: If required, provisions could be inserted to establish principles on how Parties can best address spillover effects.]

Article #

[EXISTING MARKET MECHANISMS]

[NOTE: Provisions to be inserted would incorporate the existing market mechanisms, with enhancements as appropriate, and would establish the relationship of nationally appropriate mitigation commitments registered in Parties' National Schedules to these mechanisms.]

Article #

[SECTORAL CREDITING MECHANISM]

[NOTE: Provisions to be inserted would establish a sectoral crediting mechanism, in which a Party that had registered a sectoral no lose target in its National Schedule may participate. Provisions would outline additional requirements for the verification of the data and information underpinning a registered target, and approval of the target, for the purposes of access to this mechanism. Parties with economy-wide or sectoral quantified emissions limitation or reduction commitments registered in their National Schedules would be able to purchase and use the credits generated to fulfil those commitments.]



Article #

[FOREST CARBON MARKET MECHANISM]

[NOTE: Provisions to be inserted would establish a forest carbon market mechanism, in which a Party that had registered a national forest emissions level in its National Schedule may participate. Provisions would outline additional requirements for the verification of the data and information underpinning a registered emissions level, and approval of the emissions level, for the purposes of access to this mechanism. Parties with economy-wide or sectoral quantified emissions limitation or reduction commitments registered in their National Schedules would be able to purchase and use the credits generated to fulfil those commitments.]

Article #

[CREDITING]

[NOTE: Provisions to be inserted would provide for the issuance of credits and units under this Protocol to eligible Parties relative to the nationally appropriate mitigation commitments and actions registered in their National Schedules.]

Article #

[ADAPTATION]

[NOTE: Provisions to be inserted would address adaptation, and elaborate on the relationship between adaptation and Low Emission Development Strategies, and a potential Facilitative Platform, including the potential use of Low Emission Development Strategies in identifying adaptation objectives, efforts and needs.]

Article #

[TECHNOLOGY COOPERATION]

[NOTE: Provisions to be inserted would address technology cooperation, and elaborate on the relationship between technology cooperation and the National Schedules and Low Emission Development Strategies.]



Article #

[FINANCE]

[NOTE: Provisions to be inserted would address financing, and elaborate on the relationship between financing and the National Schedules, Low Emission Development Strategies and a potential Facilitative Platform, including the potential use of Low Emission Development Strategies in identifying the provision of finance and financial support needs.]

Article #

[FACILITATIVE PLATFORM]

[NOTE: A number of Parties have proposed that the concept of a matching, coordinating or facilitative platform be included in the post-2012 architecture. We envisage such a concept could be included here. Provisions could be inserted to describe the function of such a Platform and its relationship to the National Schedules and Low Emission Development Strategies.]

Article #

[MEASUREMENT, REPORTING AND VERIFICATION]

[NOTE: Provisions to be inserted would capture the measurement, reporting and verification (MRV) requirements for the quantifiable nationally appropriate mitigation commitments and actions registered in Parties' National Schedules (and other information requirements as appropriate). The MRV system would be calibrated according to Parties' responsibilities and capabilities, and according to the types of commitments and actions registered (i.e. more stringent requirements would apply to commitments and actions enabled by support, or seeking to attract credits through the crediting mechanisms), and would be underpinned by the submission of regular national inventories.]

Article #

[COMPLIANCE]

[NOTE: Provisions to be inserted would clarify that nationally appropriate mitigation actions registered in Parties' National Schedules would not be subject to the compliance regime (to be established), except for the purpose of maintaining the integrity of the international carbon market and its mechanisms.]



Article #

[REVIEW OF AGREEMENT]

[NOTE: Provisions to be inserted would provide for the [Supreme Body] to initiate consideration of the adequacy and effectiveness of this Protocol, including its National Schedules, at a particular point in time.]

Article #

[MULTILATERAL CONSULTATIVE PROCESS]

[NOTE: Provisions to be inserted.]

Article #

[BODIES CONSTITUTED UNDER THE AGREEMENT]

[NOTE: Provision to be inserted would constitute relevant bodies under this Protocol, including those required to verify the quantitative outcomes of the nationally appropriate mitigation commitments and actions registered in Parties' National Schedules where appropriate, and provide for immunities for the members and alternates of these bodies.]

Article #

[INSTITUTIONAL ARRANGEMENTS]

[NOTE: Provisions to be inserted.]

Article #

[DISPUTE SETTLEMENT PROCEDURE]

[NOTE: Provisions to be inserted.]

Article #

[AMENDMENT TO AGREEMENT]

[NOTE: Provisions to be inserted would establish a process for amendments to this Protocol.]

Article #

[ADOPTION AND AMENDMENT OF ANNEXES]

[NOTE: Provisions to be inserted would establish a process for adoption of, and amendments to, the Annexes to this Protocol, except as outlined under Article 29.]

Article #

[AMENDMENT OF ANNEX A (NATIONAL SCHEDULES) DURING A COMMITMENT PERIOD]

1. Annex # (National Schedules) may only be amended once every two years from the commencement of the commitment period.
2. A Party shall submit to the Secretariat the text of any amendment to Annex # proposed pursuant to Article 5 (Enhancement of commitments or actions in National Schedules) or Article 6 (Modification of actions in National Schedules). The Secretariat shall communicate a compilation of proposed amendments to the Parties and signatories to the Convention six months prior to the meeting of the [Supreme Body] at which amendments are proposed for adoption, indicating for each proposed amendment whether it is proposed pursuant to Article 5 or Article 6.

[NOTE: Provisions to be inserted would outline processes for verification of the information supporting proposed amendments and their registration in National Schedules.]

3. An amendment to Annex # that has been adopted in accordance with this Article, shall enter into force for all Parties to this Protocol six months after the date of the communication by the Depositary to such Parties of the adoption of the amendment to the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the amendment to the annex. The amendment to the annex shall enter into force for Parties which withdraw their notification of non-acceptance on the



ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

Article #

[TRANSITIONAL ARRANGEMENTS]

[NOTE: Provisions to be inserted.]

Article #

[RIGHT TO VOTE]

[NOTE: Provisions to be inserted.]

Article #

[DEPOSITARY]

[NOTE: Provisions to be inserted.]

Article #

[SIGNATURE AND RATIFICATION, ACCEPTANCE OR APPROVAL]

[NOTE: Provisions to be inserted.]

Article #

[ENTRY INTO FORCE]

[NOTE: Provisions to be inserted.]



Article #

[RESERVATIONS]

[NOTE: Provisions to be inserted.]

Article #

[WITHDRAWAL]

[NOTE: Provisions to be inserted.]

Article #

[AUTHENTIC TEXTS]

[NOTE: Provisions to be inserted.]



ANNEX #
NATIONAL SCHEDULES OF MITIGATION
COMMITMENTS AND ACTIONS

[ALPHABETICAL LIST OF NATIONAL SCHEDULES OF PARTIES]

NATIONAL SCHEDULE FOR [NAME OF PARTY]
 [to be filled in as per Article 4]

National pathway

Emissions pathway to 2050	
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Economy-wide nationally appropriate mitigation commitments and actions

Name/brief description of commitment or action	Baseline/ reference case	Emissions outcomes expected	Unilateral/supported
	<i>e.g. year, period, BAU, Mt CO₂e/unit, KW/h/unit, etc</i>	XXX	XXX

Sectoral nationally appropriate mitigation commitments and actions

Name/brief description of commitment or action	Baseline/reference case	Emissions outcomes expected	Unilateral/supported
	<i>e.g. year, period, BAU, Mt CO₂e/unit, KW/h/unit, etc</i>	XXX	XXX

ANNEX #

GREENHOUSE GASES AND SECTORS/SOURCE CATEGORIES

[NOTE: Greenhouse gases and sectors/source categories to be inserted.]

Additional text for inclusion in the Annex under Option 1.

Add:

"Proposed A bis. Consideration of LULUCF

(new 1). National accounts should include emissions and removals from anthropogenic sources only, consistent with the way the UNFCCC pursues its objective and with the treatment of other sectors.

(new 2). For the purposes of describing mitigation commitments for the [second] commitment period, LULUCF [should] be included in mitigation commitments and baselines [should] include all mandatory and elected sources of anthropogenic emissions and removals in the sector, including deforestation.

(new 3). Robust estimation methods [will] be used to ensure confidence in the emissions and removals from LULUCF. Parties should be transitioning towards higher level (Tier 2 and Tier 3) accounting methodologies.

(new 4). For the third commitment period, LULUCF accounting [should] use an approach based on the Convention's land-use categories to provide a comprehensive framework and enhanced capacity for comparing the land use accounts of all Parties that undertake mitigation commitments."

B. Article 3, paragraph 3

Add:

"2 bis. Parties [shall] include emissions and removals from deforestation, afforestation and reforestation in their baseline towards the determination of their assigned amount for the [second] commitment period."

C. Article 3, paragraph 4

Add:

"9 ter. Parties [should] include emissions and removals from elected activities in their baseline towards the determination of their assigned amount for the [second] commitment period; and [should] include in their accounts emissions and removals from elected activities in the [second] commitment period."

E. General

Add:

"19 bis. The land sector is also influenced by non-anthropogenic emissions and removals and legacy effects of pre-1990 activities that need to be identified and quantified to allow exclusion from accounting. These are due to:

- i) Natural disturbance;
- ii) Inter-annual variability;
- iii) the age structure of forests."

Move:

21 bis to new paragraph 19 ter.



Add:

"19 qua. Annual reporting should report emissions estimates in a manner that more clearly reflects anthropogenic trends in LULUCF activities. Parties that use annual data to produce emissions estimates can report using a rolling average of annual greenhouse gas emissions estimates for the LULUCF sector."

Add:

"19 quin. The 2006 IPCC Guidelines will be reviewed in consideration of the post-2012 accounting framework agreed by the Parties for the land sector."

2. Australia's proposals that are incorporated to some degree in the Annex

The inclusion of new activities in a [second] commitment period is covered in Option 1, A. Definitions. Australia will consider our preferred formulation ahead of AWG-KP8.

Treatment of harvested wood products in a [second] commitment period is covered in Option 1. E. General, 21 ter to 21 sept. Australia will consider our preferred formulation ahead of AWG-KP8.

The timing of the election of activities under Article 3, paragraph 4 for a [second] commitment period, is covered in Option 1, C. Article 3, paragraph 4, 6. Australia will consider our preferred formulation ahead of AWG-KP8.

The treatment of the afforestation/reforestation sub-rule in a [second] commitment period is covered in Option 1, B. Article 3, paragraph 3, 4. Australia will consider our preferred formulation ahead of AWG-KP8.

The coverage of LULUCF in the CDM for a [second] commitment is covered in Option 1, D. Article 12, 13, 13 bis and 13 ter. The limit on the total additions to a Party's assigned amount resulting from LULUCF CDM projects is covered in Option 1, D. Article 12, 14. Australia will consider our preferred formulation ahead of AWG-KP8.

Views on possible elements for amendments to the Kyoto Protocol pursuant to its Article 3, paragraph 9

Annex B

Encapsulating commitments for a second commitment period within the current Annex B, is preferable to establishing a new Annex. Retaining those QELROs applicable to the first commitment period will be important both for compliance purposes, and for enabling an easy comparison of effort across commitment periods. We note the difficulties associated with establishing a new Annex, given the Article 21(1) limitations relating to the nature of Annexes that can be adopted.

The new column or columns, as required, in Annex B could express commitments in absolute terms, as well as in the established percentage of a base year form. For transparency, and to assist comparability, there is value in reflecting commitments in the form of percentage reductions against a series of base years. We do not yet have a position

on the particular base years that could be captured in the Annex. There may also be value in adding a column comparing 3 second commitment period QELROs with those under the first commitment period.

There should not be additional columns defining commitments for multiple future commitment periods. While the negotiation of a second commitment period can be enhanced by consideration of mid-term and long-term emissions pathways and goals, it is not appropriate to specify these pathways and goals in the form of legally-binding commitments. Future commitments will need to be informed, inter alia, by scientific developments and broader evolution of the UNFCCC system. Seeking agreement to multiple commitment periods now would weaken the flexibility required to address these issues.

The possibility for both emissions “limitations” and “reductions” under the second commitment period should be retained. While most Parties, including Australia, will undertake commitments that amount to reductions rather than growth targets, there may be the need to consider positive growth targets for new Parties that elect to take on commitments.

Article 3, paragraph 1

Given the linkages to discussions in the AWG-LCA, the possible scope of the aggregate emissions reduction target should not, at this point, be limited. In addition, discussions relating to the length of the commitment period will depend on outcomes in the AWG-LCA. We would therefore support an Article 3(1) bis which included the following text:

“The Parties included in Annex I 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 limitation and reduction commitments inscribed in the [appropriate column] of the table included in Annex B and in accordance with the provisions of this Article, with a view to reducing their overall emissions of such gases by at least [X] per cent below [Y] levels in the commitment period 2013 to [V]”.

There should not be criteria for establishing commitments in the context of Article 3(1). While the use of various indicators provides guidance in relation to the negotiation of individual QELROs, and is useful to assess and promote comparability of effort between Parties, it would not be possible to capture the full scope of potential indicators in the legal text. In addition, it would not reflect the suitability of their application according to differing national circumstances. As is currently the case, substantive legal obligations should attach only to the commitments (i.e. the numbers themselves), not the variety of indicators that inform negotiations on these targets.

The proposed new Article 3(1) ter of the Kyoto Protocol is welcome, given the need to limit the entry into force of individual QELROs until certain conditions have been met. In addition to the proposed consideration of a trigger relating to a percentage of carbon emissions covered, additional triggers may also need to be considered, including ratification by a minimum number of Annex I Parties and linkages with the AWG-LCA outcome. As outlined in our “treaty outline” submission¹, the outcomes of the AWG-KP and AWG-LCA must be considered as a package.

We therefore suggest inclusion of the following language:

¹ FCCC/AWG/LCA/2008/Misc.5/Add.2 (Part I) / FCCC/KP/AWG/2009/MISC.6.Add.2

“The quantified emission limitation or reduction commitments and [...] for the period [...] inscribed in [...] shall only apply once [*specified conditions have been met, e.g. a percentage of certain CO₂ emissions are covered, a minimum number of Annex I Parties have accepted the amendment, and links to the entry into force of the LCA outcome have been satisfied*].”

Treatment of the land sector

To more fully realise the mitigation potential of the land sector, changes to the existing treatment of the sector under the Kyoto Protocol are necessary.

As the Convention pursues its objective of mitigating climate change by addressing all anthropogenic emissions by sources and removals by sinks, the first element of the revised treatment of the land sector would focus accounting exclusively on anthropogenic emissions and removals of greenhouse gases. This would involve CMP decisions implementing solutions to the issues of natural disturbance and inter-annual variability. Australia's March 2009 LULUCF submission to the AWG-KP and AWG-LCA provides possible decision text on these issues, using decision 16/CMP.1 as a basis².

The second element of the revised treatment of the land sector would be to remove unnecessary disparity in approaches to accounting for land sector activities. Irrespective of whether activities are accounted on a voluntary or mandatory basis, a consistent approach should be taken to how emissions and removals from these activities are incorporated into Parties' QELROs.

This element of the revised treatment could be captured in an Article 3(4) bis that consolidated all activities currently contained in Articles 3(3) and 3(4), and/or through revisions to Annex A. Article 3(3) and 3(4) would need to be retained in their existing form for the purposes of assessing compliance in the first commitment period, with the exception of the amendment proposed to Article 3(4) below. The text contained in decision 16/CMP/1 concerning the approach to accounting for emissions and removals from Article 3(4) elected activities would also need to be revised for the purposes of the second commitment period.

The third element of the revised treatment would be to agree on the categories for land sector reporting post-2012. Australia's preference is that Parties would transition from the existing Article 3(3) and 3(4) activity-triggered approach to an approach based on the Convention's land-use categories. An approach based on the Convention's land-use categories would significantly improve the Parties' ability to effectively address the land sector, providing a comprehensive framework and enhanced capacity for comparing the land use accounts of all Parties that undertake mitigation commitments.

Without prejudice to discussions on the length of the second commitment period, the transition to accounting on the basis of the Convention's land-use categories should be achieved as soon as possible, ideally in time for the commencement of the third commitment period. A CMP decision would be required to determine the modalities and procedures for Parties' transition to that approach.

The revised treatment of the land sector should also include further CMP decisions to consider new elements such as an improved treatment for harvested wood products.

² <http://unfccc.int/resource/docs/2009/awg7/eng/misc05.pdf>

As mentioned above, Article 3(4) will require amendment for the purposes of the second commitment period. Specifically, for the second commitment period, the third sentence of Article 3(4) will need to be amended to provide a clear basis for the application of the CMP decisions proposed in this section. The amendment would make provision for the preservation of the decision on modalities, rules and guidelines referred to in that paragraph, to the extent agreed by the Parties. It would also make provision for the adoption of an additional decision or set of decisions to guide treatment of the land sector in the second commitment period.

As indicated in the section below under “Estimation methodologies”, the methodologies applicable to the second commitment period must support the policy framework agreed by the Parties for the reporting of emissions and removals in that commitment period. Consequently, the 2006 IPCC Guidelines will need to be reviewed in light of the post-2012 accounting framework agreed by the Parties for the land sector. In particular, Parties will need to review and update the construct of 'managed lands' in LULUCF accounting to ensure consistency with the treatment of non-anthropogenic emissions and removals. Revision of the 2003 IPCC Good Practice Guidance for LULUCF would also be required to address that document's reference to the construct.

Article 3, paragraph 7

There may be practical barriers to using an absolute target (expressed in Gg CO₂ equivalent) as their legally-binding obligation. While there is benefit in including this for comparative purposes, there may be difficulties calculating an absolute target at the time of conclusion of the post-2012 outcome. For example new gases might be added for which verified baseline data may not yet be available.

Similarly, Parties that have not previously had commitments under Annex B might not be in a position to have baselines verified at the time commitments are inscribed. For this reason, it will be important to retain the current framework for calculating assigned amounts on the basis of percentage reductions from a base year.

The second sentence in Article 3(7), pertaining to the treatment of deforestation, should be retained.

Article 3, paragraph 8 bis

As indicated in the next section under the heading “The coverage of greenhouse gases, sector and source categories”, Australia proposes broadening the Protocol's coverage of greenhouse gases to include nitrogen trifluoride (NF₃) and each of the hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs) contained in table 2.14 of the errata of the IPCC Fourth Assessment Report of Working Group I³. Article 3 will therefore need to specify the base year for those gases that Parties may use to calculate their mitigation commitment. The text could either be added to the existing text of Article 3(8), or form a new Article 3(8) bis.

Given that the commitments of Annex I Parties are inextricably linked to the outcomes under the AWG-LCA, amendments to Article 3(9) will need to avoid prejudging the form of subsequent commitment periods. Nonetheless there is benefit in retaining a trigger time point for consideration of further commitments. We therefore propose the following language to replace the whole of Article 3(9):

³ <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-errata.pdf>



“The Conference of the Parties serving as the Meeting of the Parties to this Protocol shall initiate the consideration of a subsequent commitment period at least [x] years before the end of the current commitment period”.

Article 3, paragraph 10 and 11

Discussions on mitigation commitments and actions for developing countries and non-Kyoto Parties are occurring in the AWG-LCA. Without prejudice to the outcome of these discussions, any units assigned to Parties under the AWG-LCA should be available to Annex I Parties to meet their commitments. Amendments to Article 3 paragraphs 10 and 11 may be necessary to enable the addition or subtraction of such units to the assigned amount of an acquiring or transferring Annex I Party.

Article 3, paragraph 12 bis

The emerging policy discussion in the AWG-LCA on a new REDD market mechanism is welcome. Further proposals from Parties on this issue are also welcome. Without prejudice to these discussions, should the AWG-LCA outcome include establishment of such a mechanism, whereby credits from that mechanism could be acquired by Parties to fulfil their mitigation commitments under the Kyoto Protocol, the following additional paragraph 12 bis may be required in Article 3:

“Any [name of REDD market mechanism credit] which a Party acquires from another Party in accordance with the provisions of Article 17 shall be added to the assigned amount for the acquiring Party.”

In the following section of this submission (“Sectoral crediting of emission reductions below a previously established no-lose target”), Australia proposes the establishment of a sectoral crediting mechanism. Parties could acquire credits generated by this mechanism to fulfil their mitigation commitments under Article 3. To operationalise this facility, the following additional paragraph 12 ter may be required in Article 3:

“Any [name of credits generated under Article XX] which a Party acquires from another Party in accordance with the provisions of Article [XX] shall be added to the assigned amount for the acquiring Party.”

Article 7, paragraph 4 and 4 bis

Should the AWG-KP and AWG-LCA outcomes establish new mechanisms that generate credits that could be acquired by Parties to fulfil their mitigation commitments under the Kyoto Protocol, guidance would be required on the accounting of these credits vis a vis Parties' assigned amounts.

The existing CMP decision on modalities for the accounting of assigned amounts is adopted pursuant to Article 7, paragraph 4, of the Protocol⁴. This approach could be followed to provide for the adoption of additional modalities to accommodate the credits generated under the new mechanisms in the second commitment period.

For clarity, the last sentence of Article 7(4) should be amended to add the words “for that commitment period”, such that the paragraph would read:

⁴ Decision 13/CMP.1

“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 Article, taking into account guidelines for the preparation of national communications by Parties 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 for that commitment period.”

In addition, a paragraph 4 bis to Article 7 should be added as follows:

“The Conference of the Parties serving as the meeting of the Parties to this Protocol shall, prior to the second commitment period, decide upon modalities for the accounting of assigned amounts for that commitment period.”

Article 21, paragraph [5][7bis]

As noted under the heading “Annex B” above, encapsulating the second commitment period mitigation commitments within the current Annex B, is preferable to establishing a new Annex C. There are difficulties associated with establishing a new Annex of such a substantive nature, given the Article 21(1) limitations relating to the nature of Annexes that can be adopted.

With regard to the procedure for amending Annex B, the existing procedure under Article 21(7) as it relates to inscribing commitments arising out of the Article 3(9) process should be retained. Amendment of this procedure, as it relates to situations where a Party seeks inscription of a mitigation commitment in Annex B with respect to itself during a commitment period, is discussed below under the heading “Simplification of procedures for inscribing commitments in Annex B”.

Entry into force

Amendments to the Kyoto Protocol and its Annexes must be made in accordance with Articles 20 and 21(7) respectively. In particular, amendments to Annex B must not be made without the written consent of the Party concerned.

Views on possible elements of a text relating to issues outlined in document FCCC/KP/AWG/2008/8, paragraph 49

As already noted, consideration of amendments to the Kyoto Protocol and its Annexes pursuant to Article 3(9) is intrinsically linked to discussions on the elements outlined in paragraph 49 of document FCCC/KP/AWG/2008/8. Several of these have been addressed in the context of the above; further views are submitted below.

Improvements to emissions trading and the project-based mechanisms⁵

Land use, land-use change and forestry (LULUCF) activities

⁵ Discussion of mitigation commitments and actions for non-Annex I Parties and non-Kyoto Parties is taking place in the AWG-LCA. Access to market mechanisms will be an important means of supporting these commitments and actions, regardless of the forum in which the mechanisms are developed. Given the inter-linkages between mitigation commitments and mechanisms, mechanisms should also be discussed in the AWG-LCA.

Modalities and procedures for including a broader range of LULUCF activities in the Clean Development Mechanism (CDM) should be developed through CMP decisions. These decisions will affect the ability of Annex I Parties to meet their Kyoto Protocol commitments and should therefore be taken in conjunction with the adoption of amendments to the Kyoto Protocol.

Carbon dioxide capture and storage (CCS)

Carbon dioxide capture and storage is not currently excluded from the CDM. It should remain the prerogative of host Parties to determine which projects/technologies are appropriate for areas within their jurisdiction. Provisions (both treaty text and CMP decisions) should therefore be technology-neutral and not prescribe or proscribe particular technologies.

Parameters for modalities and procedures to govern CCS activities in the CDM should be developed through CMP decisions. As this decision could have significant implications for the ability of Annex I Parties to meet their Kyoto Protocol obligations, it should be taken in conjunction with the adoption of amendments to the Kyoto Protocol.

Sectoral crediting of emission reductions below a previously established no-lose target

The development of a sectoral crediting mechanism, which credits emission reductions below a previously established no-lose target, has the potential to increase the scope of the market to finance mitigation activities in developing countries.

Mitigation commitments and actions for developing country Parties are being discussed in the AWG-LCA. Without prejudice to these discussions, should developing country Parties choose to adopt sectoral no-lose targets as part of their suite of mitigation commitments and actions, they should be able to support such commitments and actions through access to a sectoral crediting mechanism.

Provisions will be required to give eligible developing country Parties access to a sectoral crediting mechanism. Provisions will need to be made for the governance of a sectoral crediting mechanism and decision text may be needed to specify eligibility criteria for participation in the mechanism, including specific MRV requirements.

Provisions would be required to avoid double-counting CERs generated from CDM activities and credits generated by a sectoral crediting mechanism. This should include specifying that the quantity of CERs issued on the basis of the existing CDM activities (ie. approved prior to the establishment of a sectoral no-lose target) in a sector covered by a no-lose target shall be deducted from the quantity of credits to be generated by a sectoral crediting mechanism. An amendment to Article 12 may also be required to specify that new project-by-project CDM activities are not eligible in sectors covered by a no-lose target or sectoral target (see below "Emissions trading").

Crediting on the basis of nationally appropriate mitigation actions

In cases where the emissions reductions generated from nationally appropriate mitigation actions (NAMAs) can be accurately quantified, crediting may provide a means of financing mitigation commitments and actions by developing countries. In cases where the emissions reductions flowing from a NAMA cannot be accurately quantified, crediting risks undermining the environmental integrity of the carbon market. In such cases, other financing tools should



be used in preference to crediting. Should Parties adopt crediting on the basis of NAMAs that can be accurately quantified, new provisions additional to those discussed above in relation to a sectoral crediting mechanism would be required.

Emissions trading

Mitigation commitments and actions for developing country Parties are being discussed in the AWG-LCA. Without prejudice to these discussions, developing country Parties that chose to adopt a strict sectoral target as part of their suite of mitigation commitments and actions should be granted support and flexibility in meeting these commitments through access to emissions trading.

An amendment to Article 17 would be required to enable emissions trading based on strict sectoral targets. The CMP may also need to adopt decisions on the modalities and guidelines to support sectoral emissions trading.

The following paragraph could be added to an amended Article 17:

“The Parties not included in Annex B may participate in emissions trading for the purpose of fulfilling their sectoral obligations inscribed in [X]. Any such trading shall be supplemental to domestic actions for the purpose of meeting sectoral obligations under [X].”

As noted above, the emerging policy discussion in the AWG-LCA on a new REDD market mechanism is welcome. Further proposals from Parties on this issue are also welcome. Without prejudice to these discussions, should the AWG-LCA outcome include establishment of such a mechanism, whereby credits from the mechanism could be acquired by Parties to fulfil their mitigation commitments under the Kyoto Protocol, the CMP may need to adopt decisions on the modalities and guidelines for the trade of such credits under Article 17.

The coverage of greenhouse gases, sector and source categories

Greenhouse gases

As noted above, the Protocol's coverage of greenhouse gases should be broadened to include nitrogen trifluoride and each of the HFCs and PFCs contained in table 2.14 of the errata of the IPCC Fourth Assessment Report of Working Group I⁶. To promote clarity, each of the gases should be listed individually, along with their common name and chemical formula.

These changes could be captured through amendment of Annex A, distinguishing the new gases applicable to the second commitment period in footnotes. The amended Annex A would read as contained in Attachment A.

Gases additional to those mentioned above could be considered, should new information warranting their inclusion be made available to Parties sufficiently prior to the conclusion of negotiations.

⁶ <http://www.ipcc.ch/pdf/assessment-report/ar4/wg1/ar4-wg1-errata.pdf>



Sectors/source categories

The Protocol's coverage of sectors/source categories, as contained in Annex A, may need to be changed to reflect the outcome of negotiations on the treatment of the land sector. As indicated above, these changes could be reflected through amendment of Annex A, indicating the commitment period to which each sector/source category is applicable in footnotes.

A decision of the CMP would also be required to request the revision of guidelines for reporting under the Convention and the Kyoto Protocol to incorporate the new greenhouse gases and, if necessary, the revised list of sector/source categories.

Common metrics

Global Warming Potentials (GWP) should be used to calculate the carbon dioxide equivalence of anthropogenic emissions and removals of the gases covered by the Protocol in the second commitment period (listed in the amended Annex A – see above). The GWP of each gas would be that accepted by the Intergovernmental Panel on Climate Change (IPCC), based on the effects of greenhouse gases over a 100-year time horizon, and agreed by the Parties. Those GWP so agreed would be used to determine fulfilment of mitigation commitments for the second commitment period.

The GWPs applicable to mitigation commitments in the second commitment period should be those provided in table 2.14 of the errata of the IPCC Fourth Assessment Report of Working Group I based on the effects of the greenhouse gases listed in the amended Annex A over a 100-year time horizon.

Article 5(3), of the Protocol should be retained in its existing form, applying *mutatis mutandis* to the new gases. In order to apply the above mentioned GWPs to the second commitment period, Article 5(3), requires a decision of the CMP prior to the adoption of the mitigation commitments for the second commitment period. That decision could also allow Parties, for information purposes only, to use another time horizon, as provided in the Fourth Assessment Report.

A decision of the CMP would also be required to request the revision of guidelines for reporting under the Convention and the Kyoto Protocol to incorporate the new GWPs.

Article 2, paragraph 2, of the Kyoto Protocol

Given the global and integrated nature of the international aviation and maritime sectors, Australia strongly supports a sectoral approach that is effective, equitable and non-discriminatory to address emissions from these sectors. We do not support the proposed amendments to Article 2(2) and Annex A which would include aviation and marine bunker fuels as part of Article 3 commitments. In the context of the UNFCCC, international aviation and maritime emissions should be addressed under the AWG-LCA.

Estimation methodologies

The methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol should be agreed by the CMP, based on the work of the IPCC and the advice of the SBSTA. The methodologies applicable to the second commitment period must support the policy framework agreed by

the Parties for the reporting of emissions and removals in that commitment period. Consequently, the Parties' deliberations on the post-2012 accounting framework must be concluded before the CMP can agree the methodologies applicable to the second commitment period.

In the event that there is sufficient time to conclude guidelines appropriate to the Parties' agreement on the post-2012 accounting framework, no change to Article 5(2) of the Protocol would be required.

Given the time required to finalise appropriate guidelines in light of the post-2012 accounting framework, the Parties may wish to agree the methodologies applicable to the second commitment period after the conclusion of the post-2012 outcome. This could be accommodated through amendments to the Protocol. The amendments would specify the CMP session at which the CMP must adopt a decision on the methodologies applicable to the second commitment period, bearing in mind the time required to complete an effective review of the Guidelines.

Article 5(2), would be amended to replace the last sentence of that paragraph as follows:

“Any revision to methodologies or adjustments shall not be used for the purposes of ascertaining compliance with commitments under Article 3 in respect of the first commitment period, but may be used by Parties on a voluntary basis, for the purpose of reporting in the first commitment period.”

The following paragraph would be inserted after paragraph 2 of Article 5:

“For the second commitment period, methodologies for estimating anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol shall be those agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its [XX] 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. Where such methodologies are not used, appropriate adjustments shall be applied according to methodologies agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol at its [XX] 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 shall 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.”

A CMP decision would be required to request the revision of guidelines for reporting under the Convention and the Kyoto Protocol to incorporate the new methodologies. A further CMP decision may be required to revisit the CMP's existing approach to the adjustment of Parties' inventory data, and the methodologies for such adjustments.

Simplification of procedures for inscribing commitments in Annex B

The experience of Belarus illustrates that the existing procedure under the Protocol for inscribing commitments for Parties in Annex B can result in serious delay when the



procedure is applied during the course of a commitment period, rather than in relation to future commitment periods pursuant to Article 3(9). Such delay has the potential to discourage countries willing to take on mitigation commitments and thereby reduce mitigation action. A better balance between reducing the time for the entry into force of an amendment to Annex B, and accommodating Parties' different domestic treaty action arrangements should be sought.

Such an outcome could be achieved by amending the existing procedure under Article 21(7). The amendment would establish an additional procedure for the inscription of a QELRO in Annex B. The new procedure would only apply to situations where a Party seeks inscription of a mitigation commitment in Annex B with respect to itself in the commitment period in which the amendment is proposed for adoption. The proposal would not apply to the amendment of Annex A, or amendments relating to future commitment periods pursuant to Article 3(9).

Privileges and immunities for persons serving on bodies constituted under the Kyoto Protocol

The Subsidiary Body for Implementation will consider at its thirtieth session views submitted by Parties on this issue, with a view to elaborating draft treaty arrangements. Australia's preliminary views are outlined below.

Australia shares other Parties' concerns with the limited immunities accessible to persons serving on Kyoto Protocol bodies, particularly immunity from legal action. The threat of legal action can undermine the Protocol's operation by hindering qualified participation and the ability of persons on the constituted bodies to properly discharge their duties. Grounds to warrant conferral of privileges on persons serving on constituted bodies have not been identified to date.

The Protocol should be amended to accommodate provisions that would assert the objective of securing participation by the most qualified persons and the ability of such persons to discharge their official duties in a professional and conscientious manner.

The provisions should confer immunities on persons serving as members and alternates of bodies constituted under the Kyoto Protocol ("constituted bodies"). "Constituted bodies" would mean the Executive Board of the Clean Development Mechanism, the Joint Implementation Supervisory Committee, the Compliance Committee, the Adaptation Fund Board, and Expert Review Teams established under Article 8 of the Protocol. This list may need to be expanded to accommodate new bodies agreed as part of the AWG-KP outcome.

The provisions should confer on persons serving on constituted bodies immunity from suit and from other legal process in respect of acts and things done in serving on the bodies, participating in their work or performing missions for the bodies. The immunity should continue to be accorded notwithstanding that the persons are no longer members or alternate members of the constituted bodies. The provisions should also confer the immunity of the inviolability of the persons' papers and documents.

Furthermore, provisions should confer on the Executive Secretary of the Secretariat to the Protocol the right and the duty to waive the immunity of any person serving on a constituted body in any case where, in his/her opinion, the immunity would impede the course of justice and could be waived without prejudice to the interests of the Protocol.

ATTACHMENT A

ANNEX A

Greenhouse gases

Common name	Chemical formula
Carbon dioxide	CO ₂
Methane	CH ₄
Nitrous Oxide	N ₂ O

Hydrofluorocarbons

HFC-23	CHF ₃
HFC-32	CH ₂ F ₂
HFC-41	CH ₃ F
HFC-125	CHF ₂ CF ₃
HFC-134	CHF ₂ CHF ₂
HFC-134a	CH ₂ FCF ₃
HFC-143	CH ₂ FCHF ₂
HFC-143a	CH ₃ CF ₃
HFC-1521	CH ₂ FCH ₂ F
HFC-152a	CH ₃ CHF ₂
HFC-1611	CH ₃ CH ₂ F
HFC-227ea	CF ₃ CHF ₂ CF ₃
HFC-236cb1	CH ₂ FCF ₂ CF ₃
HFC-236ea1	CHF ₂ CHF ₂ CF ₃
HFC-236fa	CF ₃ CH ₂ CF ₃
HFC-245ca	CH ₂ FCF ₂ CHF ₂
HFC-245fa1	CHF ₂ CH ₂ CF ₃
HFC-365mfc1	CH ₃ CF ₂ CH ₂ CF ₃
HFC-43-10mee	CF ₃ CHF ₂ CHF ₂ CF ₃

Nitrogen trifluoride⁷ NF₃

Perfluorocarbons

PFC-14	CF ₄
PFC-116	C ₂ F ₆
PFC-218	C ₃ F ₈
PFC-318	c-C ₄ F ₈
PFC-3-1-10	C ₄ F ₁₀
PFC-4-1-12	C ₅ F ₁₂
PFC-5-1-14	C ₆ F ₁₄
PFC-9-1-181	C ₁₀ F ₁₈
Sulphur hexafluoride	SF ₆

⁷ Footnote indicating those additional gases to be covered by the Protocol in the second commitment period.