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UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

**AD HOC WORKING GROUP ON LONG-TERM COOPERATIVE ACTION
UNDER THE CONVENTION**

Third session

Accra, 21–27 August 2008

Agenda item 3 (a–e)

Enabling the full, effective and sustained implementation of the Convention through long-term cooperative action now, up to and beyond 2012, by addressing, inter alia:

A shared vision for long-term cooperative action

Enhanced national/international action on mitigation of climate change

Enhanced action on adaptation

Enhanced action on technology development and transfer to support action on mitigation and adaptation

Enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation

**Ideas and proposals on the elements contained in paragraph 1 of the
Bali Action Plan**

Submissions from intergovernmental organizations

Addendum

1. In addition to the seven submissions contained in document FCCC/AWGLCA/2008/MISC.3, two further submissions have been received.
2. As requested by the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, these submissions have been posted on the UNFCCC website.¹ In accordance with the procedure for miscellaneous documents, they are attached and reproduced* in the language in which they were received and without formal editing. The secretariat will continue to post on the relevant web page the submissions received after the issuance of the present document.

¹ <http://unfccc.int/parties_and_observers/igo/items/3714.php>.

* These submissions have been electronically imported in order to make them available on electronic systems, including the World Wide Web. The secretariat has made every effort to ensure the correct reproduction of the texts as submitted.

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PAPER NO. 1A: SOUTH CENTRE

“Measurable, reportable, and verifiable”: using the UNFCCC’s existing MRV mechanisms in the context of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention

**“MEASURABLE, REPORTABLE, AND VERIFIABLE”:
USING THE UNFCCC’S EXISTING MRV MECHANISMS
IN THE CONTEXT OF THE
AD HOC WORKING GROUP ON LONG TERM COOPERATIVE
ACTION UNDER THE CONVENTION**

SYNOPSIS

This South Centre Analytical Note suggests that the modalities for the “measurable, reportable, and verifiable” (MRV) conditions under operative paragraph 1(b)(i) and (ii) of the Bali Action Plan should be the existing MRV modalities with respect to mitigation commitments, financing, technology transfer, and capacity-building under the Convention. There is no need to reinvent the MRV wheel in the context of the intergovernmental processes under the Ad hoc Working Group on Long Term Cooperative Action under the Convention (AWG-LCA). Such MRV modalities already exist under the Convention and the Kyoto Protocol and the focus should therefore be on using and further strengthening such modalities.

May 2008
Geneva, Switzerland

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**“Measurable, Reportable, and Verifiable”:
Using the UNFCCC’s Existing MRV Mechanisms
in the Context of the AWG-LCA**

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Executive Summary

Introduction

This Analytical Note looks at existing MRV modalities under the Convention and the Kyoto Protocol with respect to the measurement, reporting, and verification of the implementation of commitments to undertake mitigation measures and to provide financing, technology transfer, and capacity building to developing country Parties.

The phrase “measurable, reportable and verifiable” (or MRV) which appears in sub-paragraphs (i) and (ii) of paragraph 1(b) of the Bali Action Plan provides the parameters under which the mitigation actions by Parties should be undertaken. This means that, in accordance with the principle of common but differentiated responsibilities, and keeping in mind the balance of differentiated responsibilities as contained in Art. 4.7, the phrase MRV refers to:

- (i) nationally-appropriate mitigation commitments or actions by all developed country Parties; and
- (ii) the provision of technology, financing and capacity-building which enable and support nationally appropriate mitigation actions of developing country Parties in the context of sustainable development.

The MRV requirement is already present and embedded in the legal framework of obligations established under the Convention and the KP. There is no need for Parties to reinvent the MRV wheel in the context of the AWG-LCA processes when it would be far simpler and easier to simply use already existing MRV modalities, and to strengthen and to modify them further as may be necessary

On MRV for mitigation commitments

Under the Convention, Art. 4.1(a) in relation to Art. 7.2(d) with respect to the development of comparable methodologies, the decisions taken by the COP with respect to such methodologies, all already provide the AWG-LCA with an existing mechanism under which mitigation commitments and actions of developed country Parties that may be agreed upon under the AWG-LCA can be made “measurable.” The “reportable” criteria is covered by Art. 4.1(j) of the Convention which requires all Parties to “communicate to the Conference of the Parties information related to implementation, in accordance with Article 12” forms the basis for the commitments by Parties to submit their national communications (NCCs) under Article 12. The “verifiable” criteria is covered by Art. 4.2(b), under which the COP is required to review the detailed information to provided by Annex I Parties with respect to their policies and measures on the mitigation of climate change taken under Art. 4.2(a) and the resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases. The COP review of such detailed information is to take place in accordance with Article 7.

Under the Kyoto Protocol, for Annex I Parties which are Parties to the Kyoto Protocol, KP Arts. 5 and 7 (and the CMP decisions thereunder) address national systems and methodologies for the preparation of greenhouse gas inventories and the reporting of information by Annex I Parties under the Protocol. KP Art. 7 requires Annex I Parties to submit regular full national communications on the action they are taking to implement the Protocol. These will be merged with national communications submitted under the Convention. KP Art. 8.1 and 2 puts in place modalities for the review of the information submitted by Annex I Parties under KP Art. 7 by expert review teams “pursuant to the relevant decisions of the COP and in accordance with guidelines adopted for the purpose by the CMP”, thereby ensuring consistency of the manner in which MRV under the Convention is reflected in the KP. Furthermore, under KP Art. 8.3, such review process by the expert review teams “shall provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of this Protocol”, which would assess “the

implementation of the commitments of the Party” and identify “any potential problems in, and factors influencing, the fulfillment of commitments.”

On overall review of adequacy of mitigation actions

Art. 4.2(d) provides the COP with the mandate to conduct periodic reviews and the scientific, technical and economic verification of the extent to which – i.e. the adequacy of – the mitigation actions of Annex I Parties are meeting the objective of the Convention.

On MRV for financing, technology transfer, and capacity building

Under Art. 12.3, developed country Parties (under both Annex I and II) are required to “incorporate [in their national communications] details of measures taken in accordance with” Art. 4.3 (provision of new and additional financial resources), 4.4 (assistance to meet the costs of adaptation), and 4.5 (promotion, facilitation and financing of the transfer of, or access to, environmentally sound technologies and know-how).

On financing, Art. 11.4 requires the COP to undertake a review of the financial mechanism every four years. Reviews of the financial mechanism (including the operations of its operating entity or entities) are undertaken on the basis of guidelines adopted by the COP. These include the initial guidelines laid out in the Annex to Decision 3/CP.4 and additional guidelines indicated in paragraph 6 of Decision 2/CP.12 and in Decision 6/CP.13.

On technology transfer, previous sessions of the COP have discussed the issue of the implementation of Art. 4.5, with various decisions coming out that laid down specific actions to be undertaken by Parties, the secretariat, and the subsidiary bodies. Of particular importance is Decision 4/CP.7 which established a framework for “meaningful and effective actions to enhance the implementation” of Art. 4.5 of the UNFCCC “by increasing and improving the transfer of and access to environmentally sound technologies (ESTs) and know-how.” The decision’s annex identified five themes around which such “meaningful and effective actions” would be undertaken. These are on:

- Technology needs and needs assessments;
- Technology information;
- Enabling environments;
- Capacity building; and
- Mechanisms for technology transfer

Decision 13/CP.3 provided for a division of labour between the SBI and the SBSTA. With respect to issues relating to the development and transfer of technology, paragraph 3(c) and (d) of Decision 13/CP.3 provide as follows:

“(c) The Subsidiary Body for Implementation will, with inputs from the Subsidiary Body for Scientific and Technological Advice as appropriate, have responsibilities for assisting the Conference of the Parties **in the assessment and review of the effective implementation of the Convention with respect to the development and transfer of technology.**” (emphasis added)

“(d) As stipulated in the Convention, and as decided by the Conference of the Parties in decision 6/CP.1, the Subsidiary Body for Scientific and Technological Advice will have responsibility for providing advice on all scientific, technological and methodological aspects of the development and transfer of technology.”

In short, while the SBSTA provides advice to the COP with respect to measuring the extent to which technology transfer under the Convention is occurring, the SBI assists the COP in assessing and reviewing the extent to which developed Parties have put or are putting in place concrete actions and policy approaches that effectively and meaningfully implement Art. 4.5 of the Convention with respect to technology transfer.

Capacity building to assist Parties, especially developing countries, to respond to climate change is embedded in the Convention, especially with respect to technology transfer, national communications and funding. It is the SBI that is charged with providing advice on “ways and means of supporting endogenous capacity building in developing countries.” Through Decisions 10/CP.5 and 11/CP.5, the COP launched a process to address capacity building in an integrated manner. This process resulted in the Capacity Building Frameworks for developing countries and countries with economies in transition (EITs) reflected in Decisions 2/CP.7 and 3/CP.7 respectively. These frameworks were intended to serve as a guide for the climate change capacity building activities of the GEF and other funding bodies.

To measure and review the implementation of the capacity-building frameworks, Decision 2/CP.7 requested the secretariat to collect, process, compile and disseminate the information needed by the COP or its subsidiary bodies to review the progress made in implementation of the capacity-building framework, drawing on information contained in national communications of developing country Parties as well as Annex II Parties, and reports from the GEF and other agencies. The first comprehensive review has been concluded by the COP, with the results given in Decisions 2/CP.10 and 3/CP.10. In its Decision 2/CP.10, the COP decided on a time frame and process for a second comprehensive review of the implementation of the capacity building framework in developing countries. The review would be initiated at SBI 28 (June 2008) with a view to completing it at COP 15 (November-December 2009). In its Decision 3/CP.10, the COP decided to review 3/CP.7 CB framework for EITs at SBI 27 (2007) in preparation of the first commitment period of the KP. In this decision, the COP requested the secretariat to compile and synthesize information from EITs and Annex II Parties for this review by SBI 27, including information from the GEF and its implementing agencies.

On comparability of actions

In order to ensure comparability of mitigation actions, the COP should conduct the MRV of those mitigation commitments as implemented under the Convention, with those mitigation commitments as implemented under the Protocol, and compare them, to determine the extent to which the developed country Parties are meeting their commitments under the Convention, and how these could be further enhanced through the decision on the agreed outcome to be taken under the Bali Action Plan. For these, the mechanisms of the Convention, further elaborated under the Protocol could serve as the bases for the COP consideration under the Bali Action Plan

Implementation mechanisms for MRV

The COP is legally mandated under Art. 4.2(d) and Art. 7 to serve as the MRV operational body for the Convention. Additionally, Art. 10.2 mandates the Subsidiary Body for Implementation (SBI), “under the guidance” of the COP, to assist the COP in undertaking MRV activities. With respect to the Kyoto Protocol, it is the COP/MOP which serves as the MRV operational body.

Conclusion

There is no need to reinvent the MRV wheel. When it comes to agreeing on the MRV modalities in relation to Paragraph 1(b)(i) and (ii) of the Bali Action Plan, the existing MRV modalities under both the Convention and the Protocol with respect to mitigation, financing, technology transfer, and capacity building, should be used

**“MEASURABLE, REPORTABLE, AND VERIFIABLE”:
USING THE UNFCCC’S EXISTING MECHANISMS
IN THE CONTEXT OF THE AWG-LCA**

I. Introduction

1. The Bali Action Plan (Decision 1/CP.13) states, in its operative paragraph 1(b), that “enhanced national/international action on mitigation of climate change” would include consideration of, inter alia:

For developed country Parties:

“(i) **Measurable, reportable and verifiable** nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties, **while ensuring the comparability of efforts among them**, taking into account differences in their national circumstances; (emphasis added)

For developing country Parties:

“(ii) Nationally appropriate mitigation actions by developing country Parties in the context of sustainable development, supported and enabled by technology, financing and capacity-building, in a **measurable, reportable and verifiable** manner;” (emphasis added)

2. The phrase “measurable, reportable and verifiable” (or MRV) which appears in sub-paragraphs (i) and (ii) of paragraph 1(b) of the Bali Action Plan provides the parameters under which the mitigation actions by Parties should be undertaken. This means that, in accordance with the principle of common but differentiated responsibilities, and keeping in mind the balance of differentiated responsibilities as contained in Art. 4.7, *the phrase MRV refers to:*

(iii) nationally-appropriate mitigation commitments or actions by all developed country Parties; and

(iv) the provision of technology, financing and capacity-building which enable and support nationally appropriate mitigation actions of developing country Parties in the context of sustainable development.

3. It may likewise be kept in mind that, under the Convention and its principles, developing country Parties do not have any commitments to mitigate (Article 4.1 of the Convention). What they do have, in common with developed country Parties, and “taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances”, are commitments to, inter alia:
 - **“promote and cooperate** in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors (Art. 4.1(c); emphasis supplied); and

- “promote sustainable management, and **promote and cooperate** in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans, as well as other terrestrial, coastal and marine ecosystems.”(Art. 4.1(d); emphasis supplied).
4. Together, **Art. 4.1(c) and (d), to be undertaken through promotion and cooperation with all Parties, determine the manner in which measures and actions leading to mitigation of developing country Parties’ greenhouse gas emissions shall be implemented.** The implementation of such measures and actions in compliance with Art. 4.1(c) and (d) are, moreover, subject to Art. 4.3, which states that developed country Parties “shall also provide such (“new and additional”) financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article...” That is, developing country Parties’ mitigation measures under Art. 4.1(c) and (d) are premised on the provision by developed country Parties of new and additional financial resources to meet the agreed full incremental costs of such measures under Art. 4.3.
 5. Developed country Parties, on the other hand, have specific mitigation commitments under Art. 4.2(a) as follows:
 2. The developed country Parties and other Parties included in Annex I **commit themselves specifically** as provided for in the following:
 - (a) **Each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs.** These policies and measures will **demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions** consistent with the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification, and taking into account the differences in these Parties’ starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph; (emphasis added)
 6. Art. 4.2(a) and also Art. 4.2(b) on the communication of “detailed information on its policies and measures referred to in paragraph (a)” **determine the objective of the MRV to be conducted** on mitigation commitments or actions by developed country Parties.
 7. This note identifies existing provisions and mechanisms with the UN Framework Convention on Climate Change (UNFCCC) and, correspondingly, the Kyoto Protocol (KP) that can and should form the basis for making the MRV requirement operational in the context of the AWG-LCA discussions, in accordance with the differentiated responsibilities as shown above.
 8. **The MRV requirement is already present and embedded in the legal framework of obligations established under the Convention and the KP. There is no need for Parties to reinvent the MRV wheel in the context of the AWG-LCA processes when it would be far simpler and easier to simply use already existing MRV modalities, and to strengthen and to modify them further as may be necessary.**

II. MRV of Mitigation Commitments Under the Convention

A. Measurement under the Convention

9. Under the Convention, all Parties, “taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives, and circumstances,”¹ are committed to, among other things, provide “national inventories of their anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties” (underlining added).² Under Art. 7.2(d), the COP is mandated to promote and guide the development and period refinement of such comparable methodologies “for preparing inventories of greenhouse gas emissions by sources and removals by sinks, and for evaluating the effectiveness of measures to limit the emissions and enhance the removals of these gases.” Such methodologies would have to be agreed upon by the COP.
10. Such methodologies, which are in effect methodologies that enable the Parties to: (i) measure their greenhouse gas emissions and reductions, and (ii) evaluate their effectiveness, can therefore serve as the basis for measuring the impact of mitigation actions that might be agreed upon under the AWG-LCA.
11. **In short, Art. 4.1(a) in relation to Art. 7.2(d) with respect to the development of comparable methodologies, the decisions taken by the COP with respect to such methodologies, all already provide the AWG-LCA with an existing mechanism under which mitigation commitments and actions of developed country Parties that may be agreed upon under the AWG-LCA can be made “measurable.”**

B. Reporting Under the Convention

12. Article 4.1(j) of the Convention requires all Parties to “communicate to the Conference of the Parties information related to implementation, in accordance with Article 12.” This common commitment – to report to the COP the extent of implementation by a Party of its other commitments under the Convention – forms the basis for the commitments by Parties to submit their national communications (NCCs) under Article 12.
13. All Parties are, under Art. 12.1, required to communicate – i.e. to report – to the COP information on: (i) their national inventory of greenhouse gas emissions and removals, (ii) a general description of steps taken or envisaged to implement the Convention, and (iii) any other information that the Party considers to be relevant to the achievement of the objective of the Convention and suitable for inclusion in its communication. Consistent with this, under KP Art. 10(f), all Parties (both developed and developing) are required to “include in their national communications information on programmes and activities undertaken pursuant to” KP Art. 10.³
14. Under Art. 12.2, Annex I Parties are required to communicate – i.e. to report: (i) a “detailed description of the policies and measures” that they have individually adopted to implement their mitigation commitments Art. 4.2(a) and (b); and (ii) a “specific estimate of the effects” that their

¹ Art. 4:1.

² Art. 4:1(a).

³ This article of the Protocol contains common commitments by all Parties under the KP.

mitigation policies and measures “will have on anthropogenic emissions by its sources and removals by its sinks of greenhouse gases.”

15. Art.12.5 sets out a differentiated timetable for the submission of national communications by Parties under Art. 12.1 and 12.2.

1. Annex I National Communications

16. The national communications of Annex I Parties should conform to the revised reporting guidelines for the preparation of national communications.⁴ Additionally, a number of decisions and conclusions should be taken into account by Annex I Parties when preparing national communications, including the following.⁵

1. Relevant COP decisions and conclusions of the subsidiary bodies

A. National communications

- **Decision 1/CP.9** - National communications from Parties included in Annex I to the Convention
- **Decision 4/CP.8** - National communications from Parties included in Annex I to the Convention
- **Decision 4/CP.5** - Guidelines for the preparation of national communications by Parties included in Annex I to the Convention, Part II: UNFCCC reporting guidelines on national communications (pages 80-100)

B. Projections and the total effect of policies and measures

- **SBSTA 21 Conclusions** - "Emissions projections of Parties included in Annex I to the Convention "

C. Capacity-building

- **Decision 2/CP.10** - Capacity-building for developing countries (non-Annex I Parties)
- **Decision 3/CP.10** - Capacity-building for countries with economies in transition
- **Decision 2/CP.7** (paragraph 12) - Capacity-building in developing countries (non-Annex I Parties)
- **Decision 3/CP.7** (paragraph 5) - Capacity-building in countries with economies in transition

D. Research and systematic observation

- **Decision 5/CP.5** (paragraph 8) - Research and systematic observation

E. Education, training and public awareness

⁴ See UNFCCC, Review of the implementation of commitments and other provisions of the Convention: UNFCCC guidelines on reporting and review (FCCC/CP/1999/7, 16 February 2000), at <http://unfccc.int/resource/docs/cop5/07.pdf>.

⁵ See http://unfccc.int/national_reports/annex_i_national_communications/fourth_national_communications/items/3360.php.

- **Decision 7/CP.10** (paragraph 10) - Status of, and ways to enhance, implementation of the New Delhi work programme on Article 6 of the Convention
- **Decision 11/CP.8** (paragraph 3) - New Delhi work programme on Article 6 of the Convention

F. Adaptation and response measures

- **Decision 1/CP.10** (paragraphs 12 and 18) - Buenos Aires programme of work on adaptation and response measures
- **Decision 5/CP.7** (paragraphs 4 and 21) - Implementation of Article 4, paragraph 8 and 9, of the Convention (decision 3/CP.3 and Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol)

2. Additional reporting requirements for Annex I Parties that are also Parties to the Kyoto Protocol

A. Reporting on progress in achieving the Kyoto Protocol commitments (Art. 3.2)

- **Decision 25/CP.8** - Demonstrable progress under Article 3, paragraph 2, of the Kyoto Protocol

B. Reporting of supplementary information (Art. 7.2)

- **Decision 22/CP.7** - Guidance for the preparation of the information required under Article 7 of the Kyoto Protocol

C. Calculation of assigned amount (Art. 7.4)

- **Decision 19/CP.7** - Modalities for accounting of assigned amounts under Article 7, paragraph 4, of the Kyoto Protocol

2. Non-Annex I National Communications

17. Each non-Annex I Party are submit its initial communication within three years of the entry into force of the Convention for that Party, or of the availability of financial resources (except for the least developed countries, who may do so at their discretion). Guidelines for the preparation of initial national communications from non-Annex I Parties were adopted at COP 2 in Geneva in 1996. COP 5 (Bonn, 1999) established a Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention (CGE) in order to improve the process of preparation of national communications by non-Annex I Parties. At COP 8 (New Delhi, 2002) Parties adopted Decision 17/CP.8 providing for the revised guidelines for the preparation of national communications from non-Annex I Parties and decided to continue the mandate of the CGE.⁶

18. COP 11 took a decision on the submission of second, and where appropriate, third national communications from non-Annex I Parties.⁷ The preparation of second and, where appropriate

⁶ See <http://unfccc.int/resource/docs/cop8/07a02.pdf#page=2> for the text of Decision 17/CP.8. The secretariat has produced a user manual to facilitate the usage of the new guidelines, available in 3 UN languages (English - http://unfccc.int/resource/userman_nc.pdf, French - http://unfccc.int/resource/userman_nc_fr.pdf, and Spanish - http://unfccc.int/resource/userman_nc_es.pdf).

⁷ See Decision 8/CP.11.

third and initial national communications will be based on the revised guidelines for national communications by non-Annex I Parties.

19. The Global Environment Facility (GEF), as an operating entity of the financial mechanism of the Convention, is supposed to provide “new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1”⁸ Consistent with Art. 11.1, the financial mechanism shall function under the guidance of the Conference of the Parties. The COP therefore adopted decisions providing guidance to the GEF, as an operating entity of the financial mechanism, for the provision of these financial resources to non-Annex I Parties. The GEF, for this purpose, acts through its implementing agencies (UNDP, UNEP and the World Bank). Some bilateral and regional UN agencies also provide financial and technical assistance to many non-Annex I Parties in preparing their national communications, mainly in the form of capacity-building activities.
20. The GEF has adopted operational procedures for the expedited financing of national communications from non-Annex I Parties to assist eligible countries to formulate and submit proposals based on COP 8 guidelines.⁹ Under these operational procedures, up to US\$405,000 is made available to each non-Annex I Party for the preparation of its national communication. The GEF also provides an additional US\$15,000 per country for stocktaking exercise and stakeholder consultations in preparation of the project proposals. That such amounts should be determined by the GEF alone is contrary to the obligation to provide “agreed full cost” funding for the preparation of national communications. This has been one of the most contentious issues under continued negotiations on the matter of non-Annex I communications under the Convention.
21. To date, 132 out of 148 non-Annex I Parties have submitted their initial national communications. These are compiled and synthesized by the secretariat but are not subject to in-depth review (unlike Annex I national communications). The secretariat has prepared compilation and synthesis reports annually since 1999, to take account of new initial communications submitted by Parties.¹⁰ Also, the secretariat regularly provides a detailed table on the status of the preparation of non-Annex I national communications¹¹ and compiles a list of mitigation projects¹² included in non-Annex I national communications pursuant to Art. 12.4.

C. Review and Verification under the Convention

22. Verification and review modalities to assess compliance by Annex I Parties with their mitigation commitments already exist under the Convention.
23. Under Art. 4.2(b), the COP is required to review the detailed information to provided by Annex I Parties with respect to their policies and measures on the mitigation of climate change taken under Art. 4.2(a)¹³ and the resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases. The COP review of such detailed information is to take place in accordance with Article 7.

⁸ Art. 4.3.

⁹ See http://www.gefweb.org/Documents/enabling_activity_projects/documents/GEF-C22-Inf16.pdf for the text of these procedures.

¹⁰ For these reports, see the UNFCCC website at http://unfccc.int/national_reports/non-annex_i_natcom/compilation_and_synthesis_reports/items/2709.php.

¹¹ See the latest report (2005) at <http://unfccc.int/resource/docs/2005/sbi/eng/inf03.pdf>.

¹² See <http://unfccc.int/resource/docs/2005/sbi/eng/inf08.pdf>.

¹³ These are those referred to in Art. 4:2(a), i.e. “national policies and ... corresponding measures on the mitigation of climate change.”

24. Art. 7.2 requires the COP to conduct a “regular review” of “the implementation of the Convention and any related legal instruments¹⁴” that the COP may adopt so that it can make “the decisions necessary to promote the effective implementation of the Convention.” Among other things, such regular review should include assessing, “on the basis of all information made available to it in accordance with the provisions of the Convention” (which would include the detailed information under Art. 4.2(b) from Annex I Parties) “the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved.”¹⁵
25. This means, in short, that such information from Annex I Parties under Art. 4.2(b) should be used by the COP as among the basis to review and verify: (i) the extent to which such Parties are complying with their mitigation commitments under Art. 4.2(a), (ii) the effects and impacts of such compliance measures, and (iii) whether these measures are resulting in progress in achieving the Convention’s objective. This, in effect, is a clearly existing verification mechanism under the Convention that could be used in the context of the MRV discussions under the AWG-LCA.
26. To implement the Convention provisions above, Decisions 2/CP.1, 9/CP.2, 6/CP.3 and 33/CP.7 require that each Annex I Party national communication is subject to an “in-depth” review that would be undertaken by an international team of experts, coordinated by the UNFCCC secretariat. The review is described as follows:

The review of each national communication typically involves a desk-based study and an in-country visit, and aims to provide a comprehensive, technical assessment of a Party’s implementation of its commitments. The in-depth review results in an in-depth review report, which typically expands on and updates the national communication. The in-depth review reports aim to facilitate the work of the COP in assessing the implementation of commitments by Annex I Parties. The reports also allow easier comparison of information between the national communications of Parties, although no common indicators are employed.¹⁶

27. Additionally, the UNFCCC secretariat also:

- prepares a compilation and synthesis (C&S) report that summarizes the most important information provided in individual communications;¹⁷
- compiles the latest emissions data submitted by Parties in their annual inventories on a regular basis and makes them available on the secretariat web site. These compilations of annual inventory data submitted by Annex I Parties are annually considered by the SBI, which has often expressed concern over the increase in emissions in many Annex I Parties indicated by the data and reaffirmed the need for further action to reverse this trend.¹⁸

28. According to Decisions 3/CP.5, 6/CP.5, and 18/CP.8, “the technical review of GHG inventories involves an initial check and a synthesis and assessment of all Annex I Party annual inventories,

¹⁴ This would hence include the Kyoto Protocol within the scope of such mandated regular review by the COP of the implementation of the Convention.

¹⁵ Art. 7:2(e).

¹⁶ See http://unfccc.int/national_reports/annex_i_natcom/items/3076.php.

¹⁷ For the latest C&S report of Annex I communications, see FCCC/SBI/2003/7 and FCCC/SBI/2003/7/Add.1-2-3-4)

¹⁸ A compilation of the latest inventory data for the period of 1990-2002 was prepared for COP 10 in Buenos Aires, December 2004, see [FCCC/CP/2004/5](#), [FCCC/WEB/2004/3](#).

along with a review of individual inventories on a voluntary basis” (with an individual review becoming mandatory in 2003 for all Annex I Parties).¹⁹

29. COP Decision 7/CP.11 entitled “Review processes during the period 2006–2007 for Parties included in Annex I to the Convention”, recognized that the review procedures during the period 2006–2007 needed to be streamlined in order to ensure the effective use of resources needed to meet additional review requirements for Annex I Parties that are also Parties to the Kyoto Protocol. It requested the secretariat to organize a centralized review of fourth national communications, and an in-country, in-depth review of the fourth national communication for those Parties that request one. It also requested the secretariat to prepare the compilation and synthesis report on fourth national communications. The CMP, by its Decision 26/CMP.1, requested the secretariat to prepare the compilation and synthesis of supplementary information included in fourth national communications, in accordance with KP Art. 7.2, submitted by Annex I Parties to the Convention that are also Parties to the Kyoto Protocol.²⁰

III. MRV of Mitigation Commitments Under the Kyoto Protocol

A. Measurement under the Kyoto Protocol

30. For Annex I Parties which are Parties to the Kyoto Protocol, KP Arts. 5 and 7 address reporting of information by Annex I Parties under the Protocol, as well as national systems and methodologies for the preparation of greenhouse gas inventories. KP Art. 5.1 commits Annex I Parties to have in place, no later than 2007, national systems for the estimation of greenhouse gas emissions by sources and removals by sinks. KP Art. 5.2 states that, where agreed methodologies²¹ are not used to estimate emissions and removals, appropriate “adjustments” should be applied. KP Art. 7 provides for additional information to be reported, including: (i) supplementary information to be incorporated in their annual national inventory²² of anthropogenic emissions and removals to ensure compliance with their mitigation commitments under KP Art. 3; and (ii) supplementary information to be incorporated in their national communications under Art. 12.1 and 12.2 of the Convention “to demonstrate compliance” with their commitments under the Protocol. In addition, KP Art. 7 states that the Conference of the Parties serving as the meeting of the Parties to the Protocol (CMP) shall decide upon modalities for the accounting of assigned amounts prior to the first commitment period. Furthermore, the last sentence of KP Art. 3.3 also requires them to also report the net changes in their greenhouse gas emissions by sources and removals by sinks resulting from direct human-induced land-use change and forestry activities (limited to afforestation, reforestation and deforestation).
31. The Marrakesh Accords required each Annex I Party to have in place a national system to estimate its greenhouse gas emissions and removals, along with a national registry to account for, record, and monitor transactions by Annex I Parties in assigned amount units (AAUs), certified emission reductions (CERs) and emission reduction units (ERUs), and removal units (RMUs) generated by LULUCF activities. Prior to the start of the KP’s first commitment period (2008-2012), each Annex I Party was required submit a report to the secretariat describing its national

¹⁹ The results of the various stages of the technical reviews so far completed have been published on the secretariat's web site: initial check of annual inventories (2000, 2001, 2002, 2003, 2004); synthesis and assessment of GHG inventories (2000, 2001, 2002, 2003, 2004); and reviews of individual GHG inventories (2000, 2001, 2002, 2003, 2004)

²⁰ See “Recent developments”, at http://unfccc.int/national_reports/annex_i_natcom/items/1095.php.

²¹ These agreed methodologies are, under Decision 2/CP.2, the revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories.

²² This is the national inventory requirement under Art. 12:1 of the Convention.

system and registry, and providing the emissions data necessary to formally establish its assigned amount. The assigned amount of each Annex I Party is then recorded in a compilation and accounting database held with the secretariat. This database records the annual emissions of Parties (as reported in their annual inventories), along with their total annual transactions in AAUs, CERs, ERUs and RMUs. As an added monitoring tool, the secretariat will manage an independent transaction log, which will automatically check the validity of transactions under the flexibility mechanisms and LULUCF activities. Every year, the secretariat will publish a compilation and accounting report for each Annex I Party, based on the information contained in its database. The final secretariat report published at the end of the commitment period will form the basis for assessing whether Annex I Parties have complied with their emission targets.²³

32. The CMP 1 adopted the following decisions relating to KP Arts. 5 and 7:

- **Decision 13/CMP.1** - Modalities for the accounting of assigned amounts under KP Art. 7.4;
- **Decision 14/CMP.1** - Standard electronic format for reporting Kyoto Protocol units;
- **Decision 19/CMP.1** - Guidelines for national systems under KP Art. 5.1;
- **Decision 20/CMP.1** - Good practice guidance and adjustments under KP Art. 5.2;
- **Decision 21/CMP.1** - Issues relating to adjustments under KP Art. 5.2.

33. **In short, KP Art. 5 and 7 and the CMP decisions thereunder, also already provide the AWG-LCA with an existing mechanism under which mitigation actions that may be agreed upon under the AWG-LCA can be made “measurable.”**

B. Reporting under the Kyoto Protocol

34. Under KP Art. 7, Annex I Parties must submit regular full national communications on the action they are taking to implement the Protocol. These will be merged with national communications submitted under the Convention. At its first session, in Decision 15/CMP.1, the COP/MOP adopted guidelines for the preparation of the information required under KP Art. 7.

C. Review and Verification under the Kyoto Protocol

35. For Annex I Parties which are also Parties to the Kyoto Protocol, KP Art. 8.1 and 2 puts in place modalities for the review of the information submitted by Annex I Parties under KP Art. 7 by expert review teams “pursuant to the relevant decisions of the COP and in accordance with guidelines adopted for the purpose by the CMP”, thereby ensuring consistency of the manner in which MRV under the Convention is reflected in the KP. Furthermore, under KP Art. 8.3, such review process by the expert review teams “shall provide a thorough and comprehensive technical assessment of all aspects of the implementation by a Party of this Protocol”, which would assess “the implementation of the commitments of the Party” and identify “any potential problems in, and factors influencing, the fulfillment of commitments.” In short, KP Art. 8.3 contemplates a technical verification process for the information submitted by Annex I Parties in relation to their implementation of their mitigation commitments under the Convention and the KP.

²³ For more information on this, see http://unfccc.int/national_reports/accounting_reporting_and_review_under_the_kyoto_protocol/items/1029.php

36. The verification procedure by these expert review teams is described by the secretariat as follows:²⁴

Expert review teams will check annual inventories, to make sure they are complete, accurate and conform to the guidelines. The annual inventory review will generally be conducted as a desk or centralized review. However, each Annex I Party will be subject to at least one in-country visit during the commitment period. If any problems are found, the expert review team may recommend adjusting the data to make sure that emissions during any year of the commitment period are not underestimated. If there is disagreement between a Party and the expert review team about the adjustment that should be made, the Compliance Committee will intervene. Aside from recommending data adjustments, the expert review team has the mandate to raise any apparent implementation problems with the Compliance Committee. Once the compliance procedures have been finalized, the compilation and accounting database will be updated with a record of the Party's emissions for that year.

Expert review teams for both annual inventories and national communications will be coordinated by the secretariat. Consisting of some four to twelve people, they will be composed of experts selected from a roster of individuals nominated by Parties, and will be led by two lead reviewers, one each from an Annex I and a non-Annex I Party. Expert reviewers will have to undergo training, to ensure that they possess the necessary competence to carry out reviews.

37. The following decisions of the COP/MOP provide the parameters for the expert review process under the KP:

- **Decision 22/CMP.1** - Guidelines for review under KP Art. 8;
- **Decision 23/CMP.1** - Terms of service for lead reviewers;
- **Decision 24/CMP.1** - Issues relating to the implementation of KP Art. 8 – 1 (Training programme for members of expert review teams);
- **Decision 25/CMP.1** - Issues relating to the implementation of KP Art. 8 – 2 (Confidential information)

IV. Overall Review of the Adequacy of Mitigation Actions and Provision of Information by Annex I Parties

38. Finally, Art.4.2(d)'s last sentence also provides for a periodic review by the COP of "the adequacy of subparagraphs (a) and (b)" of Art. 4.2 – i.e. subparagraph (a) referring to the mitigation commitment to adopt national policies and take corresponding measures on the mitigation of climate change by Annex I Parties, and subparagraph (b) referring to these Parties commitment to provide detailed information on such policies and measures.

39. This means that the COP should periodically review whether or not the actions undertaken and information provided by Annex I Parties in compliance with Art. 4.2(a) and (b) are adequate for meeting the objective of the Convention.²⁵ Such review is to be carried out, in the words of Art. 4.2(d), "in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, scientific and economic information." In short, **Art.**

²⁴ See "Reporting and Review", at http://unfccc.int/national_reports/accounting_reporting_and_review_under_the_kyoto_protocol/items/1113.php.

²⁵ Art. 2 of the Convention provides that its ultimate objective is "to achieve, ... stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a timeframe sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner."

4.2(d) provides the COP with the mandate to conduct periodic reviews and the scientific, technical and economic verification of the extent to which – i.e. the adequacy of – the mitigation actions of Annex I Parties are meeting the objective of the Convention. Unfortunately, after the first review took place in 1995 in Berlin, no subsequent review has taken place.

V. MRV of the Provision of Financing, Technology and Capacity-Building to Support and Enable Nationally Appropriate Mitigation Actions of Developing Country Parties

A. Reporting through Annex I National Communications

40. Under Art. 12.3, developed country Parties (under both Annex I and II) are required to “incorporate [in their national communications] details of measures taken in accordance with” Art. 4.3 (provision of new and additional financial resources), 4.4 (assistance to meet the costs of adaptation), and 4.5 (promotion, facilitation and financing of the transfer of, or access to, environmentally sound technologies and know-how).

B. Financing – Measurement, Reporting, and Verification

41. On financing, Art. 11.4 requires the COP to undertake a review of the financial mechanism every four years. Reviews of the financial mechanism (including the operations of its operating entity or entities) are undertaken on the basis of guidelines adopted by the COP.²⁶ These include the initial guidelines laid out in the Annex to Decision 3/CP.4 and additional guidelines indicated in paragraph 6 of Decision 2/CP.12 and in Decision 6/CP.13.
42. The review guidelines as laid down by the COP give full scope for the COP during the fourth review of the financial mechanism to consider, inter alia:
- an assessment of the funding necessary to assist developing countries, in accordance with the guidance provided by the Conference of the Parties, in meeting their commitments under the Convention;
 - options for scaling up the international financial response to climate change, based on national experiences and on available relevant documents;
 - the effectiveness of the financial mechanism in providing resources to developing country Parties to support and enable them to undertake nationally appropriate mitigation actions
 - looking at other possible institutional arrangements that may be done under the financial mechanism to make it more effective in the delivery of the required financing to developing country Parties
43. Key decisions with respect to the conduct of the reviews of the financial mechanism are listed below:²⁷
- **Decision 6/CP.13:** Review of the financial mechanism
 - **Decision 2/CP.12 :** Review of the financial mechanism

²⁶ See Decision 3/CP.4, Annex.

²⁷ See http://unfccc.int/cooperation_and_support/financial_mechanism/items/3658.php.

- **Decision 9/CP.10:** Assessment of funding to assist developing countries in fulfilling their commitments under the Convention
- **Decision 5/CP.8:** Review of the financial mechanism
- **Decision 3/CP.4:** Review of the financial mechanism
- **Decision 12/CP.3:** Annex to the Memorandum of Understanding on the determination of funding necessary and available for the implementation of the Convention
- **Decision 11/CP.3:** Review of the financial mechanism
- **Decision 13/CP.2:** Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility: annex on the determination of funding necessary and available for the implementation of the Convention
- **Decision 12/CP.2:** Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility
- **Decision 9/CP.1:** Maintenance of the interim arrangements referred to in Article 21, paragraph 3, of the Convention

C. Technology Transfer – Measurement, Reporting, and Verification

44. On technology transfer, previous sessions of the COP have discussed the issue of the implementation of Art. 4.5, with various decisions coming out that laid down specific actions to be undertaken by Parties, the secretariat, and the subsidiary bodies. Of particular importance is Decision 4/CP.7²⁸ which established a framework for “meaningful and effective actions to enhance the implementation” of Art. 4.5 of the UNFCCC “by increasing and improving the transfer of and access to environmentally sound technologies (ESTs) and know-how.” The decision’s annex identified five themes around which such “meaningful and effective actions” would be undertaken. These are on:
- Technology needs and needs assessments;
 - Technology information;
 - Enabling environments;
 - Capacity building; and
 - Mechanisms for technology transfer
45. Decision 13/CP.3²⁹ provided for a division of labour between the SBI and the SBSTA. With respect to issues relating to the development and transfer of technology, paragraph 3(c) and (d) of Decision 13/CP.3 provide as follows:

“(c) The Subsidiary Body for Implementation will, with inputs from the Subsidiary Body for Scientific and Technological Advice as appropriate, have responsibilities for assisting the Conference of the Parties **in the assessment and review of the effective implementation of the Convention with respect to the development and transfer of technology.**” (emphasis added)

²⁸ See <http://unfccc.int/resource/docs/cop7/13a01.pdf#page=22> for the text of this decision.

²⁹ For the text of decision 13/CP.3, please see <http://unfccc.int/resource/docs/cop3/07a01.pdf#page=44>

“(d) As stipulated in the Convention, and as decided by the Conference of the Parties in decision 6/CP.1, the Subsidiary Body for Scientific and Technological Advice will have responsibility for providing advice on all scientific, technological and methodological aspects of the development and transfer of technology.”

46. In short, while the SBSTA provides advice to the COP with respect to measuring the extent to which technology transfer under the Convention is occurring, the SBI assists the COP in assessing and reviewing the extent to which developed Parties have put or are putting in place concrete actions and policy approaches that effectively and meaningfully implement Art. 4.5 of the UNFCCC.
47. Paragraph 7 of Decision 4/CP.13 on the development and transfer of technologies under the SBI³⁰ “[r]equests Parties to submit to the secretariat, by 15 February 2008, for synthesis and compilation, their views on elements for the terms of reference for the review and assessment of the effectiveness of the implementation of Article 4, paragraph 5, and Article 4, paragraph 1 (c), in accordance with decision 13/CP.3.” The themes coming from Decision 4/CP.7 could be among the elements for the terms of reference of the work of the SBI with respect to the development and transfer of technology under decision 4/CP.13 to review and assess the effectiveness of the implementation of Art. 4.5 of the UNFCCC.
48. In addition to establishing measurable review and assessment parameters with respect to the elements drawn from decision 4/CP.7, the SBI should consider the information required to be provided by developed Parties under Art. 12.3 (national communications) with respect to “details of measures taken in accordance with Article 4, paragraphs ... 5.” The work of the expert review teams reviewing Annex I national communications is crucial for this purpose, and should be taken into account in the review and assessment of the effectiveness of the implementation of Article 4.5 of the Convention.
49. Furthermore, the SBI could also draw upon the conclusions and recommendations of the Expert Group on Technology Transfer (EGTT), in particular with respect to its finding that discussions relating to technology transfer need to be complemented by concrete, practical, results-oriented actions in specific sectors and programs. In this context, the work of the SBI in reviewing and assessing the implementation of Art. 4.5 could also include looking at the extent to which, inter alia:
- current mechanisms and policy approaches, including financing mechanisms, are actually effective in terms of promoting and supporting actual, on-the-ground, development and transfers of technology in implementation of Art. 4.5;
 - technologies that are developed and/or transferred in implementation of Art. 4.5 are adapted or appropriate to the national environmental, social, and economic contexts of the recipient Party. This could include an identification of the opportunities for and barriers to (including market and policy conditions) such development and transfer of nationally- or locally-appropriate technologies;
 - the specific needs and concerns of developing country Parties listed in Art. 4.8 arising from the adverse effects of climate change and/or the impact of the implementation of response measures, and those of least-developed countries were given full consideration (with respect to Art. 4.8) and taken fully into account, with respect to Art. 4.9.
50. Some key decisions of the COP with respect to technology transfer which should serve as the basis for any MRV modalities are as follows:³¹

³⁰ For the text of the decision, please see <http://unfccc.int/resource/docs/2007/cop13/eng/102.pdf>

³¹ See http://unfccc.int/cooperation_and_support/technology/items/3035.php.

- **Decision 6/CP.11** - Development and transfer of technologies
- **Decision 10/CP.8** - Development and transfer of technologies
- **Decision 4/CP.7** - Development and transfer of technologies (includes the Framework for meaningful and effective actions to enhance the implementation of Article 4, paragraph 5, of the Convention)
- **Decision 1/CP.6** - Implementation of the Buenos Aires Plan of Action
- **Decision 9/CP.5** - Development and transfer of technologies: Status of the consultative process
- **Decision 4/CP.4** - Development and transfer of technologies (includes the establishment of a consultative process on technology transfer)
- **Decision 9/CP.3** - Development and transfer of technologies
- **Decision 7/CP.2** - Development and transfer of technologies
- **Decision 13/CP.1** - Transfer of technology

D. Capacity-Building – Measurement, Reporting, and Verification

51. Capacity building to assist Parties, especially developing countries, to respond to climate change is embedded in the Convention, especially with respect to technology transfer, national communications and funding. It is the SBI that is charged with providing advice on “ways and means of supporting endogenous capacity building in developing countries.”³² The Kyoto Protocol commits Parties to cooperating in, and promoting, “...the strengthening of national capacity building...”³³
52. Through Decisions 10/CP.5 and 11/CP.5, the COP launched a process to address capacity building in an integrated manner. This process resulted in the Capacity Building Frameworks for developing countries and countries with economies in transition (EITs) reflected in Decisions 2/CP.7 and 3/CP.7 respectively. These frameworks were intended to serve as a guide for the climate change capacity building activities of the GEF and other funding bodies. In the words of the UNFCCC secretariat:

The frameworks include a set of guiding principles and approaches - for example, that capacity building should be country-driven, involve learning by doing, and build on existing activities - and provide an initial list of priority areas for both sets of countries, including the specific needs of least developed countries (LDCs) and Small Island Developing States (SIDS). The frameworks call on developing countries and EIT countries to continue to provide information on their specific needs and priorities, while promoting cooperation among themselves and stakeholder participation. Annex II Parties, for their part, should provide additional financial and technical assistance for implementing capacity-building activities through the GEF and other channels, while all Parties should improve the coordination and effectiveness of existing activities.³⁴

53. To measure and review the implementation of the capacity-building frameworks, Decision 2/CP.7 requested the secretariat to collect, process, compile and disseminate the information needed by the COP or its subsidiary bodies to review the progress made in implementation of the capacity-building framework, drawing on information contained in national communications of developing country Parties as well as Annex II Parties, and reports from the GEF and other agencies.

³² Art. 9.

³³ KP Art. 10(e).

³⁴ See http://unfccc.int/cooperation_and_support/capacity_building/items/3664.php.

54. Through Decision 4/CP.9, the COP decided that the GEF should take into account, in its work relating to the development of capacity building performance indicators for the climate change focal area, the capacity building framework in decision 2/CP.7, and to undertake this work in consultation with the Convention secretariat.
55. A timeframe and process for review of the capacity building framework was established through Decision 9/CP.9. In this decision, the COP decided to complete a first comprehensive review of the capacity building framework for developing countries by its tenth session, and to conduct further comprehensive reviews every five years thereafter.
56. The results of the first comprehensive review of the capacity building frameworks are given in Decisions 2/CP.10 and 3/CP.10. While acknowledging some progress in a range of priority areas identified in the frameworks, the COP noted significant gaps that still remained to be filled and that access to financial resources remained an issue to be addressed. The COP re-affirmed the frameworks contained in decisions 2/CP.7 and 3/CP.7 as still relevant, and identified key factors that should be taken into account to assist in further implementation of these decisions in paragraph 1 of decision 2/CP.10. The GEF, as an operating entity of the financial mechanism, was requested to take into account these key factors when supporting capacity building activities in developing countries in accordance with decisions 2/CP.1 and 4/CP.9 and as defined in the Strategic Approach to Enhance Capacity Building and to include in its annual report to the COP, information on how it is responding to these requests.³⁵
57. In its Decision 2/CP.10, the COP decided on a time frame and process for a second comprehensive review of the implementation of the capacity building framework in developing countries. The review would be initiated at SBI 28 (June 2008) with a view to completing it at COP 15 (November-December 2009). In its Decision 3/CP.10, the COP decided to review 3/CP.7 CB framework for EITs at SBI 27 (2007) in preparation of the first commitment period of the KP. In this decision, the COP requested the secretariat to compile and synthesize information from EITs and Annex II Parties for this review by SBI 27, including information from the GEF & its IAs.
58. Following are the key decisions and conclusions with respect to capacity building:³⁶
- **Decision 6/CMP.2** - Capacity-building under the Kyoto Protocol
 - **Decision 4/CP.12** - Capacity-building under the Convention
 - **Decision 30/CMP.1** - Capacity-building relating to the implementation of the Kyoto Protocol in Parties with economies in transition
 - **Decision 29/CMP.1** - Capacity-building relating to the implementation of the Kyoto Protocol in developing countries
 - **Decision 7/CMP.1** - Further guidance relating to the clean development mechanism.
 - **Decision 3/CP.10** - Capacity-building for countries with economies in transition
 - **Decision 2/CP.10** - Capacity-building for developing countries
 - **Decision 9/CP.9** - Capacity-Building (see [FCCC/CP/2003/6/Add.1](#), Part II)
 - **Decision 4/CP.9** - Additional guidance to an operating entity of the financial mechanism
 - **Decision 2/CP.7** - Capacity building in developing countries (non-Annex I Parties) (see [FCCC/CP/2001/13/Add.1](#), section II)
 - **Decision 3/CP.7** - Capacity building in countries with economies in transition (see [FCCC/CP/2001/13/Add.1](#), section II)

³⁵ Id.

³⁶ See http://unfccc.int/cooperation_and_support/capacity_building/items/3022.php

VI. Institutional Mechanism for Implementing MRV under the Convention and the KP

59. There is also no need to create a new body under the Convention for purposes of making MRV operational. The COP is legally mandated under Art. 4.2(d) and Art. 7 to serve as the MRV operational body for the Convention. Additionally, Art. 10.2 mandates the Subsidiary Body for Implementation (SBI), “under the guidance” of the COP, to undertake both measurement and verification functions with respect to:
- Assessing “the overall aggregated effect of the steps taken by the Parties in the light of the latest scientific assessments concerning climate change” in light of the information provided by all Parties under Art. 12.1 – i.e. information on their national inventory of greenhouse gas emissions and removals, a general description of steps taken or envisaged to implement the Convention, and any other information that the Party considers relevant;
 - Assisting the COP in carrying out the reviews required under Art. 4.2(d) to assess the adequacy of the level, extent, effects, and impacts of implementation by Annex I Parties of their mitigation commitments under Art. 4.2(a) and (b) to meet the objective of the Convention, on the basis of information provided by Annex I Parties under Art. 12.2 – i.e. information with respect to their implementation of Art. 4.2(a) and (b) and their estimate of the effects of their implementation measures on anthropogenic emissions and removals.
60. Likewise, under KP Art. 8.5, it is the COP/MOP that serves as the operational MRV mechanism for the KP. This provision mandates the COP/MOP to consider, among other things, “the information submitted by Parties under Art. 7 and the reports of the expert reviews thereon...”

VII. Ensuring Comparability of Efforts of Developed Country Parties’ Mitigation Commitments or Actions

61. Operative Paragraph 1(b)(ii) of the Bali Action Plan also indicates that the “measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties...” must ensure the “comparability of efforts” among the developed country Parties. The reference is to the difference between the implementation of commitments of those developed country Parties that are Parties to the Convention alone, and those that are Parties to both the Convention and the Protocol (see Box 1).

Box 1:
Mitigation Commitments of Developed Country Parties
Under the Convention and the Protocol

Developed Country Party	Mitigation Commitment Under the Convention	Mitigation Commitment Under the Protocol
Only to the Convention	“returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montréal Protocol” (Art. 4.2(a))	None
To both the	“returning individually	The Parties included in Annex I shall, individually or jointly,

Convention and the Protocol	or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montréal Protocol” (Art. 4.2(a))	<p>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 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 5 per cent below 1990 levels in the commitment period 2008 to 2012. (KP Art. 3.1)</p> <p>Each Party included in Annex I shall, by 2005, have made demonstrable progress in achieving its commitments under this Protocol. (KP Art. 3.2)</p> <p>Each Party included in Annex I shall strive to implement the commitments mentioned in paragraph 1 above in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention. In line with relevant decisions of the Conference of the Parties on the implementation of those paragraphs, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall, at its first session, consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures on Parties referred to in those paragraphs. Among the issues to be considered shall be the establishment of funding, insurance and transfer of technology. (KP Art. 3.14)</p>
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62. As previously mentioned, those developed country Parties to the Convention alone have commitments to mitigation under Art. 4.2(a) and have the obligation as well to communicate information on its implementation under Art. 4.2 (b), “with the aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montréal Protocol.” Art. 4.2 (b) further states that “this information will be reviewed by the COP at its first session and periodically thereafter, in accordance with Article 7.”
63. The Kyoto Protocol was negotiated by the COP, “having concluded that these subparagraphs are not adequate”, and therefore that the COP agreed to take “appropriate action for the period beyond 2000, including the strengthening of the commitments of the Parties included in Annex I to the Convention (Annex I Parties) in Article 4, paragraph 2 (a) and (b), through the adoption of a protocol or another legal instrument.”³⁷ As a result, the Kyoto Protocol specified the quantified emission limitation or reduction commitments (and not objectives, as stated in the Bali Action Plan) for Annex I countries for the first commitment period, from 2008 to 2012 (KP Art. 3.7), with commitments for subsequent commitment periods to be adopted in accordance with the provisions of KP Art. 21.7 (see KP Art. 3.9).
64. In order to ensure comparability of actions therefore, the COP should conduct the MRV of those mitigation commitments as implemented under the Convention, with those mitigation commitments as implemented under the Protocol, and compare them, to determine the extent to which the developed country Parties are meeting their commitments under the Convention, and how these could be further enhanced through the decision on the agreed outcome to be taken under the Bali Action Plan. For these, the mechanisms of the Convention, further elaborated

³⁷ Decision 1/CP.1, the Berlin Mandate, second preambular paragraph, and the chapeau of the operative paragraphs

under the Protocol could serve as the bases for the COP consideration under the Bali Action Plan.

VIII. Conclusion

65. **There is no need to reinvent the MRV wheel. When it comes to agreeing on the MRV modalities in relation to Paragraph 1(b)(i) and (ii) of the Bali Action Plan, the existing MRV modalities under both the Convention and the Protocol with respect to mitigation, financing, technology transfer, and capacity building, should be used.**
66. Much time, effort, and discussion have already been invested by the COP and the COP/MOP into designing those modalities. They could therefore be adapted or directly used, if appropriate, in the AWG-LCA context.
67. Designing and agreeing on new MRV modalities in the context of the AWG-LCA could be counterproductive in terms of further enhancing the Convention's implementation because it could re-open the entire debate on how to measure, report, and verify the differentiated contributions of developed and developing country Parties towards meeting the objective of the Convention. Existing MRV modalities reflect the existing balance of commitments, based on equity and the principle of common but differentiated responsibilities and respective capabilities, which is contained in the Convention.

FINANCING THE GLOBAL CLIMATE CHANGE RESPONSE: SUGGESTIONS FOR A CLIMATE CHANGE FUND (CCF)

SYNOPSIS

This South Centre Analytical Note stresses that the provision of financing to developing countries to implement the UN Framework Convention on Climate Change (UNFCCC) is required of developed countries under the Convention. But such financing has not yet been provided. This Analytical Note suggests that the COP directly operate the Convention's financial mechanism by setting up a Climate Change Fund (CCF) that would fully respond to the requirements of the Convention as part of the global community's response to climate change.

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**FINANCING THE GLOBAL CLIMATE CHANGE RESPONSE:
SUGGESTIONS FOR A CLIMATE CHANGE FUND (CCF)**

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EXECUTIVE SUMMARY

The provision of new, additional, adequate and predictable financing by developed country Parties to developing country Parties to implement the UN Framework Convention on Climate Change (UNFCCC, hereafter the Convention) is a legally binding commitment under the Convention. It is at the core of the balance of commitments between developed and developing country Parties that is reflected in Art. 4.7 of the Convention.

Current levels of voluntary financing available to developing countries from developed countries are neither adequate nor predictable to support their climate change adaptation and other responses in the context of the Convention. The use of the joint World Bank-UNDP-UNEP Global Environment Facility (GEF) as currently the sole operating entity for the Convention's financial mechanism has been fraught with many implementation challenges which developing countries have also long critiqued, as well as with challenges with respect to its compliance with the requirements of the financial mechanism under Art. 11 of the Convention. The COP in its decisions has been consistent in recognizing that the Convention does not limit the choice of operating entities for the financial mechanism to only the GEF.

The COP could become the operating entity for the Convention's financial mechanism by setting up a Climate Change Fund operating directly under its authority and guidance. The CCF should serve as the comprehensive funding mechanism that would:

- (i) enable the full implementation by developed country Parties of their financing commitments under Arts. 4.3, 4.4 and 4.5 of the Convention; and
- (ii) provide new, additional, adequate and predictable financing for the full implementation by developing country Parties of their commitments under Art. 4.1 of the Convention.

It would have an Intergovernmental Board that has equitable and balanced representation of the Parties (similar to the Adaptation Fund, perhaps), and should have a transparent system of governance. It would be serviced by a secretariat and the funds would be kept by a Trustee financial institution selected through open and competitive bidding.

The CCF's eligibility criteria and priorities for financing would be determined by the COP.

Its sources of funding would primarily be from mandatory assessed contributions on a scale to be agreed to from developed country Parties, but it would also be open to other sources consistent with Art. 11.5 of the Convention.

It would be able to finance activities relating to the implementation by developing country Parties of their commitments under the Convention, including: national communications; measures under Art. 4.1 of the Convention; adaptation, risk

management and risk insurance; technology development, deployment, diffusion and transfer; and capacity-building.

FINANCING THE GLOBAL CLIMATE CHANGE RESPONSE: SUGGESTIONS FOR A CLIMATE CHANGE FUND (CCF)

I. THE NEED FOR ENHANCED FINANCING FOR THE GLOBAL CLIMATE CHANGE RESPONSE

1. The provision of new, additional, adequate and predictable financing by developed country Parties to developing country Parties to implement the UN Framework Convention on Climate Change (UNFCCC, hereafter the Convention) is a long-standing issue that developing country Parties have often raised. In this regard, Art. 4.3 (provision of new and additional financial resources), 4.4 (assistance to meet the costs of adaptation), and 4.5 (promotion, facilitation and financing of the transfer of, or access to, environmentally sound technologies and know-how) of the Convention, all lay down legally binding commitments on the part of developed country Parties to provide such financing.¹ Art. 4.8 (on funding for response measures) and 4.9 (on funding for least-developed countries) of the Convention also contain commitments to provide financing.
2. Such provision of new, additional, adequate and predictable financing is at the core of the balance of commitments between developed and developing country Parties that is reflected in Art. 4.7 of the Convention, which states that:

7. The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties. (emphasis added)²

3. At the 13th session of the UNFCCC Conference of the Parties (COP 13), the COP adopted Decision 6/CP.13 which, among other things, invited Parties to submit their views with respect to the following reports in the context of the fourth review of the UNFCCC's financial mechanism:

" (a) The technical paper [FCCC/TP/2007/4] on the review of the experience of international funds, multilateral financial institutions and other sources of funding relevant to the current and future investment and financial needs of developing countries;

"(b) The report [FCCC/SBI/2007/21] prepared by the secretariat, in collaboration with the GEF secretariat, on the assessment of the funding necessary to assist developing countries, in accordance with the guidance

¹ The fact that Art. 4.3 of the Convention speaks of "new and additional" financial resources implies that such resources must not be from existing official aid flows of developed country Parties. Additionally, the fact that these are legally binding commitments which

² This balance is also reflected in the Bali Action Plan (Decision 1/CP.13), paragraph 1(b)(ii) of which states that "[e]nhanced national/international action on mitigation of climate change" would include consideration of, inter alia, "[n]ationally appropriate mitigation actions by developing country Parties in the context of sustainable development, **supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner.**" (emphasis added)

provided by the COP, in meeting their commitments under the Convention over the next GEF replenishment cycle; taking into account paras 1 (a)-(d) of the annex to the memorandum of understanding between the Conference of the Parties and the Global Environment Facility Council (decision 12/CP.3);

“(c) The report [Dialogue Working Paper 8, 2007] on the analysis of existing and potential investment and financial flows relevant to the development of an effective and appropriate international response to the climate change;

4. In the context of the fourth review, views with respect to the reports above have to be made on the basis of whether the data and information presented in these reports provides a clear picture of the extent of the funding gap between the financial resources currently made available and the financial resources required for the full and effective implementation of the UNFCCC with respect to mitigation, adaptation, technology transfer, and capacity-building in the light of the Convention’s sustainable development objective.
5. All three of the reports clearly indicate that there is a big gap between the financial resources globally required (including in particular those required by developing countries) to address climate change and the financial resources that are currently available or to be made available – whether in the context of the UNFCCC’s financial mechanism or outside of it.³ Also, all of the papers show that most financial flows go to mitigation and much less to adaptation, which is where developing countries place higher priority, but they do not explain why this is the case.
6. The UNFCCC secretariat’s paper on the assessment of the funding necessary to assist developing countries in meeting their commitments under the Convention over the next GEF replenishment cycle⁴ shows that the resources that are available through the GEF as an operating entity for the Convention’s financial mechanism fall short of what is estimated to be needed. Furthermore, the amount of donor-provided funding for climate change in the GEF after 2010 is also not clear, as replenishment of the GEF comes from voluntary contributions and the amount of funding will depend on the result of the negotiations for the 5th replenishment of the GEF.⁵ This means that the GEF does not, and cannot, be compliant with the criteria of predictability and adequacy of financing that is required under Art. 4.3 of the Convention. Furthermore, the nature of voluntary contributions is directly inconsistent with the mandatory nature of the financing commitments for developed country Parties under Art. 4.3, 4.4, and 4.5 of the Convention. This means that the GEF, in relation to what is needed by developing country Parties with respect to financing, will continue to be underfunded and that

³ “The UNFCCC background paper on analysis of existing and planned investment and financial flows relevant to the development of an effective and appropriate international response to climate change concludes that the additional global investment and financial flows needed in 2030 to address climate change are large compared with the funding currently available under the Convention and its Kyoto Protocol, but small in relation to their share in estimated global gross domestic product (GDP) (0.3–0.5 per cent) and global investment (1.1–1.7 per cent) in 2030.” See UNFCCC, Review of the experience of international funds, multilateral financial institutions and other sources of funding relevant to the current and future investment and financial needs of developing countries (FCCC/TP/2007/4, 21 November 2007, para. 8).

⁴ UNFCCC, An assessment of the funding necessary to assist developing countries in meeting their commitments relating to the Global Environment Facility replenishment cycle (FCCC/SBI/2007/21, 14 November 2007).

⁵ Id., para. 145.

developed country Parties, in channeling financing through the GEF, will not be complying with their financing commitments under the Convention.

Table 1: Comparison of Requirements for and Availability of Financial Resources

Funding Area	Estimates of Investments and Financial Resources Needed in Developing Countries by 2030	What is Currently Available or Estimated to be Made Available to Developing Countries under the GEF as an Operating Entity for the UNFCCC's Financial Mechanism
<i>Mitigation</i>	US\$ 176 billion (FCCC/SBI/2007/21, Table 5)	US\$ 990 million from the GEF 4 th Replenishment for the period 2006-2010, with co-financing to amount to US\$ 1.6518 billion ⁶ (see FCCC/SBI/2007/21, Table 1)
<i>Adaptation</i>	US\$ 28-67 billion (FCCC/SBI/2007/21, Table 3 and para. 51)	<p>US\$ 20.4 million - GEF Trust Fund: Strategic Priority for on Adaptation</p> <p>US\$ 23.5 million - Special Climate Change Fund (GEF administered)</p> <p>US\$ 147.0 million - Least Developed Countries Fund (GEF administered)</p> <p>US\$ 80-300 million per year for the period 2008-2012 from the 2% share of the proceeds of annual sales of certified emissions reductions from CDM projects - Adaptation Fund</p> <p>(see FCCC/SBI/2007/21, Table 2 and para. 62)</p>
<i>Technology transfer</i>		
Emissions reduction-related technology deployment	US\$ 720 billion (an average of US\$24-26 billion per year) - (FCCC/SBI/2007/21, para. 93 - no breakdown for developing countries; figures based on IEA estimates)	The GEF estimates that 80-100 per cent of GEF climate change mitigation funding fits the technology transfer definitions used by the Convention (see FCCC/SBI/2007/21, Table 2 and para. 62)
Deployment of renewables, biofuels, and nuclear energy	US\$ 33 billion per year (FCCC/SBI/2007/21, para. 94 - no breakdown for developing countries; figures based on Stern	As at April 2007, US\$ 10.7 million were available from the SCCF for the programme for transfer of technology (FCCC/SBI/2007/21, para. 90)

⁶ This requirement for co-financing needs to be studied and analyzed, with respect to its impacts on access to GEF financing for those developing countries who may not be able to, or may wish not to, have access to co-financing. In many instances, the co-financing requirement has meant that GEF funding is made conditional to co-financing from the World Bank which, with its associated policy conditionalities, may have adverse impacts on the developing country's policy space.

Funding Area	Estimates of Investments and Financial Resources Needed in Developing Countries by 2030	What is Currently Available or Estimated to be Made Available to Developing Countries under the GEF as an Operating Entity for the UNFCCC's Financial Mechanism
technologies Public energy R&D	Review) US\$20 billion (FCCC/SBI/2007/21, para. 94 - no breakdown for developing countries; figures based on Stern Review)	
<i>National communications under the UNFCCC</i>	The need for resources recognized but no estimate provided (FCCC/SBI/2007/21, para. 109)	US\$60.08 million - GEF (FCCC/SBI/2007/21, para. 107)
<i>Capacity-building</i>	The need for resources recognized but no estimate provided (FCCC/SBI/2007/21, para. 121)	More than US\$ 1.46 billion allocated as at June 2002 - GEF support for capacity-building activities in all its focal areas, but no indication as to future amounts (FCCC/SBI/2007/21, paras. 114-116)
<i>Public awareness and outreach</i>	The need for resources recognized but no estimate provided (FCCC/SBI/2007/21, para. 128)	GEF indicated that "it is not possible to quantify the amount that might have been dedicated to such activities under the GEF." (FCCC/SBI/2007/21, para. 126)

7. Outside of the UNFCCC's financial mechanism, it is also clear that the funding available from multilateral financial institutions for climate change-related activities or projects also fall short of what will be needed by developing countries.⁷ Furthermore, it is not clear to what extent such multilaterally-sourced financing complies with the COP's guidelines on the consistency with COP policies, programme priorities and eligibility criteria, and on non-introduction of new forms of conditionalities.⁸

8. Private sector funding and investment will play important roles in meeting the need for additional investment and financial flows relating to climate mitigation and adaptation. However, the implications of private sector investment into developing country Parties

⁷ See e.g. UNFCCC, Review of the experience of international funds, multilateral financial institutions and other sources of funding relevant to the current and future investment and financial needs of developing countries (FCCC/TP/2007/4, 21 November 2007), para. 53 (World Bank), 74-77 (AfDB), 87 and Table 9 (ADB), para. 106 and Tables 10 and 11 (EBRD), 119 (EIB), 134 and Table 13 (IDB), and 149 and Tables 14 and 15 (IFC).

⁸ Decision 11/CP.1, paragraph 2(a) states as follows: "**Consistency should be sought and maintained between activities (including those related to funding) relevant to climate change undertaken outside the framework of the financial mechanism and the policies, programme priorities and eligibility criteria for activities as relevant, established by the Conference of the Parties.** Towards this end and in the context of Article 11.5 of the Convention, the secretariat should collect information from multilateral and regional financial institutions on activities undertaken in implementation of Article 4.1 and Article 12 of the Convention; **this should not introduce new forms of conditionalities.**" (emphasis added)

with respect to the extent to which such investment promotes the transfer of carbon-polluting industries into developing country Parties should be addressed. This means that such investments must have clear regulatory frameworks to prevent the dumping of carbon-intensive or –polluting industries into developing country Parties. In this regard, the “Report on the analysis of existing and potential investment and financial flows relevant to the development of an effective and appropriate international response to the climate change”⁹ points to some steps which governments as market regulators can take to help shift private sector investments and financial flows into lower GHG, more climate-proof alternatives, as well as steps that the Convention’s financial mechanism and the international financial institutions can also take to influence private sector investment decisions.¹⁰

9. It also stresses that “[a]dditional external funding for climate change mitigation and adaptation will be needed, particularly for sectors in developing countries that depend on government investment and financial flows”¹¹ and points to steps which governments, the Convention’s financial mechanism, and international financial institutions can take with respect to governmental investment flows.¹² It recommends with respect to public investment that “expansion of the climate-focused funding from Annex II Parties (in accordance with Article 4, paragraph 3 of the Convention), as well as other potential sources of funding to address climate change, will be needed.”¹³ The paper also suggests that “the level of funding available to the Adaptation Fund would be small compared with the estimated needs for adaptation” and that, therefore, the Fund “could be further expanded with additional sources of funding.”¹⁴ This of course implies that in-depth analysis of the amounts needed will need to be made. The paper hence clearly shows that funding and investment shortfalls, both within and outside of the Convention’s financial mechanism, are likely to occur in the absence of:
- (i) the compliance by developed country Parties with their legally binding treaty commitment to provide the new and additional financial resources needed for developing countries in accordance with Art. 4.3 of the Convention;
 - (ii) a more coherent and comprehensive approach to climate change-related funding and investments by all relevant bilateral, regional or other multilateral providers consistent with the principles and objectives laid down in COP decisions with respect to the Convention’s financial mechanism¹⁵;

⁹ UNFCCC, Report on the analysis of existing and potential investment and financial flows relevant to the development of an effective and appropriate international response to the climate change (Dialogue working paper 8, 2007), para. 166.

¹⁰ Id., paras. 168-170. See also para. 175, stressing the need for “expansion of the international carbon markets or provision of other economic incentives to invest more in specific sectors, particularly in developing countries.”

¹¹ Id., para. 6.

¹² Id., para. 171-173.

¹³ Id., para. 175.

¹⁴ Note that Decision 5/CMP.2, para. 2(e) states that the Adaptation Fund has the “[a]bility to receive contributions from other sources of funding.” This is also reflected in Decision 1/CMP.3, para. 24 which states that “a trust fund shall be established under the management of the trustee, to be funded by the monetized share of proceeds of certified emission reductions, to meet the costs of adaptation and other sources of funding.”

¹⁵ Note that Art. 11.5 of the Convention allows the financial mechanism to be much broader in scope by stating that “[t]he developed country Parties may also provide and developing country Parties avail

- (iii) the development of other options (including other operating entities) that may be considered under the financial mechanism through which the financial resources needed for strengthening the implementation of the Convention may be channeled under the authority and governance of the COP, and meeting the criteria laid down in Art. 11 of the Convention.
10. The reports described above all clearly indicate that current levels of **voluntary** financing from developed countries available to developing countries are neither adequate nor predictable to support their climate change adaptation and other responses in the context of the Convention. Furthermore, the use of the joint World Bank-UNDP-UNEP Global Environment Facility (GEF) as currently the sole operating entity for the Convention's financial mechanism has been fraught with many implementation challenges which developing countries have also long critiqued. The COP in its decisions has been consistent in recognizing that the Convention does not limit the choice of operating entities for the financial mechanism to only the GEF.¹⁶
 11. The GEF is currently **an** operating entity for the UNFCCC's financial mechanism, first on an interim basis under Art. 21.3 of the Convention and subsequently pursuant to COP 1's Decision 9/CP.1 which continued the interim arrangements subject to a review every four years that would include looking at the status of the GEF in the context of the Convention.¹⁷ COP 2's decision 11/CP.2 also reiterated the interim nature of the GEF's serving as an operating entity for the UNFCCC's financial mechanism. The operational modalities for the GEF serving as an operating entity for the UNFCCC's financial mechanism were defined in a Memorandum of Agreement entered into by the COP and the GEF Council in 1996.¹⁸
 12. The COP in Decision 2/CP.12 noted that while the GEF "has effectively performed its role as an operating entity of the financial mechanism ... as reported in the third overall performance study" of the GEF, the study had made recommendations for improvements in the GEF's operation procedures.¹⁹ Indeed, the fact that the COP has had to issue additional guidance at virtually every session to the GEF indicates that qualitative deficiencies in the GEF's performance as an operating entity for the UNFCCC's financial mechanism continue to persist. Critiques of the GEF's performance as an operating entity generally relate to, inter alia, the simplicity and efficiency of its

themselves of, financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels." Decision 11/CP.1, para. 2(a), requires consistency of the financing from such channels with the COP's guidance on the financial mechanism.

¹⁶ See e.g. Decision 11/CP.1 and Decision 3/CP.4, which refer to the GEF as "an" entity tasked with making the financial mechanism operating. The use of the word "an" as opposed to "the" in referring to the GEF as an entity reflects Art. 11.1's text which states that the operation of the financial mechanism can be "one or more existing international entities" as the word "an" indicates that the GEF is only one among other possible entities that can operate the financial mechanism. Other COP decisions which expressly indicates or reflects the understanding of the COP that the financial mechanism can have more than one operating entity by considering the GEF as "an" operating entity for the financial mechanism include Decisions 10/CP.1, 12/CP.2, 13/CP.2, 3/CP.4, 5/CP.8, 7/CP.8, 2/CP.12, and 6/CP.13.

¹⁷ Decision 9/CP.1 was adopted by the COP pursuant to Art. 11.4 of the UNFCCC.

¹⁸ See UNFCCC COP decision 12/CP.2 adopting the Memorandum of Understanding (MOU) between the COP and the GEF Council (see also UNFCCC Doc. FCCC/CP/1996/15/Add.1, pp. 55-59, for the text of the Memorandum of Understanding).

¹⁹ Decision 2/CP.12, last preambular paragraph.

funding procedures and the equitable distribution of GEF funding to developing country Parties, especially LDCs and SIDS.^{20 21}

13. Given the shortfalls of financing revealed in the reports discussed above, and given the difficulties that have arisen with respect to the GEF as an operating entity for the Convention's financial mechanism, exploring the option of using the COP itself – operating through a fund that it establishes – as an operating entity for the financial mechanism could be a good way of addressing some of the financing problematique with respect to climate change adaptation, technology transfer, and other response measures.

II. Elements of the Climate Change Fund (CCF)

A. Objective

14. The CCF should serve as the comprehensive funding mechanism that would:
 - (i) enable the full implementation by developed country Parties of their financing commitments under Arts. 4.3, 4.4 and 4.5 of the Convention; and
 - (ii) provide new, additional, adequate and predictable financing for the full implementation by developing country Parties of their commitments under Art. 4.1 of the Convention.

²⁰ These critiques are implicitly reflected in, for example, COP Decision 3/CP.12's paragraphs 1(a) and (b) and 2(a), (b) and (d) with respect to the COP's request and invitation to the GEF to further simplify and improve the efficiency of its procedures and processes as well as the last preambular paragraph of the same Decision "noting the concerns expressed by developing country Parties over the implications of the requirements for co-financing, in particular in adaptation project activities", and paragraph 3 urging the GEF "to provide further funding, in a more timely manner, to the developing country Parties, in particular the least developed countries and small island developing States ..." The difficulties that developing country Parties have with the GEF were already being experienced since the beginning, as can be seen in the fifth preambular paragraph of COP Decision 11/CP.2 (which was adopted in July 1996, the second year after the UNFCCC entered into force), which expressed concern over the difficulties encountered by developing country Parties in receiving the necessary financial assistance from the Global Environment Facility owing to, *inter alia*, the application of the Global Environment Facility operational policies on eligibility criteria, disbursement, project cycle and approval, the application of its concept of incremental costs, and guidelines which impose considerable administrative and financial costs on developing country Parties."

²¹ Part of the problem with the GEF in terms of ensuring the equitable allocation of funding resources to developing country Parties is that "higher levels of funding have typically been assigned to the countries with the highest overall potential for GHG mitigation" which means that many other developing country Parties whose priority is adaptation more than mitigation (because of the low levels of their emissions or low mitigation capabilities) often find it difficult to obtain GEF funding. Many African countries, for example, are sinks rather than sources of emissions. Some of the GEF's stakeholders, particularly in the Pacific region, have, in fact, suggested that "the GEF must fund activities in the area of adaptation to climate change because it is in the guidance from the UNFCCC and, because they are smaller emitters, the mitigation of GHG emissions is not a high national priority." See GEF, OPS3: Progressing Toward Environmental Results – Third Overall Performance Study of the GEF (June 2005), pp. 36-40.

B. Institutional Structure

15. The CCF should have a structure that is as flexible and non-restrictive as possible with respect to the sources of funds and the use thereof. Such structure will have to be developed by the COP on the basis of the Convention's provisions and previous decisions made by the COP with respect to policies, eligibility criteria, and programme priorities.
16. There is only one financial mechanism under the UNFCCC – that which is established under Article 11 of the Convention. It is to be the mechanism “for the provision of financial resources on a grant or concessional basis, including for the transfer of technology,” functioning “under the guidance of and be accountable to the Conference of the Parties, which shall decide on its policies, programme priorities and eligibility criteria related to” the Convention. Finally, while there is only one financial mechanism, its operation is entrusted to “one or more existing international entities.”²²
17. The review guidelines²³ as laid down by the COP with respect to reviews of the Convention's financial mechanism give full scope for Parties to consider the option of looking at other existing international entities, whether in addition to or in replacement of the GEF, to serve as operating entities for the financial mechanism. Perhaps having more operating entities that are not subject to some of the institutional difficulties faced by the GEF could help scale up the international financial response to climate change and thereby move Parties closer to meeting the objective of the Convention.
18. The COP under Art. 11 of the Convention serves as the guidance and accountability authority for the financial mechanism. The operation of the financial mechanism is to be entrusted to one or more existing international entities. As such, the COP could, aside from its existing mandate to the GEF for the latter to serve as an operating entity, also designate itself to be another operating entity for the financial mechanism for the purpose of setting up and implementing the CCF.²⁴
19. To operationalise such self-designation, the COP could create a CCF Intergovernmental Board (similar to what it did with respect to the Adaptation Fund) that would be composed of a subset of COP members in which Parties would be represented in an equitable and balanced way.²⁵ The Adaptation Fund Board, for example, is composed of “16 members representing Parties to the Kyoto Protocol, taking into account fair and balanced representation among these groups as follows:

“(a) Two representatives from each of the five United Nations regional groups;

²² UNFCCC, Art. 11.1. Note that Art. 21.3 of the UNFCCC identified the Global Environment Facility (GEF) of the UNDP, UNEP, and World Bank as “the international entity entrusted with the operation of the financial mechanism referred to in Article 11 on an interim basis.”

²³ These include the initial guidelines laid out in the Annex to Decision 3/CP.4 and additional guidelines indicated in paragraph 6 of Decision 2/CP.12 and in Decision 6/CP.13.

²⁴ Note that Art. 11 of the Convention does not specify what the nature of the “existing international entity” should be for it to be eligible as an operating entity for the financial mechanism. The COP is an existing international entity considering that it is established as a treaty body under Art. 7.1 of the Convention with the power to exercise such functions as may be required for the achievement of the objectives of the Convention (Art. 7.2(m)).

²⁵ See UNFCCC Art. 11.2.

- “(b) One representative of the small island developing States;
- “(c) One representative of the least developed country Parties;
- “(d) Two other representatives from the Parties included in Annex I to the Convention (Annex I Parties);
- “(e) Two other representatives from the Parties not included in Annex I to the Convention (non-Annex I Parties).”²⁶

20. The CCF Intergovernmental Board (hereafter the Board) would oversee the operations of the CCF, and would be functioning under the guidance of and be accountable to the COP. This would allow the COP to ensure that the operation of the CCF would be consistent and coherent with the COP’s guidance with respect to the financial mechanism. Following such COP guidance, it will be the Board that will be responsible for fund policies and guidelines, deciding on applications for funding support for country programmes and projects, entering into contractual arrangements with the implementing agencies,²⁷ if any, of programmes or projects to be funded, reporting to the COP, and serviced by a secretariat and a Trustee.
21. The Board would be supported by an executive secretariat unit (CCF Secretariat) – possibly coming from or housed within the existing UNFCCC secretariat. The CCF funds would be entrusted to a trustee institution selected by open and competitive international bidding and supervised by and accountable to the Board. The Trustee may be a public or private sector financial institution that can provide cost-effective, efficient, and international standard financial investment services to the CCF for its funds, and should certify that it does not have any conflict of interest with any other climate change-related funds that it may be handling.
22. These institutional arrangements for the CCF secretariat and Trustee would be subject to review during the regular reviews of the financial mechanism under Art. 11.4 of the Convention.

C. Sources, Amounts and Replenishment of Financing

23. In view of their commitments under the Convention to provide adequate and predictable financing, the core funds of the CCF should be sourced from periodic mandatory contributions from developed country Parties to the Convention, consistent with the provisions of Art. 4.3 thereof. Various proposals with respect to the scale of contributions have been suggested, ranging from basing such contributions on the basis of existing membership contributions to the United Nation’s regular budget or on some other basis as may be agreed to by the COP taking into account the determination of funding needed²⁸.
24. However, the COP must ensure that the total amount of contributions to the CCF to be provided by developed country Parties would be adequate to meet the total amount of financing required to meet the costs described in the previous section and would also

²⁶ See Decision 1/CMP.3, para. 6.

²⁷ These implementing agencies could be multilateral, regional, or national institutions, with priority to be given to applications where the implementing agency or agencies would be developing country institutions.

²⁸ See, for example, Mexico’s proposal for the creation of a Multinational Climate Change Fund.

reflect an appropriate level of burden sharing among such developed country Parties. This means that the total amount of the funds to be injected into the CCF from developed country Parties' contributions will necessarily not be fixed but will depend on an assessment of the funding required. Such assessment could be done through having an independent assessment be commissioned by the Board or using existing mechanisms under the UNFCCC's Subsidiary Body on Scientific and Technological Advice (SBSTA)²⁹ to determine the amount of funding required to be injected into the CCF.

25. Developed country Party contributions to the CCF should be, as provided for in Art. 4.3 of the Convention, "new and additional" to, and not be counted as part of, their official development assistance (ODA) flows. Neither should existing ODA funds be shifted to pay for such Parties' mandatory contributions to the CCF.
26. The CCF should also be open to and should encourage voluntary contributions from other Parties who deem themselves to be in a position to do so, as well as other intergovernmental and non-governmental institutions. Other sources of funding, such as from market-based activities or mechanisms, to add on to the CCF's funding (including income earned from investments made by the Trustee institution using CCF funds) could also be considered.
27. Under Art. 11.5 of the Convention, "developed country Parties may provide and developing country Parties avail themselves of, financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels." This envisions having the Convention's financial mechanism serve as the framework that such financial resources should respond to. Hence, the CCF could serve as the means through which the Convention's financial mechanism could serve as the primary conduit for bilateral (including developed country Parties' ODA), regional and multilateral funding to support all climate-related activities that are intended to meet the objective of the Convention. Bilateral ODA-based funding channeled through the CCF could be limited to a specified percentage of the total funding available in the CCF and could also be subjected to the approval of the Board.
28. Channeling funding from outside the financial mechanism under Art. 11.5 of the Convention through the CCF, subject to COP authority and guidance, would ensure that such bilateral, regional and multilateral funding would be consistent and coherent with the Convention and the various COP guidance on the financial mechanism. This would also help effectively address the long-standing problem of having a multiplicity of governance structures relating to climate-related financing (such as the World Bank, regional development banks, the GEF, the UNDP and UNEP, bilateral agencies). This has resulted in a fragmentation of the provision and use of such funding, and thus may have adverse implications on the consistency of such funding with meeting the objective of the UNFCCC.
29. Similar to the Multilateral Fund for the Implementation of the Montreal Protocol (MLF), the CCF should be periodically replenished every three years by developed country Parties, with their scale of contributions to be readjusted to reflect changing economic or

²⁹ Such as the Expert Group on Technology Transfer (EGTT) with respect to the funding requirements for the fulfillment of technology transfer commitments under the Convention.

fiscal circumstances that may have an impact on the parameters that may be agreed to by the COP as the basis for their mandatory contributions to the CCF.

D. Eligibility Criteria and Priorities for Financing

30. The eligibility criteria for developing country Parties to access the CCF and the priorities for financing would have to be developed by the COP on the basis of the Convention's provisions and previous decisions thereon.

E. Activities and Costs to be Financed

31. Activities that could be financed by the CCF would include those that developing country Parties would undertake to implement their commitments under Art. 4.1 of the Convention, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, and the balance of commitments embodied under Art. 4.7 of the Convention in which economic and social development and poverty eradication are the first and overriding priorities of developing country Parties. This means that the CCF should be able to provide financing to support developing country Parties' adoption and implementation of national sustainable development policies and measures undertaken consistent with their Convention commitments.
32. The CCF should also finance the transfer of technology from developed to developing country Parties. The provision of financing for the transfer of and access to technology is explicitly stated in Arts. 4.3, 4.4, 4.8, and 4.9 of the Convention as among the commitments of developed country Parties.
33. Other activities that can be financed by the CCF would be joint technology research, development, commercialization, acquisition and deployment activities undertaken by entities from developed and developing country Parties consistent with the provision in Art. 4.5 of the Convention under which developed country Parties are committed to supporting "the development and enhancement of endogenous capacities and technologies of developing country Parties." The CCF could set up a Joint Venture Research and Development Grant Window that Parties could access to support joint R&D activities to support piloting, demonstration, and commercialization of new climate-friendly technologies in various sectors – including in agriculture, forestry, transportation, industry, energy, the built environment – in developing countries.³⁰ The CCF could also have a grant facility which developing country Parties can avail of to support their acquisition of existing privately-owned technologies.
34. The costs to be covered by the CCF should include:
 - the agreed full costs for developing country Parties' national communications,³¹

³⁰ Joint R&D activities with respect to climate-friendly technologies can hold great potential for enabling Parties to side-step technology transfer barriers that intellectual property rights (IPRs) may pose by allowing for the sharing of the IPRs arising from jointly developed technologies.

³¹ UNFCCC Art. 4.3.

- the agreed full incremental costs of developing country Parties' implementation of measures under Art. 4.1 of the Convention.³² These should include, among other things:
 - financing for strengthening national institutional focal points for climate change-related mitigation, adaptation, technology transfer, and capacity-building;
 - supporting the preparation of nationally-appropriate country climate change-related programmes;
 - preparing and implementing nationally-appropriate climate change-related policies, regulations and measures relating to mitigation, adaptation, conservation and enhancement of greenhouse gas sinks and reservoirs, agriculture, environment and natural resource management, land use management, waste management, risk management, area protection and rehabilitation, public health, relevant sectors (such as energy, transport, industry, forestry), scientific observation, information exchange, education and awareness raising;
- the costs of adaptation by developing country Parties to the adverse effects of climate change;³³
- the costs for transfer of, or access to, environmentally sound technologies and know-how to developing country Parties to support their implementation of the Convention (especially Art. 4.1), and to support the development and enhancement of endogenous capacities and technologies of developing country Parties.^{34 35} These should include, among other things:
 - covering the costs of licensing fees of such technologies where these are held by the private sector;
 - the costs for the commercialisation of new or emerging climate-friendly technologies, especially those developed by developing country Parties, including through the financing of demonstration or pilot projects or programmes;
 - the costs of deploying existing technologies in developing country Parties by meeting the incremental costs for the acquisition and operation of both the hardware and software for such technologies;
 - the costs for research and development into climate-friendly technologies in developing country Parties, especially in sectors of development interest to them;
 - the costs for technology transfer and other measures to meet the specific needs and special situations of the least developed countries;³⁶
- the costs for insurance, technology transfer, and other measures to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures;³⁷ and
- the costs for the implementation of the Capacity Building Frameworks for developing countries and countries with economies in transition (EITs) reflected in Decisions 2/CP.7 and 3/CP.7 respectively. These should include, among other

³² Id.

³³ UNFCCC Arts. 4.4 and 4.1(e).

³⁴ UNFCCC Art. 4.3.

³⁵ UNFCCC Art. 4.5.

³⁶ UNFCCC Art. 4.9.

³⁷ UNFCCC Art. 4.8.

things, capacity-building, awareness-raising, and training of developing country and EIT policymakers.

35. CCF-sourced funding for the costs above should be in the form of grants, with no or minimal levels of concessional loans.

F. "Measurable, Reportable and Verifiable" (MRV) Modalities

36. Paragraph 1(b)(ii) of the Bali Action Plan contemplates having the provision of financing and the transfer of technology be done in a "measurable, verifiable and reportable manner." Hence, the provision of financing by developed country Parties to the CCF must, consistent with the provisions of the Convention, be measurable, reportable, and verifiable in line with existing modalities thereon.³⁸
37. Under Art. 12.3 of the Convention, developed country Parties (under both Annex I and II) are required to "incorporate [in their national communications] details of measures taken in accordance with" Art. 4.3 (provision of new and additional financial resources), 4.4 (assistance to meet the costs of adaptation), and 4.5 (promotion, facilitation and financing of the transfer of, or access to, environmentally sound technologies and know-how) of the Convention.
38. Furthermore, Art. 11.4 of the Convention requires the COP to undertake a review of the financial mechanism every four years. Reviews of the financial mechanism (including the operations of its operating entity or entities) are undertaken on the basis of guidelines adopted by the COP.³⁹ These include the initial guidelines laid out in the Annex to Decision 3/CP.4 and additional guidelines indicated in paragraph 6 of Decision 2/CP.12 and in Decision 6/CP.13. The review guidelines as laid down by the COP give full scope for the COP during the fourth review of the financial mechanism to consider, inter alia:
- an assessment of the funding necessary to assist developing countries, in accordance with the guidance provided by the Conference of the Parties, in meeting their commitments under the Convention;
 - options for scaling up the international financial response to climate change, based on national experiences and on available relevant documents;
 - the effectiveness of the financial mechanism in providing resources to developing country Parties to support and enable them to undertake nationally appropriate mitigation actions
 - looking at other possible institutional arrangements that may be done under the financial mechanism to make it more effective in the delivery of the required financing to developing country Parties

³⁸ For a discussion of these existing modalities, please see e.g. South Centre, "Measurable, Reportable and Verifiable": Using the UNFCCC's Existing MRV Mechanisms in the Context of the Ad Hoc Working Group on Long Term Cooperative Action under the Convention (South Centre Analytical Note SC/GGDP/AN/ENV/3, May 2008), at http://www.southcentre.org/publications/AnalyticalNotes/GlobalSocialEnvGov/2008May_MRV_in_the_Bali_Action_Plan.pdf

³⁹ See Decision 3/CP.4, Annex.

39. Key COP decisions with respect to the conduct of the reviews of the financial mechanism are listed below:⁴⁰

- **Decision 6/CP.13:** Review of the financial mechanism
- **Decision 2/CP.12 :** Review of the financial mechanism
- **Decision 9/CP.10:** Assessment of funding to assist developing countries in fulfilling their commitments under the Convention
- **Decision 5/CP.8:** Review of the financial mechanism
- **Decision 3/CP.4:** Review of the financial mechanism
- **Decision 12/CP.3:** Annex to the Memorandum of Understanding on the determination of funding necessary and available for the implementation of the Convention
- **Decision 11/CP.3:** Review of the financial mechanism
- **Decision 13/CP.2:** Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility: annex on the determination of funding necessary and available for the implementation of the Convention
- **Decision 12/CP.2:** Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility
- **Decision 9/CP.1:** Maintenance of the interim arrangements referred to in Article 21, paragraph 3, of the Convention

40. The MRV modalities with respect to financing described above should be used as the MRV modalities for the CCF so as not to reinvent the wheel.

III. CONCLUSION

41. In the end, the question of financing the global climate change response comes down to ensuring that the Convention's financial mechanism is able to generate an enabling environment for technology development, deployment, diffusion and transfer, and for capacity-building implementation, especially in developing country Parties, leading towards the more effective implementation by all Parties of their respective commitments under the Convention.
42. The advantages of having the CCF under the Convention's financial mechanism as discussed above are manifold:
- it could provide for more consistent and coherent financing for activities to meet the objective of the Convention;

⁴⁰ See http://unfccc.int/cooperation_and_support/financial_mechanism/items/3658.php.

- it responds fully and directly to the requirement in Art. 11.2 of the Convention with respect to having balanced and equitable representation within a transparent system of governance;
 - it provides for flexibility in financing which could encourage innovation and home-grown solutions by developing country Parties;
 - it provides for predictability which could underpin long-term sustainable development planning and implementation by developing country Parties;
 - it supports the possibility of having cooperative technology research and development activities which could effectively address issues relating to proprietary IPRs; and
 - it draws on the successful experience of the Montreal Protocol's Fund in terms of enhancing and encouraging developed and developing country Parties' cooperation.
43. The need to enhance financial flows under the Convention's financial mechanism is urgent as part of the global response to climate change. The CCF as described above would be a viable mechanism for delivering such financial flows consistent with the provisions and objective of the Convention.

Figure 1: CCF Architecture

