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Item 13 of the provisional agenda

Second review of the Kyoto Protocol pursuant to its Article 9

## **Views from Parties on extending the share of proceeds to assist in meeting the costs of adaptation to joint implementation and emissions trading**

### **Submissions from Parties**

1. The Subsidiary Body for Implementation (SBI), at its twenty-eighth session, recommended that the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) give attention, in particular, to the issues listed in decision 4/CMP.3, paragraph 6, and further recommended that the CMP take appropriate action at its fourth session. The SBI further invited Parties to submit to the secretariat, by 19 September 2008, their views on the issue of extending the share of proceeds to assist in meeting the costs of adaptation to joint implementation and emissions trading (FCCC/SBI/2008/8, para. 109 (a)).
2. The secretariat has received five such submissions. In accordance with the procedure for miscellaneous documents, these submissions are attached and reproduced\* in the language in which they were received and without formal editing.
3. The secretariat has also received submissions from accredited non-governmental organizations. In line with established practice, the secretariat has posted these submission on the UNFCCC website at <[http://unfccc.int/parties\\_and\\_observers/ngo/items/3689.php](http://unfccc.int/parties_and_observers/ngo/items/3689.php)>.

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\* 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 a submitted.

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\* This submission is supported by Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey.

PAPER NO. 1: COSTA RICA

**Preparations for the second review of the Kyoto Protocol  
pursuant to its Article 9**

I

**THE MANDATE**

The Subsidiary Body for Implementation (SBI) on its twenty-eighth session, held in Bonn from 4 to 13 June 2008, in the document FCCC/SBI/2008/8, invited Parties to submit to the Secretariat by 19 September 2008, their views on (1) the issue of extending the share of proceeds to assist in meeting the costs of adaptation to joint implementation and emissions trading (para 109 [a] ) and views on (2) ways and means to enhance equitable regional and subregional distribution of CDM projects; and (3) how the current institutional arrangements, governance, rules and procedures of the CDM and joint implementation may be improved in the first commitment period in order to enhance their functioning and effectiveness (para 109 [d] [iii]).

Costa Rica welcomes this opportunity to contribute to the work program on preparations for the second review of the Kyoto Protocol pursuant to its Article 9 and look forward to a constructive exchange of views with other Parties leading to a successful outcome by CMP4 in Poznan.

**1. Extending the share of proceeds**

It is incontrovertible that the funding needed for adaptation to climate change is far beyond that which is currently available. It is furthermore unquestionable that it is developing countries, particularly SIDS and LDCs which will need most support with adaptation. It is therefore financially insufficient and morally unacceptable to impose the share of proceeds that is destined for adaptation only on the CDM, paid by developing countries themselves. While this was a compromise for the first commitment period of the Kyoto Protocol, the second period must correct this situation by extending the share of proceeds to both Joint Implementation and to emissions trading by imposing the same levy on the issuance of AAUs.

**2. Improving regional equity and subregional distribution of CDM projects**

The CDM is by design a market mechanism and thus responds to the forces of supply and demand. Most CDM projects are concentrated in those developing countries that have the highest level of emissions and hence, the highest potential of emission reductions. However, the emission reduction market was created by a political decision, and Parties are in their right if they choose to intervene in market forces.

CDM projects in LDCs are already exempt from the share of proceeds. Several further options could be considered to improve access to CDM on the part of those countries with lowest participation:

- a. In these countries (e.g. SIDS and LDCs) the threshold for small scale projects could be increased in order to allow them to use the simpler small scale rules.
- b. The requirement to show additionality could be removed from small scale projects, or from any projects in LDCs and SIDS.

- c. The CDM project cycle transaction costs of projects could be funded through the CDM management funds.

### **3. Improving governance and procedures of the mechanisms during the first commitment period**

The CDM has proven to be a success, however it is at the same time evident that many improvements can and should be made to the governance and procedures of the CDM for the first commitment period. Among the most important we highlight:

- a. Delegate technical assessment (for registration and certification) of projects to the Secretariat, bringing to the Board only those that are questionable. For this clear guidelines would have to be established by the Board, and the Secretariat would have to be further staffed up.
- b. Improve transparency and contribute to learning by clearly providing the rationale for decisions on projects. DOEs and project developers are often left in the dark about the reasons for rejecting a project. If the rationale is clearly stated, it can serve as a learning tool for DOEs and project developers.
- c. Deepen the communication between Board and DOEs. DOEs are often not informed of decisions of the Board, or misinterpret these decisions, because there is little direct communication of the Board with DOEs. The Secretariat could have a one day de-brief with DOEs after each EB meeting.
- d. Review the expertise requirements of Board members. The CDM has become more complex and requires deeper knowledge base in the EB. Parties have not been clear enough about the knowledge/expertise that is required by EB members (para 8 of the annex to decision 3/CMP1. Hence members are elected to the Board for political and not technical reasons. This situation must be corrected.

PAPER NO. 2: FRANCE ON BEHALF OF THE EUROPEAN COMMUNITY AND ITS MEMBER STATES

**This submission is supported by Croatia, Turkey, Bosnia and Herzegovina, the Former Yugoslav Republic of Macedonia, Montenegro and Serbia**

Paris, 18 September 2008

**Subject: Preparations for the second review of the Kyoto Protocol pursuant to its Article 9  
Views on the issue of extending the share of proceeds to assist in meeting the costs  
of adaptation to joint implementation and emissions trading**

The EU emphasizes that adaptation to the unavoidable impacts of climate change needs to be addressed as a priority within the negotiations on a post-2012 agreement, especially to enhance the support for adaptation action and capacity building in those developing countries that are most vulnerable to the impacts of climate change.

The EU believes that with a view to achieving our objective of a global and comprehensive agreement by 2009, all relevant processes need to progress as constructively as possible, coordinate with and draw upon relevant results achieved and work under way in other bodies and processes under the Convention and its Kyoto Protocol. In particular, the work of the AWG-LCA, AWG-KP and the second review of the Kyoto Protocol pursuant to its Article 9 need to progress in harmony and should aim to maximize synergies.

In this regard the following considerations, inter alia, are key for the EU:

- An improved understanding of the financial needs and appropriate means and mechanisms for adaptation is required.
- Sourcing of finance for adaptation should not discourage mitigation efforts.
- A broad discussion under the AWG-LCA on financial issues that is guided by the principles of effectiveness, inclusiveness, fairness and sustainability and that is supportive of a global climate change regime will be required.
- A comprehensive treatment of the finance question will maximize the achievable benefits.

There is a crucial need for predictable and secure means to provide funding for adaptation, and we look forward to developing an improved and shared understanding of the financial needs required for adaptation, and of the potentials of available and new mechanisms. The EU stresses that an improved understanding of the financial needs and appropriate means and mechanisms for adaptation is required in order to be able to take decisions on the most adequate means for its funding.

This question should then be considered in a broader context, in order to ensure that equity concerns between Parties, other funding requirements and mitigation efforts, and the need to mobilize investments, especially from the private sector, are catered for in the post-2012 agreement.

Meeting the costs of adaptation to climate change including those related to strengthening the resilience of national and sectoral plans to adapt to climate change will indeed require a variety of sources of funding:

- Because there are few inherent market mechanisms that can drive private investment into adaptation projects in developing countries, public funding should continue to have a role to play. In particular, adaptation should be mainstreamed into national plans and development cooperation.

- National policies will play a key role in attracting private investments and optimising use of resources, including not least by addressing the inherent market failures which exist in relation to the activation of private investments.
- Private-public partnerships will also play a significant role in activating private investments for adaptation purposes, engaging the private sector in delivering public good.
- It will also be important to mainstream climate objectives in existing national plans and to scale up the funding available for adaptation efforts in particular in the least developed countries.

The EU considers it is important in the further work on finance for adaptation, to consider innovative mechanisms for financing adaptation while enhancing mitigation, bearing in mind the need to scale up the overall level of finance. In that context, both carbon market and non-market related approaches should be scoped, and we look forward to working with other parties in the assessment of different approaches to finance adaptation in the context of the finance and adaptation discussions under the AWG-LCA.

The EU thinks that it is important to clarify the options for raising financial means from the mechanisms, and would like to provide the following clarifications:

- The current share of proceeds on the CDM is an issuance-based and not a transfer-based option as it is levied upon issuance of CERs.
- Units created in respect of project activities under Article 6 of the Kyoto Protocol are generated by converting existing AAUs or RMUs into ERUs, not by issuing them.
- Transfer-based levies discourage trading and reduce cost-effectiveness, as these levies may adversely impact the transparency and liquidity in the carbon market and limit its expansion. A less effective carbon market negatively impacts the efficiency of attaining mitigation goals.

The EU notes that issuance of AAUs is mandated under Article 3 of the Kyoto Protocol and implemented in accordance with the Modalities for the Accounting of Assigned Amounts as expressed in decision 13/CMP.1.

Another option that has been raised in the discussions is the idea of monetizing AAUs for funding adaptation in developing countries.

In this regard, the EU welcomes the forthcoming technical paper to be prepared by the Secretariat on (1) extending the share of proceeds to assist in meeting the costs of adaptation; and (2) options related to assigned amount units of Parties included in Annex I of the Convention, for funding of adaptation in developing countries. The EU is looking forward to discussing the technical paper and the views of other Parties at the Article 9 pre-session workshop in October and beyond.

The EU suggests that the outcome of this analysis and the related discussion in the context of the second review under Article 9 of the Kyoto Protocol should feed into the broader discussion under the AWG-LCA in order that the analysis of the potential of all financial instruments, including the potentials of various innovative financing schemes in relation to identified needs with respect to future mitigation and adaptation efforts, can be coordinated in order to maximize such potential.

## REVIEW OF THE KYOTO PROTOCOL PURSUANT TO ITS ARTICLE 9

September 2008

As invited by the Subsidiary Body for Implementation (SBI), as part of the preparations for the second review of the Kyoto Protocol<sup>1</sup>, New Zealand welcomes the opportunity to provide views on two issues: 1) extending the share of proceeds to joint implementation and international emissions trading; and 2) enhancing equitable regional and sub-regional distribution of the CDM. These matters are linked to the work of the AWG-KP<sup>2</sup> on the analysis of means to reach emission reduction targets and identification of ways to enhance their effectiveness and contribution to sustainable development, and to the work of AWG-LCA<sup>3</sup> on enabling the full, effective and sustained implementation of the Convention through long-term cooperative action now, up to and beyond 2012.

### Summary

2 The proposal to **extend the share of proceeds to joint implementation and international emissions trading** should be seen in the context of a broader discussion on the funding of adaptation - an issue that cuts across both the Framework Convention and its Kyoto Protocol. New Zealand recognises that additional funding for adaptation is needed. In our view, the correct approach to adaptation funding is a cross-cutting one, first establishing the overall financial framework for adaptation before deciding which specific mechanisms will be used to raise funds. Predictability and sustainability of funding are important.

3 Extending the share of proceeds to joint implementation and international emissions trading raises important questions about the allocation of responsibility for adaptation funding. No changes should be made for the first commitment period. In the case of international emissions trading any levy that applied on transactions of units would present a risk to the efficiency of the carbon market. New Zealand looks forward to the secretariat technical paper for further clarification of the implications of these approaches.

4 New Zealand considers that **regional and sub-regional distribution of CDM** projects depends on the mechanism's design and implementation, and suggests several approaches to identifying and removing barriers, particularly in regions that have few or no projects. Such improvements could be considered for the first commitment period.

5 New Zealand does not support rule changes that seek to explicitly direct in which countries CDM projects should take place, as this would be at odds with the least-cost principle articulated in the Principles (Article 3.3) of the Framework Convention.

### 1) **Extending the share of proceeds to assist in meeting the costs of adaptation to joint implementation and emissions trading**

6 New Zealand agrees with the objective underlying this proposal: to provide increased funding for adaptation and identify means to deliver predictable and sustainable funding. At the

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<sup>1</sup> FCCC/SBI/2008/8

<sup>2</sup> E.g. as presented as agenda item 3(a) for the discussions in Accra, Ghana (FCCC/KP/AWG/2008/4 refers)

<sup>3</sup> E.g. as presented as agenda item 3 for the discussions in Accra, Ghana (FCCC/AWG/LCA/2008/9 refers)

same time, finance is a cross-cutting issue that needs to be discussed across the negotiating tracks of the Framework Convention and its Kyoto Protocol in a consistent and coherent manner if the current negotiations are to deliver effective decision making and efficient and effective outcomes.

7 Financing is a three-step process: assessing needs, collecting the funds, and delivering (according to need). Before deciding on how funds should be raised, Parties should first focus discussions on what needs to be accomplished through adaptation funding, rather than beginning with the mechanism for collecting funds. They should consider the need, identified in the Bali Action Plan, for financing to be adequate, predictable and sustainable, and for it not to have perverse outcomes for markets. It is important to analyse all options together in order to decide on which option or mix of options will be most effective and efficient in meeting adaptation needs.

8 New Zealand notes that the CDM adaptation levy was introduced to provide some benefits for CDM-eligible countries with an expected low CDM uptake. The proposal to raise funds for adaptation by applying a levy to joint implementation or international emissions trading, with funds to be disbursed to parties uninvolved in either activity, is of a different nature and context.

9 Extending the share of proceeds to **international emissions trading** by means of a levy at issuance, would mean that Parties were contributing to adaptation in direct proportion to their overall emissions allocation, and in inverse proportion to the ambition of their emissions reduction commitments. While this simple principle may have some merit, New Zealand believes that it needs further analysis against the criteria of environmental effectiveness, economic efficiency and equity of burden-sharing.

10 New Zealand also questions the idea of levying both AAUs and ERUs, as this would lead to a double levy on JI projects and could reduce investment in emission reduction activities in Annex 1 Parties.

11 New Zealand also notes that Parties use the flexible mechanisms to varying degrees, with some Parties trading internationally more than others. If the levy was a transaction levy rather than an issuance levy, extending the share of proceeds to international emissions trading would produce an unfair outcome as parties that traded more in units would carry a greater burden of adaptation funding than parties that chose to use regulatory or carbon charge responses. This could have a perverse outcome on the choice of climate change responses, and could result in less mitigation taking place. Any levy that was applied on transactions of units would discourage trading activity and present a risk to the efficiency of the carbon market.

12 Consideration should also be given to the fact that the flexible mechanisms may not offer a predictable and sustainable source of funds due to supply/demand and price uncertainty beyond 2012.

13 New Zealand does not support imposing a levy or other intervention in the market during the first commitment period. Annex 1 Parties have implemented emissions trading schemes and other mechanisms, and businesses have made decisions in the expectation of a period of stability until the end of 2012. New Zealand considers that the introduction of a new intervention, independent of other reforms to the mechanisms, could create undesirable uncertainty in the international carbon market. This issue would be better addressed as part of the comprehensive post-2012 framework.



**2) Ways and means to enhance the equitable regional and sub-regional distribution of CDM projects**

14 There are a number of issues intertwined in the discussion of the need for more equitable regional and sub regional distribution of CDM projects. It is clear that in the first commitment period, CDM project activities will be concentrated in a relatively small number of countries and that there will be very limited uptake of CDM projects in Least Developed Countries (LDCs). This uneven distribution of projects is seen to be significant in the context of the CDM's role in promoting sustainable development and enhancing technology transfer. In the current CDM, there is a conflict between the principles of achieving the greatest emissions reductions at the least cost (which the current mechanism appears to do) and the effective transfer of low emissions technology (which it does less well, and indeed rewards mainly those countries which are comparatively well advanced in technologies).

15 Addressing this issue requires careful and pragmatic assessment of why the distribution of CDM is unfolding as it is, and more critically, consideration as to whether the CDM is the best mechanism to assist LDCs in achieving their sustainable development objectives or whether other instruments (existing or new, and not necessarily under the UNFCCC or its Kyoto Protocol) need to be developed to achieve these objectives more adequately.

16 It is important to recall that, as pointed out in paragraph 8 above, the CDM levy itself reflects a recognition by Parties that not all eligible countries will provide equally attractive business and investment opportunities for CDM activities.

17 Some of the key factors that are shaping the current distribution of CDM projects are the level of industrialisation of the economy, absolute levels of energy consumption and greenhouse gas emissions and related to these, the magnitude of mitigation potentials. These economic factors will continue in the future to attract project developers seeking profitable investment opportunities that minimise transaction costs.

18 Notwithstanding these economic drivers, there are in New Zealand's view a number of positive steps that should be explored further with the aim of encouraging a more equitable regional distribution of projects. Such improvements could be considered in the first commitment period.

19 Firstly, and perhaps most significantly, proposals that have been put forward in the AWG KP to differentiate the eligibility of Parties to host CDM project activities, provide a real potential to refocus the CDM as an offsets mechanism towards LDCs and Small Island Developing States.

20 Secondly, rule changes to facilitate the uptake of small scale project activities should be considered. For example, increasing the maximum size of small scale project activities for certain host Parties or reducing additionality requirements for such projects being implemented in certain host Parties.

21 Thirdly, addressing the permanence issues under CDM rules on LULUCF could help encourage these types of projects in LDCs and generate important sustainable development co-benefits.

22 Fourthly, and more generally, although much has already been undertaken in programmes such as the Nairobi Framework by agencies such as the World Bank and the

UNDP, there is undoubtedly much more than can still be done to identify and remove barriers to the implementation of CDM.

23 However, there are also in New Zealand's view, suggested rule changes that could be very detrimental to the cost effectiveness of the CDM as a market instrument. Negative developments would be rule changes that seek to explicitly direct in which countries CDM projects should take place. An example of such a rule change would be to require the purchase of minimum quota of CERs from particular host Parties. Such proposals would be practically difficult to administer and enforce (in particular on private sector entities participating in the market), and could significantly detract from the cost effectiveness of the CDM as a market mechanism. In this context such developments would be at odds with the least-cost principle articulated in the Principles (Article 3.3) of the Framework Convention, which state *"policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost"*.

PAPER NO. 4: NORWAY

**Norway's submission on preparations for the second review of the Kyoto Protocol pursuant to its article 9 on extending the share of proceeds to joint implementation and emission trading**

1. Norway welcomes the successful conclusions of the SBI in Bonn June this year on the preparations for the second review of the Kyoto Protocol (FCCC/SBI/2008/L.14). We recognise the need for improved access to adequate, predictable and sustainable financial resources for financing adaptation needs and therefore the need for considering new innovative financial mechanisms.
2. Norway welcomes the opportunity to provide views on the issue of extending the share of proceeds to assist in meeting the costs of adaptation to joint implementation and emission trading and await with particular interest the technical paper being prepared by the Secretariat prior to the pre-sessional workshop in Athens October 21-22nd on the same issues and on options related to assigned amount units in meeting the costs of adaptation.
3. On the issue of extending the share of proceeds Norway notes that levies on emission trading transactions creates, inefficiencies in carbon markets. We would therefore like to indicate that extending the share of proceeds to emission trading is not in our view a promising option.
4. On options related to assigned amount units we would like to make reference to our proposal in the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWGLCA) on auctioning allowances to generate substantial financial resources in a future climate change regime (FCCC/AWGLCA/2008/MISC.2.).
5. The issue of auctioning allowances is in our view part of the second review of the Kyoto Protocol but we would like to underline that consistency between discussions on these matters in the AWGLCA and other relevant processes should be ensured. The Norwegian proposal has to be seen in the context of the Bali Action Plan where the need for scaling up financial flows for combating climate change is stated. The Norwegian proposal on auctioning allowances is further based on the view that all developed country parties should take on commitments in the type of ambitious quantified emission targets and effective compliance mechanisms. In addition it is important to ensure that discussions on financing adaptation should be based on actual adaptation needs, a core issue that is already being addressed by the AWGLCA.
6. We further note that since assigned amount units allocated for the first commitment period under the Kyoto Protocol already are issued the option of auctioning allowances is only relevant post 2012.
7. We look forward to discuss these important matters further during the workshop and beyond.

PAPER NO. 5: SOUTH AFRICA

**Preparations for the second review of the Kyoto Protocol pursuant to its Article 9**

The Subsidiary Body for Implementation at its twenty-eighth session (SBI 28) invited Parties to submit their views on several issues<sup>4</sup> relevant to the preparation for the second review of the Kyoto Protocol pursuant to its Article 9. South Africa hereby presents its initial views on several matters in an integrated fashion, reserving the right to further elaborate its views during the negotiations.

General comments

Parties agreed in decision 4/CMP.3 that the second review shall not prejudice action by CMP4 and shall not lead to new commitments, yet also affirmed that CMP4 shall take appropriate action based on the second review. South Africa is of the view that the second review should lead to appropriate action to improve the efficiency and effectiveness of the existing mechanisms under the Kyoto Protocol.

The aim of the review should be to improve the procedures under a relatively young Protocol, without fundamentally changing its structure at this early stage. South Africa believes that this will best be achieved by making real progress on a focused set of issues. Seeking progress on a very large number of issues would result in duplication of work and not yield effective results. South Africa believes the second review should focus on the issues identified in decision 4/CMP.3, paragraph 5 and seek to make progress on them. We recall the agreement in Bali that the implementation of the Protocol should be enhanced for a number of elements, in particular adaptation.

The pre-session workshop shall consider<sup>5</sup> the relevance to the second review of progress achieved by the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP). Focus should be retained on these issues, to best prepare the second review.

In relation to aspects that cannot be dealt with through decisions, we recall that the SBI recommended that CMP4 might wish to identify issues that require further consideration and refer them to the appropriate body.

Those matters that fall outside the scope of the present provisions of the Kyoto Protocol and beyond the guidelines provided through decisions, could be provided for in the agreed outcome of the AWG LCA negotiations under the UNFCCC.

Our initial view is that aspects of the Russian Proposal being considered under the review could be addressed in the form of a procedural Annex to the Kyoto Protocol; privileges and immunities would require both short-term arrangements and appropriate treaty arrangements in the longer-term; and that other aspects in the second review (e.g. improvements to the existing CDM) could be dealt with through decisions.

Views on adaptation funding<sup>6</sup>

In considering the issue of extending the share of proceeds to assist in meeting the costs of adaptation to joint implementation and emissions trading, it is helpful to consider the need for funding adaptation. In decision 7/CMP.2 in Nairobi, we all acknowledged that adaptation should be further elaborated as part of the second review. South Africa's view is that adaptation is not dealt with in a consolidated manner under the Protocol, and a consolidated work programme on the implementation of practical adaptation activities is urgently needed, under both the Convention and its Protocol. South Africa takes the view the Protocol could assist in ensuring a more predictable stream of funding for adaptation by considering, for

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<sup>4</sup> See the report of SBI 28, FCCC/SBI/2008/8, paragraphs 102-113, noting the requests for submissions of view in paragraph 109. We note that submissions of views on appropriate treaty arrangements on the issue of privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol have been requested by 20<sup>th</sup> March 2009 (see sub-paragraph 109.c).

<sup>5</sup> Decision 4/CMP3, paragraph 10.

<sup>6</sup> SBI-28 report, para 109.a

example, the extension of the 'share of proceeds' levy from CDM to joint implementation (JI) and emissions trading, as well as the auctioning of assigned amount units of Annex I Parties.

Currently, a share of proceeds is levied only on the CDM. This disadvantages this mechanism in relation to the other two flexible mechanisms. The share of proceeds from the CDM is an important source of revenue for the Adaptation Fund and thus for supporting the implementation of adaptation activities in developing countries. However, the current scale of funding for adaptation is two to three orders of magnitude smaller than the scale of funding required. Identifying new, additional, predictable source of funding is of the utmost importance in ensuring that funding for adaptation in developing countries reaches adequate levels in the very near future.

In this context South Africa takes the view that CMP4 should take a decision to extend to other Kyoto Protocol flexible mechanisms the share of proceeds to at least the same level (2%) as that applied to the CDM. This would provide an important early signal of seriousness in addressing the challenge in funding adaptation. The scale of resources that will be generated by such an extension is important information, which should be included in the technical paper being prepared by the Secretariat on (1) extending the share of proceeds to assist in meeting the costs of adaptation to joint implementation and emissions trading; and (2) options related to assigned amount units of Annex I Parties, for funding of adaptation in developing countries.<sup>7</sup> South Africa reiterates its interest in considering the information contained in the technical paper, in particular as it relates to auctioning of assigned amount units, in the Ad hoc Working Group on Long-term Cooperative Action (AWGLCA) and its contact group on adaptation and the associated means of implementation. South Africa looks forward to exchanging views on these options at the pre-session workshop on adequate scale of funding for adaptation and appropriate sources.

#### Views of procedural elements for inscribing commitments for Annex I Parties in Annex B<sup>8</sup>

SBI-28 recommended that the CMP give attention, in particular, to the issues listed in decision 4/CMP.3, paragraph 6, and further recommended that the CMP take appropriate action at its fourth session. On the issue of relevant procedural elements for inscribing commitments for Annex I Parties in Annex B to the Kyoto Protocol, the CMP may wish to take into account the views of Parties and relevant organizations referred to in paragraph 105 of the SBI-28 report, the report on the workshop referred to in paragraph 106, and any further views submitted by Parties, in order to determine the necessity of simplifying existing procedures and take appropriate action.

In respect of the need for simplified procedures for inscribing commitments for Annex I Parties not listed in Annex B to the Kyoto Protocol where a particular country would request such inclusion, it is our view that this can be done as part of the Article 9 review. The best option available for doing so is to adopt a procedural arrangement that specifically deals with this situation. As it is a different scenario from those covered under the existing procedures, it could not be regarded as an amendment, but an additional procedural arrangement to deal with a situation that was not foreseen at the time of the adoption of the Protocol. It would also be within the competence of the CMP to adopt such an arrangement.

As indicated above, it is possible to adopt simplified procedural arrangements to deal with the situation where a Party included in Annex I but not listed in Annex B to the KP indicates that it intends taking up and inscribe in Annex B, commitments. At present and because of the lack of provisions dealing with this specific situation, the situation is treated as an amendment to Annex B. Any amendment requires that the process and procedures set out in Article 20 be followed. These procedures are difficult and time consuming for Parties to follow and it takes a long time before such amendments enter into force.

A closer reading of the provisions of the UNFCCC and the KP shows that it is not necessarily correct to follow the provisions in Article 20 in a situation where an Annex I Party currently not listed in Annex B will on its own initiative take on commitments similar to those of other Annex I Parties and request that it be inscribed in Annex B.

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<sup>7</sup> SBI-28 report, para 110.

<sup>8</sup> SBI-28 report, para 109.b

It can be construed from the present wording in the Kyoto Protocol that individual country initiatives such as those envisaged in Article 4(2) (g) of the UNFCCC in respect of Parties not included in Annex I, were not provided for in respect of Annex I Parties listed in Annex B. Therefore and by default the procedures for the amendment of Annexes A and B as stipulated in Article 21(7) of the Kyoto Protocol are now applied to those situations. Article 21(7) to our minds deals with the amendment to Annexes A and B specifically as a result of the negotiation of new commitments for subsequent periods for Parties included in Annex I which shall be established through amendments to Annex B to the Protocol (Article 3(9)), and not to individual undertakings.

It is thus our view that it is possible to elaborate procedures for the specific situation where countries included in Annex I but not listed in Annex B want to unilaterally take on commitments and to have it inscribed in Annex B.

The next question is therefore how this could be done. There are a few options, including the adoption of an additional annex containing the simplified procedures, or a decision containing simplified procedures, or a procedure for the adjustment of Annex B.

The benefit of adopting another annex to the Protocol is that it would create legal certainty as the simplified procedures set out in such an annex would be an integral part of the Protocol.

In terms of Article 16(1) of the UNFCCC and similarly Article 21 of the Kyoto Protocol, the contents of what can be contained in an annex has been defined as being “restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character”.

It is thus possible to make use of this method. It is however also possible to have the simplified procedure reflected in a decision of the CMP.

The procedure for adopting annexes will apply and the annex once adopted will enter into force and bind all Parties except those that submitted their non-acceptance of the annex by notification to the Depository. The annex will thus be automatically applicable once adopted by the CMP through a decision and no further ratification process will be required.

#### Views on improving the CDM<sup>9</sup>

South Africa considers the Clean Development Mechanism (CDM) to be one of the major achievements to date of the Kyoto Protocol. Improvements to the CDM could be made in the form of decisions, enhancing the process of providing guidance to the Executive Board. One such decision could address the operationalisation of programmatic CDM. South Africa is of the view that improvements to the CDM should not re-open the Marrakech Accords. It has been suggested that there is scope for the further improvement of the CDM mechanism, not only to programmatic levels, but also to include policy dimensions. Without prejudging our views on the substance of these matters, we believe its consideration would be well within the scope of the second review.

South Africa attaches the highest importance to addressing the issue of the geographical distribution of CDM projects. Given the lack of CDM projects on the African continent, our view is that very specific targets have to be set for numbers of CDM projects in each country by 2011. In the process of developing such projects, capacity must be further built, through various measures, including:

1. Identification of larger CDM projects and matching means of implementation – technology (technical assistance and technology transfer), capacity development and finance, to these projects;
2. Giving higher priority to small scale poverty reduction mitigation programmes or projects, identifying types of CDM projects and programmes with high local sustainable development benefits, and scaling these up through new approaches including programmatic CDM, and assisting with the reduction of transaction costs for such projects;
3. Assist African countries in setting up clearing systems for the rapid transaction of carbon credits;

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<sup>9</sup> SBI-28 report, para 109.d

4. Further develop the institutional capacity of African DNAs and DOEs and fully operationalising DNAs in all developing countries;
5. Engage the private sector and particularly the financial sector in Africa; include institutional development and training for financial institutions; jointly investigate risk management tools (e.g. guarantee funds for CDM projects) to redress biased perceptions of investment in Africa

The extent to which market mechanisms will address the needs of African countries may be limited, and so attention should also be given to international public investment in mitigation activities with strong local sustainable development benefits.

In relation to elements included under the heading of “Clean Development Mechanism” in the draft conclusions proposed by the Chair of the AWG-KP,<sup>10</sup> South Africa attaches the highest importance to improving access to CDM project activities by specified host Parties, notably Parties in Africa as outlined above. We recall that sustainable development is an equal objective of the CDM under Article 12 of the Protocol, and strongly believe that including these co-benefits as criteria for the registration of CDM project activities would significantly improve the mechanism. Without expressing a policy preference, South Africa takes the view that sectoral CDM aimed at achieving climate friendly technology transfer is a possible improvement to the existing CDM that could be considered under the second review pursuant to Article 9. However, proposals such as no-lose sectoral crediting baselines would require an entirely new mechanism and should be discussed in the AWG-LCA.

#### Concluding remarks

South Africa looks forward to hearing the views of other Parties on the preparations for the second review under Article 9 and to exchanging views on the focused set of issues to be addressed at the pre-session workshop, relating to the work of the AWG-KP. We are committed to working constructively with other Parties on these matters before and at Poznań.

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<sup>10</sup> FCCC/KP/AWG/2008/L.12, Annex I, section I.