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**CONFERENCE OF THE PARTIES SERVING AS THE
MEETING OF THE PARTIES TO THE KYOTO PROTOCOL**
Fifth session
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Item X of the provisional agenda

Proposal from Tuvalu for amendments to the Kyoto Protocol

Note by the secretariat

1. Article 20, paragraph 1, of the Kyoto Protocol states that “any Party may propose amendments to this Protocol”.
2. Article 20, paragraph 2, of the Kyoto Protocol stipulates that “amendments to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed amendment to this Protocol shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary”.
3. Article 21, paragraph 2, of the Kyoto Protocol states that “any Party may make proposals for an annex to this Protocol and may propose amendments to annexes to this Protocol”. Article 21, paragraph 3, of the Kyoto Protocol provides that “annexes to this Protocol and amendments to annexes to this Protocol shall be adopted at an ordinary session of the Conference of the Parties serving as the meeting of the Parties to this Protocol. The text of any proposed annex or amendment to an annex shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed annex or amendment to an annex to the Parties and signatories to the Convention and, for information, to the Depositary”.
4. In accordance with these provisions, Tuvalu, by a communication dated 10 June 2009, transmitted to the secretariat the text of a proposal for amendments to the Kyoto Protocol. Pursuant to Article 20, paragraph 2, and Article 21, paragraph 3, of the Kyoto Protocol, the secretariat will send a note verbale containing this text to all National Focal Points for climate change and Permanent Missions to the United Nations by 17 June 2009. In accordance with the same provisions, the secretariat will also communicate the proposed amendments to the Parties and signatories to the Convention and, for information, to the Depositary.

5. The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol is invited to consider this proposal for amendments to the Kyoto Protocol at its fifth session.

**Communication dated 10 June 2009 from Tuvalu addressed to the
Executive Secretary of the secretariat of the United Nations Framework
Convention on Climate Change proposing amendments to the
Kyoto Protocol**

The Government of Tuvalu wishes to propose the following amendments to the Kyoto Protocol in accordance with Article 20, paragraph 1 of the Kyoto Protocol (see attached) and requests the secretariat to circulate the proposed amendments in accordance with Article 20 paragraph 2.

Proposal from Tuvalu for amendments to the Kyoto Protocol

The following paragraph shall be inserted after Article 1 paragraph 7 of the Protocol:

Article 1.8. "Party not included in Annex I" means a Party to the Convention which is not a Party included in Annex I to the Convention, as may be amended.

The following paragraph shall be inserted after Article 2 paragraph 1 of the Protocol:

Article 2.1 bis: Each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI, in achieving its quantified emission limitation and reduction commitment under Article 3, in order to promote sustainable development shall, implement the provisions in Article 2 paragraph 1 (a)-(b) above.

The following paragraph shall replace Article 2 paragraph 2 of the Protocol:

Article 2.2: The Parties included in Annex I and Parties not included in Annex I, which have elected to make a commitment inscribed in Annex BI, shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol from international aviation and international maritime transport, as part of their commitments under Article 3, and shall do so in collaboration with the International Civil Aviation Organization and the International Maritime Organization, respectively.

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

Article 3.1 bis. The Parties included in Annex I, and Parties not included in Annex I, if they so elect, shall, individually or jointly, ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of greenhouse gases listed in Annex A and Annex AI do not exceed their assigned amounts, calculated pursuant to the quantified emission limitation and reduction commitments inscribed in Annex BI and in accordance with the provisions of this Article, with a view to reducing overall emissions of such gases by at least 40 per cent below 1990 levels in the commitment period 2013-2017.

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

Article 3.5 bis. Any Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI, may notify the Conference of Parties serving as the meeting of Parties to this Protocol that it intends to use an historical base year or period other than 1990 for the implementation of its commitments under this Article. The Conference of Parties serving as the meeting of Parties to this Protocol shall decide on the acceptance of such notification.

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

Article 3.7 bis. In the second quantified emission limitation and reduction commitment period, from 2013 to 2017, the assigned amount for each Party included in Annex I, or any Party not included in Annex I, if it so elects, shall be equal to the percentage inscribed in Annex BI of its aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A in 1990 and Annex AI in 2005 year, or the base year or period determined in accordance with paragraph 5 or paragraph 5 bis, as appropriate, above, multiplied by five.

The following paragraph shall be inserted after Article 3 paragraph 8 of the Protocol:

Article 3.8 bis. For the second commitment period, any Party included in Annex I or any Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI, may use 2005 as its base year for gases listed in Annex AI, for the purposes of the calculation referred to in paragraph 7 bis above.

The following paragraph shall replace Article 3 paragraph 9 of the Protocol:

Article 3.9. Commitments for subsequent periods for Parties included in Annex I or Parties not included in Annex I, which has elected to make a commitment inscribed in Annex BI, shall be established by amendments to Annex BI to this Protocol, which shall be adopted in accordance with the provisions of Article 21, paragraph 7. The Conference of Parties serving as the meeting of Parties to this Protocol shall initiate the consideration of such commitments at least five years before the end subsequent commitment period.

The following paragraph shall be inserted after Article 3 paragraph 13 of the Protocol:

Article 3.13 bis. If the emissions of a Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI, in a commitment period are less than its assigned amount under this Article, this difference shall, on request of that Party, be added to the assigned amount for that Party for subsequent commitment period.

The following paragraph shall be inserted after Article 3 paragraph 14 of the Protocol:

3.14 bis. Each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI, shall strive to implement the commitments mentioned in paragraph 1 bis above in such a way as to minimize adverse social, environmental and economic impacts on developing countries, particularly those identified in Article 4, paragraphs 8 and 9 of the Convention.

The following paragraph shall be inserted after Article 4 paragraph 1 of the Protocol:

Article 4.1.bis. Any Parties included in Annex I and any Parties not included in Annex I, which have elected to make a commitment inscribed in Annex BI, that have also reached an agreement to fulfil their commitments under Article 3 jointly, shall be deemed to have met those commitments provided that their total combined aggregate anthropogenic carbon dioxide equivalent emissions of the greenhouse gases listed in Annex A and Annex AI do not exceed their assigned amount calculated pursuant to their quantified emission limitation and reduction commitments inscribed in Annex BI and in accordance with the provisions of Article 3. The respective emission level allocated to each of the Parties to the agreement shall be set out in that agreement.

The following paragraph shall be inserted after Article 4 paragraph 3 of the Protocol:

Article 4.3 bis. Any such agreement shall remain in operation for the duration of the commitment period specified in Article 3, paragraph 7 bis.

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

Article 5.1 bis. Each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI shall have in place, no later than one year prior to the start of the second commitment period, a national system for the estimation of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol. Guidelines for such national systems, which shall incorporate the methodologies specified in paragraph 2 below, shall be decided upon by the Conference of the Parties serving as the meeting of the Parties to this Protocol, no later than two years prior to the start of the second commitment period.

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

Article 5.3 bis. The global warming potentials used to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks of greenhouse gases listed in Annex A and AI shall be those accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties. Based on the work of, *inter alia*, the Intergovernmental Panel on Climate Change and advice provided by the Subsidiary Body for Scientific and Technological Advice, the Conference of the Parties serving as the meeting of the Parties to this Protocol shall regularly review and,

as appropriate, revise the global warming potential of each such greenhouse gas, taking fully into account any relevant decisions by the Conference of the Parties. Any revision to a global warming potential shall apply only to commitments under Article 3 in respect of any commitment period adopted subsequent to that revision.

The following paragraph shall be inserted after Article 6 paragraph 1 of the Protocol:

Article 6. 1 bis. For the purpose of meeting its commitments under Article 3, any Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI may transfer to, or acquire from, any other such Party or any Party included in Annex I, emission reduction units resulting from projects aimed at reducing anthropogenic emissions by sources or enhancing anthropogenic removals by sinks of greenhouse gases in any sector of the economy, provided that:

- (a) Any such project has the approval of the Parties involved;
- (b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur;
- (c) It does not acquire any emission reduction units if it is not in compliance with its obligations under Articles 5 and 7; and
- (d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3.

The following paragraph shall be inserted after Article 6 paragraph 1bis of the Protocol:

Article 6.1 ter. When a Party not included in Annex I, has elected to make a commitment inscribed in Annex BI, the modalities and procedures for any registered clean development mechanism project activity under Article 12, hosted by that Party shall continue, *mutatis mutandis*, as those specified by the Conference of Parties serving as the meeting of Parties until the end of their current crediting period and a quantity of assigned amount units (AAUs) equal to the CERs issued from this time onwards shall be cancelled.

The following paragraph shall be inserted after Article 6 paragraph 3 of the Protocol:

Article 6.3 bis: A Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI may authorize legal entities to participate, under its responsibility, in actions leading to the generation, transfer or acquisition under this Article of emission reduction units.

The following paragraph shall be inserted after Article 6 paragraph 4 of the Protocol:

Article 6.4 bis. If a question of implementation by a Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI of the requirements referred to in this Article is identified in accordance with the relevant provisions of Article 8, transfers and acquisitions of emission reduction units may continue to be made after the question has been identified, provided that any such units may not be used by a Party to meet its commitments under Article 3 until any issue of compliance is resolved.

The following paragraph shall be inserted after Article 6 paragraph 5 of the Protocol:

Article 6.5. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from approved project activities established under this Article is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

The following paragraph shall be inserted after Article 7 paragraph 1 of the Protocol:

Article 7.1 bis. Each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI shall incorporate in its annual inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol, submitted in accordance with the

relevant decisions of the Conference of the Parties, the necessary supplementary information for the purposes of ensuring compliance with Article 3, to be determined in accordance with paragraph 4 below.

The following paragraph shall be inserted after Article 7 paragraph 2 of the Protocol:

Article 7.2 bis. Each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI shall incorporate in its national communication, submitted under Article 12 of the Convention, the supplementary information necessary to demonstrate compliance with its commitments under this Protocol, to be determined in accordance with paragraph 4 below.

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

Article 7.3 bis. Each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI shall submit the information required under paragraph 1 above annually, beginning with the first inventory due under the Convention for the first year of the commitment period after for which the Party not included in Annex I, has elected to make a commitment inscribed in Annex BI. Each such Party shall submit the information required under paragraph 2 above as part of the first national communication due under the Convention after this and related provisions of the Protocol have entered into force for it and after the adoption of guidelines as provided for in paragraph 4 below. The frequency of subsequent submission of information required under this Article shall be determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol, taking into account any timetable for the submission of national communications decided upon by the Conference of the Parties.

The following paragraph shall be inserted after Article 7 paragraph 4 of the Protocol:

Article 7.4 bis. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall adopt at its first session, and review periodically thereafter, guidelines for the preparation of the information required under this Article, taking into account guidelines for the preparation of national communications by Parties not included in Annex I adopted by the Conference of the Parties.

The following paragraph shall be inserted after Article 8 paragraph 1 of the Protocol:

Article 8.1 bis. The information submitted under Article 7 by each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI shall be reviewed by expert review teams pursuant to the relevant decisions of the Conference of the Parties and in accordance with guidelines adopted for this purpose by the Conference of the Parties serving as the meeting of the Parties to this Protocol under paragraph 4 below. The information submitted under Article 7, paragraph 1 bis, by each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI, shall be reviewed as part of the annual compilation and accounting of emissions inventories and assigned amounts. Additionally, the information submitted under Article 7, paragraph 2, by each Party not included in Annex I, which has elected to make a commitment inscribed in Annex BI shall be reviewed as part of the review of communications.

The following paragraph shall replace paragraph 10 of the Protocol:

Article 10. All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, and reaffirming existing commitments under Article 4, paragraph 1, of the Convention, and continuing to advance the implementation of these commitments in order to achieve sustainable development, taking into account Article 4, paragraphs 3, 5 and 7, of the Convention, shall:

The following paragraph shall be inserted after Article 12 paragraph 3(b) of the Protocol:

Article 12.3(c). Parties not included in Annex I, which have elected to make a commitment inscribed in Annex BI may use the certified emission reductions accruing from such project activities to contribute to

compliance with part of their quantified emission limitation and reduction commitments under Article 3, as determined by the Conference of the Parties serving as the meeting of the Parties to this Protocol.

The following paragraph shall be inserted after Article 17 of the Protocol and the first paragraph of Article 17 shall be called Article 17.1:

Article 17.2. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall ensure that a share of the proceeds from the issuance of assigned amount units is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

The following paragraph shall be inserted after Article 18 of the Protocol and the first paragraph of Article 18 shall be called Article 18.1:

Article 18.2. In accordance with Article 18, paragraph 1 above, the procedures and mechanisms relating to compliance under the Kyoto Protocol as adopted by the Conference of Parties serving as the meeting of Parties by decision 27/CMP.1 shall apply.

The following Annex shall be inserted after Annex A of the Protocol:

ANNEX AI

Greenhouse gases:

Nitrogen trifluoride (NF₃)
Hydrofluorotheres/ Flourinated Ethers (HFEs)
Perfluoropolyethers (PFGMIEs)

Sectors/source categories

International aviation and international maritime transport

The following Annex shall be inserted after Annex B of the Protocol:

ANNEX BI

Annex I Party	Quantified emission limitation or reduction commitment for the second commitment period (2013-2017) as a percentage of 1990 base year	Non Annex I Party	Base year	Quantified emission limitation or reduction commitment for the second commitment period (2013-2017) as a percentage of base year
Australia				
Austria				

Belarus
Belgium
Bulgaria
Canada
Croatia
Czech Republic
Denmark
Estonia
European
Community
Finland
France
Germany
Greece
Hungary
Iceland
Italy
Japan
Latvia
Liechtenstein
Lithuania
Luxemburg
Monaco
Netherlands
New Zealand
Norway
Poland
Portugal
Romania
Russian Federation
Slovakia
Slovenia
Spain
Sweden
Switzerland
Ukraine
United Kingdom of
Great Britain and
Northern Ireland
United States of
America
