

19 February 1997

ENGLISH/FRENCH ONLY

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

AD HOC GROUP ON THE BERLIN MANDATE

Sixth session

Bonn, 3-7 March 1997

IMPLEMENTATION OF THE BERLIN MANDATE

Proposals from Parties

Note by the secretariat

In addition to the proposals already received (see FCCC/AGBM/1996/MISC.2 and Add.1-4) further proposals have been received from Australia, Costa Rica (on behalf of the Group of 77 and China), France, Iceland, Iran, Kuwait, Netherlands (on behalf of the European Union), New Zealand (in association with Canada and the United States of America), Nigeria, Poland (on behalf of Bulgaria, Estonia, Latvia, Poland, and Slovenia), Switzerland, the United States of America and Uzbekistan.

Proposals submitted after the mid-January 1997 deadline will be issued as FCCC/AGBM/1997/MISC.1/Add.1.

In accordance with the procedure for miscellaneous documents, these submissions are attached and are reproduced in the language in which they were received and without formal editing.

FCCC/AGBM/1997/MISC.1

BNJ.97- 70001

CONTENTS

Paper No.		Page
1.	Australia	3
2.	Costa Rica (on behalf of the Group of 77 and China)	15
3.	Costa Rica (on behalf of the Group of 77 and China)	16
4.	France	22
5.	Iceland	28
6.	Iran	30
7.	Kuwait	34
8.	Netherlands (on behalf of the European Union)	42
9.	New Zealand (in association with Canada and the United States of America)	65
10.	Nigeria	68
11.	Poland (on behalf of Bulgaria, Estonia, Latvia, Poland and Slovenia)	75
12.	Switzerland	76
13.	United States of America	78
14.	Uzbekistan	88

PAPER NO. 1 AUSTRALIA

UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

AD HOC GROUP ON THE BERLIN MANDATE

Further submission from Australia

ELEMENTS OF A LEGAL INSTRUMENT

PREAMBLE

To be developed.

PART I: GENERAL PROVISIONS AND PRINCIPLES

Article 1

Definitions

An article on necessary definitions will have to be developed, but inclusion of at least the following will be integral to this proposal:

- (a) "projected population growth" means: the projected percentage change in population level for the period for which a QELRO applies relative to the agreed reference period.
- (b) "projected real GDP per capita growth" means: the projected percentage change in real per capita GDP level for the period for which a QELRO applies relative to the agreed reference period.
- (c) "emission intensity of GDP" means: the ratio of emissions to GDP, for the agreed reference period.
- (d) "emission intensity of exports" means: the ratio of emissions generated domestically by the export sector with the total value of exported goods and services, for the agreed reference period.
- (e) "fossil-fuel intensity of exports" means: the emissions content of fossil fuel exports as a proportion of the value of total exports of goods and services, for the agreed reference period.
- (f) "change in per capita economic welfare" means: the change in per capita gross national expenditure resulting from mitigation action.

Article 2

Objective

As a further step towards achievement of the objective of the Convention, the Parties listed in Annex A¹ accept the need to take appropriate action for the period beyond 2000, including the strengthening of commitments, with a view to achieving a collective emission limitation and reduction objective of

Article 3

Principles

In their actions to achieve the objective of the instrument and to implement its provisions, the Parties shall give effect, *inter alia*, to the following:

- (a) The Parties affirm that to ensure equity between them and to maximise the environmental effectiveness of this instrument, commitments under Part II of this instrument are governed by the principle that mitigation action by Parties listed in Annex A shall result in those Parties incurring equal percentage changes in per capita economic welfare.
- (b) The Parties affirm that commitments under Part II of this instrument reflect²
 - (i) the need for equitable and appropriate contributions for each of the Parties undertaking commitments, their differences in starting points and approaches, their economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances; and
 - (ii) the situation³ of those Annex A Parties with economies that are highly dependent on income generated from the production, processing and export and/or consumption of fossil fuels and associated energy-intensive products and/or the use of fossil fuels for which such Parties have serious difficulties in switching to alternatives.

¹ Consistently with paragraph II.2(b) of the Berlin Mandate, Annex A shall list only those Parties to the instrument currently listed in Annex I of the Convention. The different term is used to avoid confusion between the two regimes and because the Annex will also list the QELROs applicable to individual Parties or groups of Parties. It should, however, be regarded as open for other Parties, such as those joining the OECD, entirely at their own discretion, to seek to negotiate their entry to Annex A in accordance with the equity principles set out in Article 3.

² As required by paragraph II.2 (a) of the Berlin Mandate.

³ As required by Article 4.10 of the Convention.

(c) The Parties affirm that the requirements of the principles set out in paragraphs (a) and (b) above are best met through the application of the following indicators, as elaborated in Article 4 (c):

- (i) projected population growth;
- (ii) projected real GDP per capita growth;
- (iii) emission intensity of GDP;
- (iv) emission intensity of exports; and
- (v) fossil-fuel intensity of exports.

This set of indicators would be generally applicable, but other countries may wish to propose additional indicators which they consider important in capturing the different sources of economic welfare impacts across countries.

PART II - COMMITMENTS OF SPECIFIED PARTIES

Article 4

Quantified Emission Limitation and Reduction Objectives (QELROs)

(a) Each of the Parties in Annex A shall have the QELRO listed for them in that Annex as its specific objective under this instrument for the limitation and reduction of anthropogenic emissions by sources and enhancement by sinks of all greenhouse gases not controlled by the Montreal Protocol.

(b) Commitments of Parties in Annex A

It is integral to Australia's proposal that the QELROs for each of the Parties or groups of Parties listed in Annex A be determined by a systematic process of negotiation between the Parties in accordance with guidelines to be agreed by them, which shall include the timeframe for negotiations. In our view, because of variations in the importance of indicators for individual parties, the application of indicators in a systematic process of negotiation, rather than by a mathematical construct, offers the most realistic and achievable means of arriving at a set of differentiated commitments which meet the governing equity principle set out in Article 3 (a). Further consideration will have to be given to the content of the guidelines for negotiation, but in any case, they shall provide that the process of negotiation gives effect to the principles set out in Article 3 as provided in paragraph (c) below:

(c) The commitments of Parties as listed in Annex A shall, consistently with the principles set out in Article 3, reflect fully the situation of each Party or specified group of Parties in respect of the following indicators, recognising that the importance of each indicator varies in accordance with individual circumstances for each Party or specified group of Parties:

- (i) **projected population growth:** the permitted emission level under the QELRO⁴ applicable to each Annex A Party should be determined, all other things equal, in direct relationship to its projected population growth and so as to ensure equal percentage changes in per capita economic welfare across Annex A Parties from mitigation action.
- (ii) **projected real GDP per capita growth:** the permitted emission level under the QELRO⁵ applicable to each Annex A Party should be determined, all other things equal, in direct relationship to its projected growth of real GDP per capita and so as to ensure equal percentage changes in per capita economic welfare across Annex A Parties from mitigation action.
- (iii) **emission intensity of GDP:** the permitted emission level under the QELRO⁶ applicable to each Annex A Party should be determined, all other things equal, in inverse relationship to its emission intensity of GDP. However, the strength of this relationship may be decreased, and in some circumstances reversed, according to the industry structure of the economy and the difficulty the Party has in switching to alternative fuel sources.

In addition, the determination of the permitted emission level under the QELRO applicable to each Annex A Party should also recognise that the higher a Party's emission intensity of GDP, all other things equal, the greater the absolute magnitude of the emission reduction task and therefore the greater the change in per capita economic welfare from mitigation. The determination should ensure equal

⁴ A direct relationship means that the higher a Party's population growth, the higher the Party's permitted emission level under the QELRO should be (all other things equal).

⁵ A direct relationship means that the higher a Party's real per capita GDP growth, the higher the Party's permitted emission level under the QELRO should be (all other things equal).

⁶ An inverse relationship means that the lower a Party's emission intensity of GDP, the higher the Party's permitted emission level under the QELRO should be (all other things equal). The strength of this relationship will be decreased, and in some circumstances reversed, according to the proportion of emission intensive industries in the economy, constraints on the availability of technologies such as nuclear and hydro power and, in the absence of subsidies, the dependence on fossil fuels for which a Party faces serious difficulties in switching to alternative fuels.

percentage changes in per capita economic welfare across Annex A Parties from mitigation action.

- (iv) **emission intensity of exports:** the permitted emission level under the QELRO⁷ applicable to each Annex A Party should be determined, all other things equal, in direct relationship to its emission intensity of exports while taking into account the extent to which the Annex A Party's export partners comprise non-Annex A Parties. The determination should ensure equal percentage changes in per capita economic welfare across Annex A Parties from mitigation action.
- (v) **fossil-fuel intensity of exports:** the permitted emission level under the QELRO⁸ applicable to each Annex A Party should be determined, all other things equal, in direct relationship to its fossil fuel intensity of exports and so as to ensure equal percentage changes in per capita economic welfare across Annex A Parties from mitigation action.

Indicator (i) is necessary because the higher a Party's population growth, as a result of higher levels of net immigration, younger age profiles or higher fertility rates, the higher the underlying pressure for growth of emissions and resulting overall emission reduction task and the higher the resulting change in per capita economic welfare from mitigation.

Indicator (ii) is necessary because the higher the increase in a Party's general level of economic activity, the higher the underlying pressure for growth of emissions and resulting overall emission reduction task and the higher the resulting change in per capita economic welfare from mitigation.

Indicator (iii) is intended to capture the various different circumstances of Parties with different emissions intensities of GDP which range from high to low. Parties with lower emission intensities of GDP will, in general, tend to have higher losses of per capita economic welfare from mitigation action. This stems from the more limited range of activities across which these Parties may be able to reduce emissions - a situation resulting from action taken prior to the negotiation of the Convention in response to factors such as cost pressures to achieve energy savings.

⁷ A direct relationship means that the higher a Party's emissions intensity of exports, the higher the Party's permitted emission level under the QELRO should be (all other things equal). The strength of this relationship should be increased, the higher the proportion of the Party's exports that are directed to non-Annex A Parties.

⁸ A direct relationship means that the higher a Party's fossil fuel intensity of exports, the higher the Party's permitted emission level under the QELRO should be (all other things equal).

On the other hand, Parties with high emission intensities of GDP which have serious difficulties in switching to alternative fuel sources will face relatively high losses of per capita economic welfare from mitigation action. These difficulties may arise because of constraints in the availability of technologies such as nuclear or hydro power or, in the absence of subsidies and other market distortions, because of a relatively high level of dependence on fossil fuels. Such Parties will also experience a higher magnitude of emissions growth for a given rate of economic growth than a similar economy with a lower emissions intensity of GDP. These Parties may experience a relatively high resulting change in per capita economic welfare from mitigation.

Indicator (iv) is necessary because, in general, the higher a Party's emission intensity of exports, the higher the loss of export revenue and resulting percentage change in per capita economic welfare from mitigation action. The loss in export revenue will be greater for those Parties which direct a greater proportion of their exports to non-Annex A Parties because, in particular, the differences in obligations between Annex A and non-Annex A parties create disincentives for investment in the export industries of Annex A parties that conduct significant trade with non-Annex A parties. The resulting 'carbon leakage' ensures that the Annex A party incurs an economic cost, even though global emission levels remain unchanged.

Indicator (v) is necessary because the higher an Annex A Party's fossil fuel intensity of exports, the greater the impact of the collective efforts of Parties to achieve QELROs on the level of export income of that Annex A Party and the higher the resulting change in per capita economic welfare from mitigation action.

(d) Flexibility - cumulative approaches

Further consideration should be given to approaches which improve cost effectiveness for individual countries undertaking Part II commitments and for the global economy. This consideration should include approaches to enhance the flexibility for Parties to devise optimal emission abatement paths through emission budgets, banking and borrowing.

(e) Flexibility - market based approaches

Further consideration should be given to approaches such as emissions trading and joint implementation which provide the potential for improved cost effectiveness of mitigation action. It is important that consideration be given to the range of issues involved in emission trading, particularly the basis on which it could be established and operate. Any emissions trading regime will need to address fully the need for equitable allocations for Parties undertaking QELRO commitments. Such allocations would need to be differentiated on a basis which satisfied the same set of economic welfare indicators set out in Article 4 (c).

Article 5

Policies and Measures

Each Party listed in Annex A shall prepare a National Action Plan (NAP) to facilitate implementation of its commitments under Article 4, which shall include national policies and measures for the mitigation of climate change, aimed at limiting anthropogenic emissions of greenhouse gases and protecting and enhancing greenhouse gas sinks and reservoirs. Each NAP shall contain a detailed description of those policies and measures and a specific estimate of the effects that they will have on anthropogenic emissions by sources and removal by sinks of greenhouse gases, together with performance indicators by which each Party could demonstrate its performance in implementing those policies and measures.

Article 6

Communication of Information

Each Party listed in Annex A shall include its National Action Plan in its National Communication submitted under Article 12 of the Convention, together with any other information required to be submitted under this instrument. Copies of such documents shall be submitted, through the secretariat, to both the Conference of Parties to the Convention and the Meeting of the Parties.

Article 7

Review of Annex A Commitments

- (a) To ensure the continuing effectiveness of this instrument the Parties shall undertake regular reviews of commitments under Article 4, in accordance with a process to be determined by the Meeting of the Parties. That process shall provide, amongst other things, appropriate timeframes for reviews to take place.
- (b) The first review shall be completed [y] years after the entry into force of this instrument and thereafter at intervals of [y] years.⁹ In addition, individual Parties may activate the review process in respect of their own commitments outside the scheduled review cycle in the event of an unforeseen change in their circumstances that will have a significant bearing on their capacity to implement their commitments under this Part.

⁹ The frequency of review could be greater for Economies in Transition, which face greater uncertainty in emissions projections.

- (c) In carrying out such reviews, the Parties shall have regard to the following:
- (i) any factors having a bearing on the governing equity principle set out in Article 3(a), including changes over time in the Parties' rates of GDP growth, population growth, emission intensity of GDP, fossil fuel intensity of exports and emission intensity of exports;
 - (ii) developments in scientific understanding of the causes and effects of climate change; and
 - (iii) relevant technological developments.
- (d) At the completion of the process under paragraphs (a) and (b) above, the Meeting of the Parties may recommend adjustment to the commitments as listed in Annex A of any Party or specified group of Parties.
- (e) Any recommendation under paragraph (d) above shall apply to a Party only when a communication accepting that recommendation has been lodged by that Party with the depositary.

Article 8

Regional Economic Integration Organisations

Careful consideration will have to be given to the basis on which REIOs will be able to participate in the regime of differentiated commitments established by the instrument and, to avoid any possibility of confusion, this should be provided for in the text. For example, consideration will need to be given to how to make provision for: the implications of enlargement of REIOs; notification by REIOs of the respective competencies of it and its member states in relation to the subject matter of the instrument; in the case of collective implementation, notification of apportionment of responsibility amongst member states and, in the event that individual members as well as the REIO are Parties, liability for performance of obligations.

PART III - INSTITUTIONAL ARRANGEMENTS

Article 9

Secretariat

The instrument should provide that the Convention secretariat service the new regime; it should list the functions to be performed by the secretariat in a general and brief way; and should provide that the cost of secretariat services for the new instrument is to be met only by its Parties.

Article 10

Meeting of the Parties

- (a) A Meeting of the Parties is hereby established.
- (b) The Meeting of the Parties, as the supreme body of this instrument, shall keep under regular review the implementation of the instrument and shall make, within its mandate, the decisions necessary to promote the effective implementation of the instrument. To this end, it shall:

(list of functions, based on those provided for the COP under article 7.2 of Convention, including one entitling the MOP to adopt rules of procedure and one modelled on Article 4.2(f) of the Convention)

- (c) Sessions of the Meeting of the Parties shall be held in conjunction with those of the Conference of the Parties to the Convention. Extraordinary sessions of the Meeting of the Parties shall be held at such other times as may be deemed necessary by the Meeting of the Parties.
- (d) The Meeting of the Parties shall decide at its first session on the conditions under which non-Party states, intergovernmental organisations and non-governmental organisations may be represented as observers at sessions of the Meeting.

Article 11

Subsidiary Bodies

The instrument should provide that both the SBI (subject to resolving possible questions about its legal capacity to do so) and the SBSTA provide services to the instrument broadly similar to those provided to the Convention. The cost of undertaking additional work should be met by the Parties to the instrument. The question of participation in the work of these bodies by nationals of countries not Party to the instrument should be considered in the light of the precise role these bodies are given in the instrument.

Article 12

Settlement of Disputes

Article 14 of the Convention shall apply to this instrument.

Article 13

Multilateral Consultative Process

If and when a Multilateral Consultative Process is established under Article 13 of the Convention, the Meeting of the Parties may decide whether and on what conditions agreement be sought for that process to be made available for this instrument. The Meeting of the Parties shall make any arrangements that are necessary to give effect to such a decision by agreement with the Conference of the Parties to the Convention

Article 14

Relationship to other Agreements

This instrument shall not derogate from the rights and obligations of Parties under existing international agreements and, in particular, shall not derogate from the provisions of the Agreement Establishing the World Trade Organisation (WTO) or affect the rights and obligations of Members of the WTO.

Article 15

Financial Provisions

Consideration will have to be given to the means for addressing financial issues raised by the operation of this instrument.

**PART IV - ADVANCING THE IMPLEMENTATION OF
ARTICLE 4.1 OF THE CONVENTION**

Article 16

Advancing the Implementation of Existing Commitments

Consideration will have to be given to how best to make provision for this requirement.

PART V - FINAL PROVISIONS

Article 17

Amendment

Amendments to this instrument may be made, *mutatis mutandis*, in accordance with the procedures set out in Article 15 of the Convention.

Article 18

Adoption and Amendment of Annexes

Article 19

Right to Vote

- (a) Each Party to the instrument shall have one vote, except as provided for in paragraphs (b) and (c) below.
- (b) *REIOs and their members.*
- (c) *Consideration could be given to restricting voting entitlements in respect of certain issues, such as those relating to adjustment of commitments of Annex A Parties under Article 7.*

Article 20

Depositary

Article 21**Signature**Article 22**Ratification, Acceptance, Approval or Accession**Article 23

Provisional Application

Any Party may notify the depositary that it intends to apply the instrument provisionally prior to the entry into force of the instrument for that Party.

Article 24

Entry into Force

Article 25

Reservations

Article 26

Withdrawal

Article 27

Authentic Texts

PAPER NO. 2: COSTA RICA
(ON BEHALF OF THE GROUP OF 77 AND CHINA)

STATEMENT OF COSTA RICA ON BEHALF OF THE
GROUP OF 77 AND CHINA

Possible features for a protocol or another legal instrument
AGBM - December 11, 1996

Thank you Mr. Chairman.

Let me start by thanking you and the Secretariat for the synthesis that has been put forward in document FCCC/AGBM/1996/10, as well as the rest of the documentation pertaining the possible features for a protocol or another legal instrument.

Regarding this agenda item, the Group of 77 and China wishes first to reiterate that substance should determine the form and the possible features of a protocol or another legal instrument.

Along this lines, the Group wishes to state that the basic elements of such an instrument should incorporate considerations regarding the following aspects:

First aspect, pertaining the **basis** of the instrument. The basis is provided by the Framework Convention on Climate Change and the preamble of the Berlin Mandate, and consists of the review of the adequacy of articles 4.2 (a) and 4.2 (b) of the Convention.

Second aspect, regarding the **scope** of such an instrument. Based on the Framework Convention on Climate Change and the Berlin Mandate, the scope must contain three components, namely: (1) policies and measures; (2) QELROs (these two considered in an interlinked manner); and (3) continuing to advance on the implementation of article 4.1, from subparagraphs a to j.

Third aspect, pertaining the **review** process. The review must adhere to article 4.2 (d) of the Convention, containing clear provisions to this end.

Forth aspect, regarding the **mechanisms** to be utilized in the process. The Group wishes to reiterate the need for the maximum utilization of already established mechanisms under the Convention, as this would lead to the efficient simplification of any future instrument, rather than to the creation of complex new regimes inconsistent with the Convention.

Thank you Mr. Chairman.

PAPER NO. 3: COSTA RICA
(ON BEHALF OF THE GROUP OF 77 AND CHINA)

PRELIMINARY ELEMENTS ON A DRAFT PROTOCOL OR
ANOTHER LEGAL INSTRUMENT ON THE BERLIN MANDATE:
REVIEW OF THE ADEQUACY OF ARTICLE 4, PARA.2 (A) AND (B) OF THE
UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

- containing the textual proposals from
the Group of 77 and China for inclusion in
the framework compilation of the AGBM Chairman-

POINT OF DEPARTURE

In accordance with the FCCC, in particular Article 4.2 (d), the Berlin Mandate as contained in Decision 1/CP.1, provides for: (a) policies and measures to be undertaken by Annex I Parties; (b) quantified emission limitation and reduction objectives to be undertaken by Annex I Parties, closely linked with their policies and measures; and (c) non-Annex I Parties to continue to advance the implementation of existing commitments in Article 4.1 without introducing any new commitments for these Parties.

BASES FOR ACTION

Bearing in mind the ultimate objective of the FCCC and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system, and that such a level should be achieved within a time-frame 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;

Having reviewed Article 4, paragraph 2(a) and (b) of the UN Framework Convention on Climate Change and having concluded that these subparagraphs are not adequate;

Underlining the principles of the FCCC, in particular the principle in Article 3.1 which reads as follows: "The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof;"

Recalling Article 3.2 of the FCCC which states that "the specific needs and special circumstances of developing country Parties especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration";

Recalling also Article 3.5 of the FCCC which states that "the Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change, "and that" measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade";

Recognising the fact that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that the per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs;

Recognising also the fact that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions; and

Reaffirming the specific needs and concerns of developing country and special situations of least-developed countries referred to in Articles 4.8, 4.9 and 4.10 of the FCCC; and the legitimate needs of the developing countries for the achievement of sustained economic growth and the eradication of poverty, recognising also that all Parties have a right to, and should promote sustainable development.

OBJECTIVES OF THE PROTOCOL/LEGAL INSTRUMENT

As the priority, to strengthen the commitments in Article 4.2 (a) and (b) of the FCCC, for developed country/other Parties included in Annex I, by

- identifying policies and measures for Annex I Parties which will contribute to limiting and reducing emissions by sources and protecting and enhancing sinks and reservoirs of greenhouse gases and will identify environmental and economic impacts and the results that could be achieved with regard to time horizons such as 2005, 2010, and 2020;

- the necessary policies and measures to be adopted and should ensure that these will have no adverse impacts on socio-economic conditions of developing country Parties, especially those listed in Article 4.8 of the FCCC;
- establishing a concrete compensation mechanism for damage arising from implementation of response measures on developing countries referred to in Article 4.8, in order to provide them with the necessary safeguards; and
- setting quantified limitation and reduction objectives within specified time-frames, such as 2005, 2010 and 2020, for their anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montréal Protocol;
- setting realistic and achievable QELROs in a comprehensive manner, covering all GHGs, their emissions by sources and removals by sinks and all relevant sectors.

Textual proposal:

Recognising that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that the per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs, quantified emission limitation and reduction objectives shall be elaborated on the basis of the consequences on all GHG concentrations, temperature increase and sea-level rise, taking into account cumulative emissions and currently available scientific and economic data.

Not to introduce any new commitments for Parties not included in Annex I, but reaffirm existing commitments in Article 4.1 and continue to advance the implementation of these commitments in order to achieve sustainable development, taking into account Article 4.3, 4.5 and 4.7:

In advancing the implementation of these commitments, the G-77 and China aims to achieve sustainable development, taking into account commitments of developed country Parties and other developed Parties included in Annex II:

- to provide new and additional financial resources, including for the transfer of technology, to meet the costs of implementing measures that are covered by Article 4.1 (based on article 4.3 of the FCCC);
- For the transfer of, or access to, environmentally-sound technologies and know-how to developing country Parties to enable them to implement Article 4.1, including support for the development and enhancement of endogenous capacities and technologies (based on article 4.5 of the FCCC):

- **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 (article 4.7 of the FCCC).**

Textual proposal, based on article 4.1 (a) to 4.1 (j):

Continuing to advance implementation of article 4.1 by non-Annex I Parties is contingent upon the effective implementation by developed country Parties of their commitments related to financial resources and transfer of technology for:

1. *the development at the national level of systematic observation and data archives, scientific and technical research, and support for improving endogenous capacities and capabilities to participate in international and intergovernmental programmes related to the climate system;*
2. *the enhancement at the national level of access to, and the exchange of, data and analyses thereof, obtained from areas beyond national jurisdiction;*
- 2 bis. *the assessment at the national level of the economic and social impacts of climate change, including sea level rise, changes in storms or storm surges, and the risk to coastal ecosystems, including fragile ecosystems, wetlands, coral reefs and atolls, as well as freshwater supplies, arid and semi-arid areas, drought and desertification;*
3. *the assessment at the national level of economic and social consequences on developing countries of various response strategies, with a view to minimizing adverse effects on the economy, on infrastructure, on human settlements, on social and cultural practices, on public health and on the quality of the environment of projects or measures undertaken by them to mitigate or adapt to climate change;*
4. *the development and implementation at the national level of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to train experts;*
5. *the development and implementation of integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas affected by drought and desertification, as well as floods;*
6. *the sustainable management for conservation and enhancement, as appropriate of sinks and reservoirs of all ghgs, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;*

7. *the transfer of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of gases not controlled by the Montreal Protocol in all relevant sectors, including the energy, transport, industry, agriculture, forestry and waste management sectors, taking fully into account Chapter 34 of Agenda 21,*
8. *the development at the national level of local emission factors, activity data and models that reflect the socio-economic conditions of each developing country Party for the elaboration and periodic updating of national inventories, in the light of the preparations of initial national communications based on the guidelines and format for non-Annex I communications; and*
9. *following from and based on all of the above, formulation, implementation, publication and regular updating at the national, and where appropriate, regional levels, of programmes containing measures to address climate change and its adverse impacts in order to achieve sustainable development.*

Since this is an integral part of the process of preparations of national communications, the operating entity of the financial mechanism shall provide the necessary resources for the implementation of the above activities in each developing country Party in an expeditious and timely manner.

Supplementary Notes

Textual proposal

Elaboration of any annexes dealing with lists in Annexes I and II in the FCCC, and any other listing of Parties shall be in accordance with Article 4.2 (f) and 4.2 (g) of the FCCC.

Review Mechanism

The review mechanism of commitments under a protocol or another legal instrument should be in accordance with the review process in the Convention, in which there is a differentiation between means of providing information under the Convention and the review of this information.

Article 12, paragraph 1 deals with communication of information related to commitments under Article 4.1; and Article 12, paragraph 2, deals with communication of information related to Article 4.2 (a) and (b).

A similar distinction is maintained in the consideration of this information in Article 10.2 (a), which considers the information communicated in accordance with Article 12.1, to assess the overall aggregated effects of the steps taken by all Parties; and Article 10.2 (b) which provides for the review of the adequacy of the commitments of Annex I Parties related to Article 4.2 (a) and (b), based on the information provided in their communications.

Any review mechanism in a protocol or another legal instrument for non-Annex I Parties commitments, would therefore constitute a new commitment for developing country Parties, contrary to the provisions of the Berlin Mandate.

Textual proposal

Existing review/assessment mechanisms in the Convention relating to the implementation of commitments shall be applicable to commitments made under Article 4.2 (a) and (b), and reaffirmed and continued under Article 4.1, respectively. Any review under a protocol or other legal instrument must be fully compatible with Article 4.2 (d) on the review of adequacy of Article 4.2 (a) and (b), to be undertaken by the Conference of the Parties until the objective of the Convention is met.

PAPER NO. 4: FRANCE

Paris, le 6 décembre 1996

Communication de la France au Groupe Ad hoc sur le Mandat de Berlin

1. Par la présente communication, la France souhaite préciser sa position sur certains aspects fondamentaux qui seront abordés dans le cadre de la négociation d'un futur protocole ou d'un autre instrument juridique. Cette contribution s'inscrit en complément de celle déposée par l'Irlande au nom de la Communauté européenne et de ses Etats membres.

2. Le mandat de Berlin précise que les engagements futurs des Parties de l'Annexe 1 devront prendre en compte, entre autres, les différences entre ces Parties quant à leur point de départ et la nécessité pour chacune de ces Parties de contribuer de façon appropriée et équitable à l'effort de prévention du changement de climat. La France estime que des objectifs contraignants uniformes qui obligeraient toutes les Parties de l'Annexe 1 à réduire leurs émissions d'un même pourcentage par rapport à leurs émissions de 1990 seraient inéquitables, inefficaces et incompatibles avec le mandat de Berlin.

3. Se référant aux informations contenues dans le second rapport d'évaluation du GIEC et en application du principe de précaution, la France estime à ce stade qu'un niveau de concentration de gaz carbonique inférieur à 550 ppm devrait guider les efforts globaux de limitation et de réduction des émissions de ce gaz. Ce niveau devra être réexaminé périodiquement à la lumière des informations scientifiques, techniques et socio-économiques les plus récentes et les plus sûres.

4. Les informations contenues dans le second rapport d'évaluation du GIEC suggèrent qu'un niveau d'émission moyen de CO₂ et d'autres gaz à effet de serre de 1 à 2,7 tonnes d'équivalent carbone par habitant et par an pour l'ensemble des pays de l'annexe 1 à la fin du prochain siècle pourrait être compatible avec une stabilisation de la concentration de CO₂ en dessous de 550 ppm, l'étendue de la fourchette résultant de l'incertitude concernant l'évolution des émissions des pays en développement sur longue période, ainsi que des degrés de liberté en matière de répartition de l'effort entre le moyen terme, le long terme et le très long terme. La France considère que l'enjeu essentiel des négociations actuelles dans le cadre du mandat de Berlin est que toutes les Parties de l'annexe 1 s'engagent à initier l'inflexion correspondante de leurs trajectoires d'émissions de manière d'autant plus forte que leurs émissions par habitant sont élevées.

5. Les niveaux d'émission actuels de CO₂ et d'autres gaz à effet de serre par habitant et par point de PIB sont très différents au sein des pays de l'annexe 1. La France considère que l'effort collectif à entreprendre doit conduire à un rapprochement de ces niveaux d'émission. Ainsi elle n'est prête à s'engager sur la voie d'objectifs contraignants de limitation et de réduction des émissions que si ceux-ci prennent en compte dès maintenant la nécessité que toutes les Parties de l'annexe 1 adoptent des trajectoires

d'émission convergeant à terme vers un niveau voisin d'émission par habitant ou par unité d'activité économique.

6. Comme étape en 2010 compatible avec les objectifs à long terme indiqués ci-dessus, la France, compte-tenu du principe de convergence exposé ci-dessus, propose que les Parties de l'Annexe 1 se fixent les objectifs suivants en fonction de leur niveau d'émissions en 2000¹⁰.

Niveau d'émissions nettes de gaz à effet de serre par habitant des Parties de l'annexe 1 en 2000	Niveau d'émissions nettes de gaz à effet de serre par habitant objectif en 2010 ¹⁰
Parties dont les émissions de gaz à effet de serre par habitant sont égales à 3 teC/hab	2,8 à 2,9 teC/hab
Parties dont les émissions de gaz à effet de serre par habitant sont égales à 4 teC/hab	3,7 à 3,8 teC/hab
Parties dont les émissions de gaz à effet de serre par habitant sont égales à 5 teC/hab	4,5 à 4,6 ¹¹ teC/hab
Parties dont les émissions de gaz à effet de serre par habitant sont égales à 6 teC/hab	5,3 à 5,4 teC/hab

¹⁰ Si le niveau d'émission par habitant cible en 2100 est X, la convergence des trajectoires d'émissions vers ce niveau cible conduit à calculer le niveau d'émission objectif d'une Partie en 2010, E_{2010}^{obj} , en fonction de son niveau d'émission par habitant en 2000, E_{2000} , en utilisant la formule suivante:

$$E_{2010}^{obj} = E_{2000}^{1,1} \cdot X^{1,1}$$

Les chiffres indiqués dans ce tableau correspondent à une cible comprise dans une fourchette de 1,6 à 2,2 teC par habitant et par an en 2100.

Au-delà de l'engagement actuel pris par les Parties de l'Annexe 1 de ramener en 2000, individuellement ou conjointement, à leurs niveaux de 1990 les émissions anthropiques de CO₂ et d'autres gaz à effet de serre, cette proposition permettrait de réduire globalement le niveau moyen d'émissions par habitant de CO₂ et d'autres gaz à effet de serre des Parties de l'Annexe 1 de 7 à 10% entre 2000 et 2010.

7. La France considère que l'inflexion des trajectoires d'émissions ne sera possible que si des politiques et mesures communes et/ou coordonnées au niveau international sont mises en oeuvre afin, en particulier, d'éviter des distorsions de concurrence dans le commerce international. Il lui paraît donc indispensable que le futur protocole inclue une annexe sur les politiques et mesures communes qui devraient être mises en oeuvre par toutes les Parties de l'Annexe 1. L'élimination de toutes les formes de subvention qui encouragent des activités fortement émettrices de CO₂, complétée par l'instauration, au sein des fiscalités nationales, d'une taxation progressivement croissante sur le CO₂ à des taux coordonnés dans les divers pays, devrait être considérée en priorité.

8. La France n'est prête à s'engager sur la voie d'objectifs contraignants de limitation et de réduction des émissions que si des mécanismes permettant d'atteindre un niveau global donné de réduction au moindre coût sont mis en place. Elle juge nécessaire pour cela que des possibilités de mise en oeuvre conjointe dans un cadre géographique aussi large que possible soient ouvertes pour les engagements résultant du mandat de Berlin et que la faisabilité pratique d'un système de permis négociables soit assurée. Elle rappelle par ailleurs son attachement à ce que l'engagement de limitation et de réduction des émissions de gaz à effet de serre soit exécuté dans l'ensemble de l'Union européenne par la Communauté et ses Etats Membres, compte-tenu de leurs compétences respectives.

9. L'objectif ultime de la Convention ne pourra cependant être atteint que si les pays non visés à l'Annexe 1 parviennent à organiser leur développement économique nécessaire selon des modalités qui limitent la croissance de leurs émissions de gaz à effet de serre. Dans le cadre du mandat de Berlin, la France considère que pour continuer à progresser dans l'exécution des engagements déjà énoncés à l'article 4.1 de la Convention, ces pays pourraient en particulier :

progressivement mettre en oeuvre les politiques et mesures de prévention du changement de climat qui sont également favorables à leur développement économique à long terme; l'élimination des subventions à la consommation d'énergie fossile devrait être examinée en priorité ;

participer aux actions communes ou coordonnées initiées par les pays de l'Annexe 1, visant des secteurs largement ouverts à la concurrence internationale, afin d'éviter des délocalisations d'activités productives qui seraient à la fois inéquitables et préjudiciables à la prévention du changement de climat.

6 December 1996

**French contribution to the
Ad hoc Group on the Berlin Mandate (AGBM)**

(UNOFFICIAL TRANSLATION)

1. In the present contribution France wishes to be more specific about some key issues under discussion in the negotiation of a protocol or another legal instrument for the post-2000 period. This contribution supplements the contribution of Ireland on behalf of the European Community and its Member States.
2. The Berlin Mandate states that new commitments of Annex 1 Parties should *inter alia* take into account differences of these Parties in starting points and the need for equitable and appropriate contributions by each of these Parties to the global effort to protect the climate system. France considers that legally binding objectives which would impose to each Annex 1 Party to reduce its greenhouse gases emissions by a flat rate with respect to 1990 levels would be unfair, inefficient and incompatible with the Berlin Mandate.
3. Building on the findings contained in IPCC's second assessment report (SAR) and applying the precautionary principle, France considers at this stage that an atmospheric concentration of 550 ppmv of CO₂ should guide limitation and reduction efforts with respect to CO₂ emissions. This level should be periodically reviewed in the light of the best available scientific, technical and socio economic information.
4. The information contained in the SAR suggests that an average *per capita* level of CO₂ and other greenhouse gases emissions in the range of 1 to 2.7 tons of carbon equivalent within the Annex 1 Group by the end of the next century could lead to stabilisation of CO₂ concentration in the atmosphere at a level below 550 ppmv, the range being related to assumptions made with respect to the non Annex 1 Parties' greenhouse gases emissions pathway as well as with respect to the timing of the effort over the next century. France points out that the key issue of current negotiations is that all Annex 1 Parties commit themselves to start curbing their emissions pathways and that the higher the per capita emissions level is, the stronger the emissions curbing should be.
5. Per capita or per unit of GDP CO₂ and other greenhouse gases emissions levels are quite different among Annex 1 Parties. France considers that the global limitation and reduction effort should lead to a narrowing of this range of emissions levels. Therefore France is ready to accept legally binding limitation and reduction objectives only if these objectives are set up to take into account already now the need that all Annex 1 Parties adopt emission pathways eventually converging towards similar per capita or per unit of GDP levels.

6. France suggests as a next step for 2010 consistent with both the long term goal and the convergence principle outlined above that Annex 1 Parties set the following objectives depending on to their per capita emissions level in 2000:

Per capita greenhouse gases net emissions level in 2000 of Annex 1 Parties	Per capita greenhouse gases net emissions objective in the year 2010 ¹²
Parties with per capita greenhouse gases emissions level equal to 3 teC/cap	2.8 à 2.9 teC/cap
Parties with per capita greenhouse gases emissions level equal to 4 teC/cap	3.7 à 3.8 teC/cap
Parties with per capita greenhouse gases emissions level equal to 5 teC/cap	4.5 à 4.6 teC/cap
Parties with per capita greenhouse gases emissions level equal to 6 teC/cap	5.3 à 5.4 teC/cap

After the current commitment of Annex 1 Parties of returning, individually or jointly, to their 1990 levels the anthropogenic emissions of CO₂ and other greenhouse gases, this proposal would entail a reduction of 7 to 10% between 2000 and 2010 of the average per capita greenhouse gases emissions of Annex 1 Parties.

7. France considers that curbing the pathways of greenhouse gases emissions will not be possible unless common and/or co-ordinated policies and measures are implemented at the international level, especially in order to avoid trade distortions. Therefore the future protocol should include an annex listing a set of common and/or co-ordinated policies and measures mandatory for all Annex 1 Parties. The removal of all kind of subsidies to carbon intensive activities supplemented by the phase-in within the tax regimes of Annex 1 Parties of a progressive taxation on CO₂ at rates co-ordinated between them should be considered as a high priority.

Let X be the uniform per capita emissions level, target of Annex 1 Parties in the year 2100. The convergence of emissions pathways towards this target leads for each Party to the following formula for its per capita objective for 2010, denoted E₂₀₁₀, as a function of its per capita emissions level in 2000, denoted E₂₀₀₀:

$$E_{2010} = E_{2000}^{0.9} \times X^{0.1}$$

The figures listed in the table assume a target in the range of 1.5 to 2.2 teC per capita and per year in the year 2100.

8. France is willing to accept legally binding limitation and reduction objectives for each Annex 1 Party as long as some mechanism ensuring that the global objective can be met at the lowest global cost is made available to Parties. Therefore it deems necessary that joint implementation should be possible at the widest possible level in order to fulfil new commitments for the post-2000 period and that the practical feasibility of a tradable quotas regime should be ensured. France recalls that the legally binding limitation and reduction objective applying to the European Union should be met within the European Union by the Community and its Members States within their respective capacities

9. However the ultimate objective of the Convention will not be met if non Annex 1 Parties are not able to organise their necessary economic development in a way which limits the growth of their greenhouse gases emissions. Within the framework of the Berlin Mandate, France considers that in order to advance the implementation of their current commitments under article 4.1, these Parties could in particular:

- progressively implement those climate change mitigation policies and measures which also foster their long term economic development; in this context the removal of subsidies on fossil energy should be seriously considered;
- participate to common and/or co-ordinated actions initiated by Annex 1 Parties in sectors largely open to international competition, in order to avoid "leakages" which would result in an unfair outcome and undermine the global mitigation effort.

- - - - -

PAPER NO. 5: ICELAND

**United Nations' Framework Convention on Climate Change,
The Ad Hoc Group on the Berlin Mandate**

Submission made by the Government of Iceland, 15 January 1997

Criteria for differentiated QELROs

This submission is a response to the conclusions of the 5th Meeting of the Ad Hoc Group on the Berlin Mandate which includes an invitation to Parties to submit further proposals for a protocol or another legal instrument to be adopted at COP3.

Iceland supports a comprehensive approach as the basis for commitments in the new instrument that will be created to strengthen the commitments of Annex I Parties to the Convention under article 4.2 (a) and (b). In principle, all greenhouse gases (GHG) should be included, both sources and sinks.

It is essential to increase the use of renewable primary energy sources, including hydro-generated electricity, if the goal of stabilising greenhouse gas concentrations is to be achieved, as has been clearly illustrated in the Second Assessment Report of the IPCC. The UNFCCC has to become an instrument that forcefully promotes the exploitation and development of renewable energy sources.

National circumstances should be taken into account when an overall quantified emission limitation and reduction objectives (QELROs) is allocated to individual parties. Guidance for this approach is provided in Article 3.1 and Article 4.2 (a) and it was incorporated in the Berlin Mandate specifically for directing the ongoing negotiation. There is a need to develop criteria for distributing the emission objective.

For this purpose, Iceland supports the development of a special formula with parameters which are measurable and where internationally acceptable data are available. The formula should include parameters which reflect parties previous and future achievements in gaining energy efficiency and in harnessing renewable energy sources, as well as taking into account their level of economic development.

A formula including the following parameters would meet this requirement

- GHG emission intensity
- Share of renewable energy sources
- Level of GHG emissions
- Gross Domestic Product per capita

On the basis of this approach, the formula presented in the submission made by Norway in October 1996, would be amended with a parameter reflecting the share of renewable energy. The amended formula would have the following form:

$$Y_i = A [x(B_i/B) + y(C_i/C) + z(D_i/D) + w(E/E_i)]$$

where Y_i is the percentage reduction of emission of greenhouse gases (CO₂ equivalents) by Party i . B_i to B is CO₂ equivalents to the GDP for Party i relative to the average in the Annex I Parties. C_i to C is the GDP per capita in Party i relative to the average for the Annex I Parties and the relation D_i to D is CO₂ equivalent emissions per capita in Party i relative to the average of the Annex I Parties. E to E_i is average share of renewable energy of total energy demand of the Annex I Parties relative to the same in Party i . A is a scale factor to ensure that the desired overall reduction in emissions is achieved. The coefficients x , y , z and w are weights, which add up to a total of 1.

**Main elements for inclusion in a protocol
or another legal instruments**

Submitted by the ISLAMIC REPUBLIC OF IRAN

Principles:

1. The largest share of historical and current global emissions of GHG has originated in developed countries, and the per capita emissions in developing countries are still relatively low and that the share of global emissions originated in developing countries will grow to meet their social and development needs.
2. The special difficulties of those countries, especially developing countries, whose economies are particularly dependent on fossil fuel production, use and exportation, as a consequence of action taken on limiting GHG should be taken fully into account.
3. Response to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate economic growth and the eradication of poverty.
4. Countries, especially developing countries need access to resources required to achieve sustainable social and economic development and that, in order for developing countries to progress towards that goal, their energy consumption will need to grow taking into account the possibilities for achieving greater energy efficiency and for controlling GHG emissions in general, including through the application of new technologies on terms which make such an application economically and socially beneficial.
5. The developed country parties should take the lead in combatting climate change and the adverse effects thereof.
6. The specific needs and special circumstances of developing country parties, especially those that are particularly vulnerable to the adverse effects of climate change and of those parties, that would have to bear a disproportionate or abnormal burden under the protocol should be given full consideration.
7. The parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all parties, particularly developing country parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change including unilateral ones should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.

8. Nothing in this instrument shall be interpreted in any manner that would prejudice the obligations and commitments of Annex 1 parties under the convention.

9. In the implementation of the commitments in this Article, the parties shall give full consideration to what actions are necessary under the convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country parties arising from the adverse effects of climate change and/or the impacts of the implementation of response measures, especially on: a) small island countries; b) countries with low-lying coastal areas; c) countries with arid and semi arid areas, forested areas and areas liable to forest decay; d) countries with areas prone to natural disasters; e) countries with areas liable to drought and decertification; f) countries with areas of high urban atmospheric pollution; g) countries with areas with fragile ecosystem, including mountainous ecosystems h) countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy intensive products; and i) land locked and transit countries.

10. The parties shall take into consideration in the implementation of the commitments of the instrument the situation of parties particularly developing country parties, with economies that are vulnerable to the adverse effects of the implementation of measures to respond to climate change. This applies notably to parties with economies that are highly dependent on income generated from the production, processing and export, and/or consumption of fossil fuels and associated energy - intensive products and/or the use of fossil fuels for which such parties have serious difficulties in switching to alternatives.

Objective:

- Contribution to achieving the ultimate objective of the convention as defined by its Article 2, and para 2 of the Berlin Mandate.

Scope:

- The instrument shall cover equally all GHG, their emissions by sources and removals by sinks and all relevant sectors.

Commitments:

- The instrument will strengthen the commitments of Annex-1 parties under Articles 4.2 a&b and will not introduce any new commitments for non Annex-1 parties

Implementation Mechanism:

QELROS: to set comprehensive, realistic and achievable QELROS by using basket approach in which each Annex-1 party chooses specific QELROS according to its GHG historical share and other differentiation criteria. QELROS have to be selected for Annex-1 parties in such a time frame and quantity which will neither affect the international trade

system nor the national income of developing countries, particularly fossil fuel exporting developing countries.

Policy and Measures:

Each party has a right to apply policies and measures compatible with its national development programs so long as they are not harmful to development of developing countries, particularly fossil fuel exporting developing countries and are cost-effective. Commitments are to be fulfilled individually and not through coordinated actions. Co2 and energy tax is particularly ruled out. In order to reduce the emissions of GHG there are a number of alternatives, interalia:

- energy prices be allowed to reach its reasonable level
- removal of subsidies on coal as the most polluter source of energy
- to promote and develop renewable sources of energy including solar, nuclear, biomass, ... and to ensure that all countries have access to related material, equipment and technology through removal of all restrictions .
- enhancement of sinks through reforestation and combatting decertification and establishing regulations for sustainable forest woods use.
- exchange of climate change technology know how among different countries

Differentiation:

the criteria for differentiation could be as follows:

- economic growth (GDP),
- historical share,
- dependency on incomes from fossil fuels,
- access to sources of renewable energy,
- defence budget,
- population growth
- special circumstances
- share in international trade

Compensation Mechanism:

This mechanism is established to compensate for adverse impacts arising from implementation of response measures by Annex-1 parties on developing countries specified in Article 4.8 and 4.10. This mechanism should include the followings

- analyses and assessments of any proposed response measures on developing countries, particularly fossil fuel exporting developing countries.
- preparation of an annex identifying the states characterized by the provisions of Articles 4.8 and 4.10 of the convention.
- provision of specific measures for these states including renewable sources of energy, advantages and safeguards.
- establishment of a compensation fund.

Institutional arrangements:

- using the same subsidiary bodies, reporting channel and procedural methods of the convention for the future instrument.
- after the deposit of the instrument by the last Annex-1 party and after the 90th day from the date which all Annex-1 parties implement their existing commitments under the convention, the protocol will enter into force.

PAPER NO. 7: KUWAIT

PROPOSAL FOR INCLUSION IN PREAMBLE

[Note: The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

The Parties to this Protocol [insert full name of Protocol],

.....

.....

Recognizing that policies and measures undertaken by developed country Parties to limit or reduce their emissions of greenhouse gases likely will have adverse economic and/or social impacts upon many developing countries, including, but not limited to, countries with economies that are highly dependent on income generated from the production, processing and export of fossil fuels, and that such impacts will have adverse effects on the ability of such countries to achieve the economic and social development and poverty eradication that are the first and overriding priorities of developing countries.

PROPOSAL FOR INCLUSION IN ARTICLE ON DEFINITIONS

[Note: The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE 1

DEFINITIONS

For the purpose of this Protocol.

1. "Convention" means the United Nations Framework Convention on Climate Change, adopted at New York on 9 May 1992
2. "Protocol" means this [insert full name of Protocol].

3. "Parties" means those States or regional economic integration organizations (as defined in Article 1, Paragraph 6 of the Convention) as to which this Protocol has entered into force in accordance with its terms.
4. "Parties to the Convention" means those States or regional economic integration organizations (as defined in Article 1, Paragraph 6 of the Convention) as to which the Convention has entered into force in accordance with its terms, whether or not they are Parties to this Protocol.
5. "Conference of the Parties" means the Conference of the Parties to the Convention established by Article 7 of the Convention.
6. "Annex _ Parties" means Parties included in Annex _ [insert identification of the Annex or Annexes listing Parties making commitments for quantified emissions limitation and reduction objectives and policies and measures].
7. "Secretariat" means the permanent secretariat designated by the Conference of the Parties in accordance with Article 8, Paragraph 3 of the Convention.
8. "Depositary" means the Depositary designated in Article 19 of the Convention.
9. All terms used in this Protocol that are defined in Article 1 of the Convention shall have the meanings set forth in Article 1 of the Convention.
10. Unless the context of a provision otherwise indicates, the plural form of the terms defined in Paragraph 3, 4 and 6 shall include the singular.

PROPOSAL FOR INCLUSION OF AN ARTICLE IMMEDIATELY FOLLOWING
THE ARTICLE OR ARTICLES CONTAINING COMMITMENTS FOR
QUANTIFIED EMISSIONS LIMITATION AN REDUCTION OBJECTIVES
AND
POLICIES AND MEASURES

[Note: The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE _

IMPLEMENTATION OF COMMITMENTS

1. Each Annex _ Party:

(a) within six months of the entry into force of this Protocol for that Party, shall communicate to the Conference of the Parties, through the secretariat, the following information:

- (i) A detailed description of the policies and measures that it plans to adopt to implement its commitments under Article _ and _ [i.e., the Articles setting forth commitments for quantified emissions limitation and reduction objectives and for policies and measures]; and
- (ii) Detailed and specific estimates, accompanied by detailed explanation as to the basis of such estimates, of the anticipated effects of each of the policies and measures identified in the communication referred to in subparagraph (i) and of the aggregate anticipated effects of all such policies and measures on the Party's anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during each of the periods referred to in Paragraphs _ of Article _ [i.e. the paragraphs establishing timeframes for achieving quantified emissions limitation and reduction objectives].

(b) within twelve months of the entry into force of this Protocol for that Party and on or before the 15th day of April of each year thereafter, shall submit to the Conference of the Parties, through the secretariat, a certificate signed by a duly authorized official of that Party, which contains the following information:

- (i) Detailed and specific information identifying all changes to the information communicated pursuant to Paragraph 1 (a) that would make such information more current, informative, or reliable;
- (ii) A list of all laws and other acts of government having the effect of law that, since entry into force of this Protocol for that Party, the Party has adopted in accordance with its internal lawmaking procedures to implement its commitments under Articles _ and _ [i.e., the Articles setting forth commitments for quantified emissions limitation and reduction objectives and for policies and measures],
- (iii) Specific estimates, accompanied by detailed explanation as to the basis of such estimates, of (A) annual imports (measured in physical units and in monetary value) by the Party from the developing country Parties to the Convention of fossil fuels, fossil fuel products, raw materials other than fossil fuels, and finished or semi-finished goods following entry into force of this Protocol for that Party and (B) any changes in the future amounts of such imports (measured in physical units and in monetary value) which the Party believes could occur following entry into force of this Protocol for that Party and during each of the periods referred to in Paragraphs _ of Article _ [i.e., the paragraphs establishing timeframes for achieving quantified

emissions limitation and reduction objectives] and in Paragraphs _ of Article _ [i.e., the paragraphs establishing timeframes for compliance with commitments to adopt or implement policies or measures]; and

- (iv) Specific estimates, accompanied by detailed explanation as to the basis of such estimates, of changes (measured in physical units and in monetary value) in the imports identified pursuant to subparagraph (iii) that the Party believes may be directly or indirectly attributable to the Party's actual or prospective fulfillment of its commitments under Articles _ and _ [i.e., the Articles containing commitments for quantified emissions limitation and reduction objectives and for policies and measures].

2. Information communicated by Parties pursuant to Paragraph I shall be transmitted by the secretariat as soon as possible to each of the Parties to the Convention.

3. Upon the initiative of the secretariat, or promptly following delivery to the secretariat of a written request by any Party to the Convention, the secretariat shall undertake an in-depth review of the information contained in a communication or certification submitted by a Party pursuant to paragraph 1 for the purpose of clarifying or supplementing, and making assessments with regard to the completeness and apparent accuracy of, all or part of such information. Each Party that has submitted information which is the subject of such in-depth review shall cooperate reasonably with the secretariat in all matters concerning such review. In conducting in-depth reviews, the secretariat shall enlist the assistance of individuals who are qualified to make the assessments referred to above concerning the information that is the subject of such review. Any team or group of individuals providing such assistance to the secretariat shall consist of at least one individual from a developing country for every two individuals from developed countries and, insofar as feasible, also shall reflect reasonable balance taking into account the diverse nature of the economies of the Parties to the Convention. Insofar as possible, the secretariat shall complete each in-depth review that has been requested by a Party to the Convention within six months following receipt of the request and shall transmit a written report of the in-depth review to each Party to the Convention as soon as possible, but no later than four months, following completion of the in-depth review.

4. Notwithstanding any other provision of this Protocol, the provisions of Articles _ and _ [i.e., the Articles containing commitments for quantified emissions limitation and reduction objectives and for policies and measures] shall expire and shall cease to have further force or effect if any one or more Annex _ Parties that, according to the most recent national inventories that have been communicated pursuant to Article 12, Paragraph I of the Convention, represent individually or in the aggregate ten percent or more of the total gross emissions of greenhouse gases (without regard to comparative radiative forcing or consideration of sinks) of all Annex _ Parties:

- (a) shall fail to submit in any one year a communication or as required by Paragraph I, or

(b) shall fail, at any time after the first anniversary of entry into force of this Protocol, to have adopted, implemented and kept in force policies and measures (including, but not limited to, laws and other acts of government having the effect of law) that, in light of such national inventories, the communications or certifications submitted by such Party or Parties pursuant to Paragraph 1, and/or the report of any in-depth review prepared pursuant to Paragraph 3 with respect to such communication or certification, reasonably appear to be necessary to enable such Party or Parties to fulfill its or their commitments set forth in Article _ [i.e., the Article containing commitments for quantified emissions limitation and reduction objectives].

**PROPOSAL FOR INCLUSION OF AN ARTICLE FOLLOWING
THE ARTICLE OR ARTICLES CONTAINING COMMITMENTS FOR
QUANTIFIED EMISSIONS LIMITATION AND REDUCTION OBJECTIVES
AND
POLICIES AND MEASURES**

[Note: The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE _

ECONOMIC INJURIES SUSTAINED BY DEVELOPING COUNTRIES

1. Any developing country Party to the Convention shall have a claim against all Annex _ Parties, jointly and severally, for loss of income from exports of fossil fuels, fossil fuel products, raw materials other than fossil fuels, or finished or semi-finished goods in any given year after adoption of this Protocol by the Conference of the Parties that is a direct or indirect consequence of the inclusion in this Protocol of commitments by any or all of such Annex Parties for quantified emissions limitation and reduction objectives or for policies and measures, or performance or attempted performance by any or all of such Annex _ Parties of any such commitments. For purposes of this Paragraph 1, "loss of income" shall be liberally interpreted. Not in limitation of the foregoing, "loss of income" may be estimated by taking into account estimates of gross revenue from the aforesaid exports, which reasonably could be expected to have been received by the claimant in the absence of the inclusion of the aforesaid commitments in this Protocol, less reasonably estimated costs of production and export that likely would have been incurred by the claimant in connection with lost exports.

2. A Party to the Convention asserting a claim pursuant to this Article _ shall submit its claim in writing to any Annex _ Party against whom it makes such claim within six years following the year for which the claim is made

3. [Insert provisions that may be proposed later concerning establishing compensation mechanism pursuant to this article].

4. Any Annex _ Party liable on a claim made pursuant to this Article _ shall have a claim for contribution against another Annex _ Party for the portion of the liability that is attributable to the performance or attempted performance by such other Annex _ Party of its commitments referred to in Paragraph 1.

ARTICLE _

SETTLEMENT OF DISPUTES

When ratifying, accepting, approving or acceding to the Protocol, a party which is not a regional economic integration organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application or paragraph 4 of the Article concerning the implementation of commitments (or of any other provision of this Protocol necessary to the interpretation or application of the said paragraph 4) any claim made pursuant to the Article concerning the economic injuries sustained by developing countries, it recognizes as compulsory ipso facto and without special agreement, in relation to any party to the convention accepting the same obligation:

- (a) Submission of the dispute to the International Court of Justice, and/or
- (b) Arbitration in accordance with procedures to be adopted by the Conference of the Parties.

A party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.

PROPOSAL FOR ARTICLE CONCERNING AMENDMENTS TO PROTOCOL AND ADOPTION AND AMENDMENT OF ANNEXES TO PROTOCOL

[Note: The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE _
AMENDMENTS TO PROTOCOL
AND
ADOPTION AND AMENDMENT OF ANNEXES TO PROTOCOL

1. Any Party to the Convention may propose amendments to this Protocol, annexes to this Protocol, and amendments to annexes to this Protocol. For purposes of Article 17.5 of the Convention, the phrase "Decisions under any protocol" shall not be interpreted or applied to include adoption of and amendment or annex to this Protocol nor amendment to any such annex. The authority to adopt any of the foregoing is vested in the Conference of the Parties.

2. Amendments to this Protocol may be adopted only at an ordinary session of the Conference of the Parties by consensus. The text of any proposed amendment shall be prepared in one of the following languages - Arabic, Chinese, English, French, Russian, and Spanish - and shall be translated into each of such other languages, and the Secretariat shall communicate the text of the proposed amendment to each of the Parties to the Convention in one of those languages reasonably believed by the secretariat to be preferred by the Party to the Convention at least six months before the meeting of the Conference of the Parties at which it is proposed for adoption. The secretariat also shall communicate proposed amendments to the signatories to the Convention and, for information, to the Depository.

3. An adopted amendment shall be communicated by the secretariat to the Depository, who shall circulate it to each of the Parties for ratification or acceptance in one of the languages identified in Paragraph 2 that is reasonably believed by the Depository to be preferred by the Party. Instruments of ratification or acceptance in respect of an amendment shall be deposited with the Depository. An amendment adopted in accordance with Paragraph 2 shall enter into force for those Parties having ratified or accepted it on the ninetieth day after the date of receipt by the Depository of an instrument of ratification or acceptance by at least three-fourths of the Parties.

4. An adopted amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depository its instrument of ratification, acceptance, or accession with respect to the amendment.

5. Annexes to this Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to this Protocol constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to lists, forms, and any other material of a descriptive nature that is of a scientific, technical, procedural, or administrative character.

6. Annexes to this Protocol and amendments to such annexes shall be adopted in accordance with the procedures set forth in Paragraphs 1 and 2. Entry into force of annexes to this Protocol and of amendments to such annexes shall be subject to the same procedure and requirements for entry into force, of amendments to this Protocol that are set forth in Paragraphs 3 and 4; provided that if the adoption of an annex or an amendment to an annex involves an amendment to this Protocol, that annex or amendment to an annex shall not enter into force until such time as the amendment to this Protocol enters into force.

PROPOSAL FOR ARTICLE CONCERNING WITHDRAWAL

[Note: The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE _ WITHDRAWAL

1. At any time after this Protocol has entered into force with respect to a Party, that Party may withdraw from this Protocol by giving written notification to the Depository. Any such withdrawal shall take effect on the ninetieth day after the date of its receipt by the Depository. The Depository shall communicate to all Parties to the Convention a copy of each such notification of withdrawal.

2. Notwithstanding Paragraph 1, the withdrawal by an Annex _ Party from this Protocol shall not operate to limit its liability for any claim that may have accrued against it pursuant to Article [i.e., the Article concerning Economic Injuries Sustained by Developing Countries] prior to the effective date of such withdrawal.

PAPER NO. 8: NETHERLANDS
(ON BEHALF OF THE EUROPEAN UNION)

EUROPEAN UNION PROPOSAL FOR A DRAFT PROTOCOL TO THE UNITED
NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE ¹

ARTICLE 1

DEFINITIONS ²

Article on necessary definitions to be developed

ARTICLE 2

COMMITMENTS FOR PARTIES LISTED IN ANNEX X

a) General commitment by Parties listed in Annex X ³ regarding policies and measures

- Parties listed in Annex X shall adopt and implement policies and take measures within national and where appropriate regional programmes referred to in Article 4.1(b) of the convention to limit and reduce anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol from all relevant sectors, including renewable energies; energy efficiency standards, labelling and other product related measures; CO₂ emissions from the transportation sector; economic instruments in the field of climate change; energy policies; industrial sector emissions, including voluntary agreements; agriculture; emissions from waste; fluorocarbons and SF₆, municipal actions; and to protect and enhance sinks and reservoirs, including forests.

b) Further commitments by Parties listed in Annex X regarding policies and measures

- (i) Parties listed in Annex X shall adopt and implement the policies and measures set out in Annex A.
- (ii) Parties listed in Annex X shall give high priority to the adoption and implementation of the policies and measures set out in Annex B, and shall work towards their early coordination, by applying the guidance set out in the Annex.

1 See also AGBM 5 statements

2 Titles of articles and paragraphs are included solely to assist the reader.

3 The list of Parties contained in Annex X shall consist of countries which are members of OECD and countries with economies in transition

- (iii) Parties listed in Annex X shall give the policies and measures in Annex C priority for inclusion in national programmes, as appropriate to national circumstances.

c) Commitment by Parties listed in Annex X regarding limitation and reduction objectives

- Each of the Parties listed in Annex X shall, individually or jointly, abide by quantified objectives to achieve significant overall reductions, after the year 2000 below 1990 levels within specified timeframes⁴, of anthropogenic emissions by sources and enhancement of removals by sinks of greenhouse gases not controlled by the Montreal Protocol, as set out in Annex Y.⁵

d) Joint implementation

- Parties listed in Annex X may implement such policies and measures as set out in Article 2(b) above and attain such limitation and reduction objectives in greenhouse gases as set out in Article 2(c) above jointly with other Parties listed in Annex X and Parties that have made a notification under Article 2(f) below of intention to be bound by commitments on emission limitation and reduction objectives under Article 2(c) above.

4 Such as 2005, 2010 and 2020.

5 To date, the following range of possible reductions have been proposed by some Parties, and further proposals will follow:

- each Annex I Party to reduce overall greenhouse gas emissions to 5-10% below 1990 levels by 2010 (UK);
- reduce CO₂ emissions to 10-20% below 1990 levels by 2010 (Belgium);
- each Annex I Party to reduce CO₂ emissions to 10% below 1990 levels by 2005, and 15-20% by 2010 (Germany, Austria);
- each Annex I Party to reduce CO₂ emissions to 20% below 1990 levels by 2005 (AOSIS);
- reduce CO₂ emissions by 20% of 1990 levels by 2005 and by 50% of 1990 levels by 2030 (Denmark);
- Annex I Parties together reduce total greenhouse gas emissions by an average of 1-2% per year (Netherlands);
- adopt greenhouse gas emissions paths converging eventually to similar levels of emissions per capita or per unit of GDP leading to an overall emissions reduction within specified timeframes (France, Spain);
- reduce limit greenhouse gas emissions on the basis of emissions per GDP, in order to reduce overall Annex I emissions in the medium long term (Japan).

- The Conference of the Parties shall take decisions regarding criteria for joint implementation with other Parties at a future session.

e) Commitments regarding communication of information relating to implementation

- Parties listed in Annex X shall include in communications under Article 12 of the Convention a detailed description of the policies and measures adopted and implemented to meet the commitments under Articles 2(a) to 2(c) above, specific estimates of their effects and, as appropriate, their costs, and resulting projected anthropogenic emissions.
- Parties listed in Annex X shall submit an initial communication within six months of the entry into force of the Protocol for that Party. Each Party not so listed shall make its initial communication within 3 years of the entry into force of the Protocol for that Party. The frequency of subsequent communications by all Parties shall be determined by the Conference of the Parties at its sixth session and subsequent sessions.
- Such communications shall include in particular the results of reviews of national policies and practices referred to in Article 4.2(e)(ii) of the Convention and any significant changes identified.

f) Voluntary application by Parties not listed in Annex X

- Any Party not listed in Annex X may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depositary that it intends to be bound by some or all of the commitments under Article 2(b) above to adopt and implement specific policies and measures in Annexes A, B and C, and/or that it intends to be bound by commitments on emissions limitation and reduction objectives under Article 2(c) above. The Depositary shall inform the other signatories and Parties of any such notification. Any Party not listed in Annex X making a notification in relation to Article 2(b) and/or Article 2(c) shall be bound by commitments regarding communication of information relating to implementation under Article 2(e) above, as relevant.

g) Possible annexes on methodological questions

- Annex D shall contain the most recent Global Warming Potentials (GWPs), as agreed by IPCC for greenhouse gases not covered by the Montreal Protocol.

As soon as Parties to the Convention have taken a decision on the pilot phase of AIJ in accordance with Decision 5 CP.1

Since the new commitments would have to be accompanied by substantial and mandatory reporting commitments, appropriate parts of Article 12 of the Convention could be carried over into the Protocol as such. Additions to the "Guidelines for the preparation of National Communications by Annex I Parties" consistent with the control schedule will also have to be made.

ARTICLE 3

COMMITMENTS FOR ALL PARTIES

All Parties shall, in accordance with the provisions of Annex E, continue to advance the implementation of commitments in Article 4.1 of the Convention and strengthen their collaboration through bilateral, multilateral and Convention based mechanisms so as to facilitate reaching the ultimate objective of the Convention and in order to achieve sustainable development taking into account Articles 4.3, 4.5 and 4.7 of the Convention.

ARTICLE 4

REVIEW OF COMMITMENTS

1. The Conference of the Parties shall review the adequacy of commitments on the basis of Article 2 of the Convention, of best available scientific information and assessment of climate change and its impacts, as well as relevant technical, social and economic information, and take appropriate action.
2. The first review and the appropriate action based on that review shall take place no later than 31 December 2002. Further reviews and appropriate action shall take place at regular intervals thereafter, to be decided by the Conference of the Parties.
3. The Conference of the Parties at its first session shall review the content and scope of all Annexes and shall update them regularly in the light of progress on the implementation of policies and measures by Parties, including progress on co-ordination of measures, the identification or elaboration of additional policies and measures, new scientific or technological advice, and other relevant developments.

ARTICLE 5

CONFERENCE OF THE PARTIES

1. The Conference of the Parties of the Convention shall serve as the Conference of the Parties of the Protocol. To this end, for the purposes of Articles 5 to 8 of this Protocol references in Articles 7 to 10 of the Convention to "the Convention" and "the Parties" shall be understood as references to "the Protocol" and "the Parties to the Protocol" respectively.
2. When the Conference of the Parties exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.

¹ See also AGBM-5 statement "Continuing to Advance the Implementation of Article 4.1."

3. When the Conference of the Parties exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Conference of the Parties representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

ARTICLE 6

SECRETARIAT

1. The secretariat of the Convention shall serve as the secretariat of the Protocol. Arrangements made for its functioning under Article 8.3 of the Convention shall apply mutatis mutandis to this Protocol.
2. The functions of the secretariat shall be:
 - (a) To compile, synthesise and transmit to the Conference of the Parties reports submitted to it and information communicated to it in accordance with Article 2(e);
 - (b) To facilitate assistance to the Parties, particularly developing country Parties, on request, in the compilation and communication of information required in accordance with the provisions of the Protocol; and
 - (c) To perform other secretariat functions specified in the Protocol and such other functions as may be determined by the Conference of the Parties.

ARTICLE 7

SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE

1. The Subsidiary Body for Scientific and Technological Advice of the Convention shall serve as the subsidiary Body for Scientific and Technological Advice of the Protocol.
2. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.
3. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Scientific and Technological Advice representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

ARTICLE 8

SUBSIDIARY BODY FOR IMPLEMENTATION

1. The Subsidiary Body for Implementation of the Convention shall serve as the Subsidiary Body for Implementation of the Protocol.

2. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.
3. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Implementation representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

ARTICLE 9

FINANCIAL MECHANISM

The financial mechanism defined for the purposes of the Convention as well as the entity or entities entrusted with its operation shall serve as the financial mechanism and entity or entities for the purpose of the Protocol.

ARTICLE 10

RESOLUTION OF QUESTIONS REGARDING IMPLEMENTATION AND COMPLIANCE

The Conference of the Parties shall, at its first session after the entry into force of the Protocol, establish a multilateral consultative process including an Implementation Committee to review, at the request of a Party or Parties, the Secretariat, or a Party in respect of itself, compliance with its obligations under the Protocol. Such Committee shall have among its functions to regularly report to the Conference of the Parties, which shall take appropriate decisions in the light of such reports. The review procedure shall be simple, facilitative, cooperative, non-judicial and transparent. Its application shall be without prejudice to the provisions of Article 14 of the Convention.

ARTICLE 11

AMENDMENTS TO THE PROTOCOL

1. Any Party may propose amendments to the Protocol.
2. Amendments to the Protocol shall be adopted at an ordinary session of the Conference of the Parties. The text of any proposed amendment to the Protocol shall be communicated to the Parties by the secretariat at least six months before the session at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the signatories to the Protocol and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the session. The adopted amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.
4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to the Protocol.
5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.
6. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

ARTICLE 12

ADOPTION AND AMENDMENT OF ANNEXES TO THE PROTOCOL

1. Annexes to the Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Protocol constitutes at the same time a reference to any Annexes thereto. Annexes other than those adopted together with the Protocol shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.
2. Any Party may make proposals for an Annex to the Protocol and may propose amendments to Annexes to the Protocol.
3. Proposals for an Annex to the Protocol and for amendments to Annexes to the Protocol shall be adopted at a session of the Conference of the Parties. The text of any proposed Annex to the Protocol or amendment to an Annex to the Protocol shall be communicated to the Parties by the secretariat at least three months before the session at which it is proposed for adoption. The secretariat shall also communicate proposed Annex to the Protocol or amendment to an Annex to the Protocol to the signatories to the Protocol and, for information, to the Depositary.
4. The Parties shall make every effort to reach agreement on any proposed Annex to the Protocol or amendment to an Annex to the Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the Annex or amendment shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the session. The adopted Annex or amendment shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties.

5. An Annex that has been adopted or amended in accordance with paragraph 3 and 4 above shall enter into force for all Parties to the Protocol six months after the date of the communication by the Depositary to such Parties of the adoption or amendment of the Annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the Annex or amendment. The Annex or amendment shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.
6. If the adoption of an Annex or an amendment to an Annex involves an amendment to the Protocol, that Annex or amendment to an Annex shall not enter into force until time as the amendment to the Protocol enters into force.
7. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

ARTICLE 13

RIGHT TO VOTE

1. Each Party to the Protocol shall have one vote, except as provided for in paragraph 2 below.
2. Regional economic integration organisations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Protocol. Such an organisation shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

ARTICLE 14

SIGNATURE

1. Only Parties to the Convention may be Parties to this Protocol.
2. The Protocol shall be open for signature by Parties to the Convention at Kyoto during the Third Conference of the Parties to the Convention and thereafter at United Nations Headquarters from

ARTICLE 15

RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. The Protocol shall be subject to ratification, acceptance, approval or accession by States and by regional economic integration organisations which are Parties to the Convention. It shall be open for accession from the day after the date on which the Protocol is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.
2. Any regional economic integration organisation which becomes a Party to the Protocol

without any of its member States being a Party shall be bound by all the obligations under the Protocol. In the case of such organisations, one or more of whose member States is a Party to the Protocol, the organisation and its member States shall decide on their respective responsibilities for the performance of their obligations under the Protocol. In such cases, the organisation and the member States shall not be entitled to exercise rights under the Protocol concurrently.

- B. In their instruments of ratification, acceptance, approval or accession, regional economic integration organisations shall declare the extent of their competence with respect to the matters governed by the Protocol. These organisations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

ARTICLE 16

ENTRY INTO FORCE

1. The Protocol shall enter into force on the ninetieth day after the date of deposit of (...) instruments of ratification (...).
2. For each State or regional economic integration organisation that ratifies, accepts or approves the Protocol or accedes thereto after the fulfilment of the requirements of paragraph 1, the Protocol shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organisation of its instrument of ratification, acceptance, approval or accession.
3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organisation shall not be counted as additional to those deposited by States members of the organisation.

ARTICLE 17

RESERVATIONS

No reservations may be made to the Protocol.

ARTICLE 18

WITHDRAWAL

1. At any time after three years from the date on which the Protocol has entered into force for a Party, that Party may withdraw from the Protocol by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Protocol.

ARTICLE 19**AUTHENTIC TEXTS**

The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary General of the United Nations.

ANNEX A ⁷

Policies and measures to be common to national programmes of all parties listed in Annex X.

ANNEX B ¹⁰

Policies and measures to be given high priority for inclusion in national programmes of Parties listed in Annex X and for coordination with other Parties.

ANNEX C ¹¹

National policies and measures to be given priority for inclusion in national programmes of Parties listed in Annex X, as appropriate to national circumstances.

ANNEX D

Containing the most recent Global Warming potentials (GWPs), as agreed by IPCC for greenhouse gases not covered by the Montreal Protocol

ANNEX E

Measures listed hereunder should be further developed and implemented by all Parties, based on the principle of differentiated responsibilities and capabilities of Parties. (References to relevant UNFCCC articles are in italics).

National Programmes, Inventories and Reporting

1. National programmes to be updated regularly in addition to any updating carried out in the context of national communications. *4.1(b)*
2. Parties to provide annual inventory data for greenhouse gases as required by Decision 3 CP.1. *4.1(a)*
3. Parties, to the extent possible, move to use full IPCC compatible methodologies for preparation of inventories. *4.1(a)*
4. Parties to identify and agree to implement strategies to ensure climate change

⁷ See AGBM -5 statement on Policies and Measures.

Idem 10

Idem 10

considerations are taken into account in all relevant Government policy areas and initiatives and include an evaluation of the effects thereof in national communication. *4.1(f)*

5. National programmes to incorporate, as appropriate, policies and measures to remove obstacles to the limitation of greenhouse gas emissions and to the enhancement of sinks including by *4.1(b)*:
 - (a) increasing energy efficiency;
 - (b) increasing the use of renewable energies;
 - (c) making improvements in the transport sector;
 - (d) improving efficiencies in industrial production processes;
 - (e) promoting the development and sustainable management of sinks and reservoirs of greenhouse gases;
 - (f) improving integration of climate change considerations into agriculture.
6. Parties to develop, periodically update, publish and make available to the COP strategies for mitigation of climate change and derive therefrom national inventories of the need and market potential for technologies, practices and processes that control, reduce or prevent anthropogenic emissions of GHGs. *4.1(b) & (c)*

Bilateral/Multilateral Cooperation

7. Parties to cooperate in identifying and agreeing specific means and approaches to foster bilateral, regional and global cooperation to facilitate mitigation and adaptation to climate change, including
 - (a) development of national inventories of greenhouse gas emissions. *4.1(a)*
 - (b) formulation and implementation of relevant programmes of measures to mitigate and adapt to climate change, with a special consideration of measures which also favour the economic development of Parties. *4.1(b)*
 - (c) the development, application and diffusion, including transfer of technologies, practices and processes that control, reduce or prevent greenhouse gas emissions particularly in sectors strongly exposed to international competition. *4.1(c)*
8. Participation, on a voluntary basis, in activities implemented jointly. *4.1(b)*
9. Develop and implement indicators relevant to mitigation of and adaptation to climate change in the context of sustainable development with particular reference to paragraph 4 of Decision 4.5 of the 4th session of the UN commission on Sustainable Development in 1996. *4.1(c)*

Participation in work of International Organisations

4 1 (g), (h) & (i)

10. Parties, to the extent possible, to support and or to participate in the work of
- (a) international bodies, such as WMO, UNEP, IMO, ICAO, in examining, elaborating, assessing, developing and implementing strategies for mitigation and adaptation to climate change; and
 - (b) international programmes related to climate change, such as the World Climate Programme and the forthcoming Climate Agenda proposal, as well as the START initiative of the IGBP and the scientific and educational programmes of WMO and UNEP as they are developed.

ANNEX X

List of countries to be bound by Article 2(a) to Article 2(e).

ANNEX Y

Quantified limitation and reduction objectives for Parties listed in Annex X ¹².

¹² See also AGBM-5 statement on QELROs

EU PROPOSED PROTOCOL STRUCTURE

INITIAL LIST OF POLICIES AND MEASURES FOR POSSIBLE INCLUSION IN ANNEXES A & B

Policies and Measures, drawn from the lists submitted by the EU at AGBM3 and AGBM4, which can be categorised as belonging to Annexes A or B are listed hereunder.

Those to be given priority consideration for inclusion in Annex A or B are marked with an asterisk (*).

These proposals are not yet sufficiently specific for inclusion in the Protocol as they stand, but are appropriate for further exploration and development. The EU will make further proposals for categorisation of policies and measures and may further refine its proposals as between Annexes A, B & C.

RENEWABLE ENERGIES

i) definition of a major item 'renewable energies' within the framework of the existing international financing mechanisms, e.g. World Bank, GEF, Regional Development Banks, Phare, Tacis etc.:

* ii) identification, reduction and progressive removal of existing barriers, which prevent the penetration of potentially cost effective renewable energy routes in the market.

iii) economic or other incentives for the diffusion of emerging technologies in the field of renewable energies and to secure an expanding market for potentially cost-effective renewable technologies.

ENERGY EFFICIENCY STANDARDS, LABELLING AND OTHER PRODUCT RELATED MEASURES

* i) Policies and measures for common household appliances (refrigerators, freezers, washing machines, dryers, dishwashers and water heaters); home entertainment and standby equipment, lighting products, office equipment, and air compressors; space heating equipment, air conditioners, building energy control equipment, and buildings in general include:

a) mandatory energy consumption labelling, with defined test procedures and functional performance measures of the products;

b) voluntary agreements with producers and importers to improve energy efficiency levels of products through clear objectives or general improvement ranges, and, if necessary or where appropriate, mandatory minimum efficiency standards of the products.

TRANSPORT SECTOR

i) Minimum excise duty on fuels. The EU has set minimum excise duties on fuels. Minimum excises duties could be set in the Protocol to be applied to all Annex 1 countries.

ii) Reduction of CO₂ emissions from newly registered cars

A strategy to reduce the CO₂ emissions from newly registered cars could be based on the promotion of measures aiming at reaching target value(s) for average fuel efficiency and/or average g-CO₂/km emissions of newly registered cars per year by a given date:

The above measures could include:

- a) voluntary agreements with the car industry
- b) complementary measures aimed at developing the market for fuel efficient, low CO₂ emitting cars as well as alternative fuels;

iii) Fuel economy labelling

iv) Civil aviation

- All ICAO Members could introduce aviation fuel taxation and/or efficiency standards on the basis of international agreement and worldwide application.

v) Maritime Transport

- All IMO Member countries could agree internationally to use appropriate economic instruments including taxation to encourage the use of cleaner fuels and more fuel-efficient engines.

ECONOMIC INSTRUMENTS IN THE FIELD OF CLIMATE CHANGE

i) Progressively reduce subsidies of fossil fuels and reduce/remove such subsidies, tax schemes and regulations which counteract an efficient use of energy.

ii) A framework for introduction of an environmental taxation scheme for all Annex I Parties. This could include:

- a common environmental taxation structure;
- minimum taxation target rates, with an effective multilateral consultative process for reviewing taxation rates and possible exemptions, and monitoring the effects of taxes in reducing emissions;
- study of a phasing-in mechanisms, including agreement on a transitional period and possible exemptions during that period;
- consideration of the sectors, sources and fuels which could be subject to taxation;

- timetable for implementation.

iii) A framework for tradeable quota schemes or permits.

ENERGY POLICIES

i) where appropriate, reforms of energy markets directed at increasing efficiency including by increasing competition;

ii) fuel switching to less GHG emitting sources;

iii) reduction of the energy losses and of greenhouse gas emissions, in particular methane, when extracting, transporting, and distributing energy;

iv) promotion, where appropriate, of the use of integrated resource planning and least cost planning;

INDUSTRY SECTOR EMISSIONS, INCLUDING VOLUNTARY AGREEMENTS

i) Improvement of the energy efficiency of power plants and other combustion plants;

* ii) Introduction of international voluntary agreements in industrial sectors internationally oriented, aimed at measures such as the introduction of minimum energy efficiency requirements and GHG emission limits;

* iii) International co-ordination on standards for energy efficiency and on the use of fiscal incentives for encouraging advanced options improving energy efficiency and reducing GHG emissions;

iv) Extended use of CHP (Combined Heat and Power), with the aim of the reduction of GHG emissions, for district heating, industrial process heat and low temperature heat in other sectors and processes, as appropriate;

AGRICULTURE SECTOR

i) Promote bioenergy production such as energy crops and energy plantations, as appropriate, where a net reduction of GHG emissions results;

ii) Identify and promote cost-effective ways to include climate change considerations in the general agricultural policies applied by different Parties and agree to pursue those policies and measures in WTO and other relevant bodies;

iii) Voluntary agreements with specific sectors to improve energy efficiency and reduce GHG emissions.

THE ROLE OF FORESTRY TO MITIGATE CLIMATE CHANGE

i) Develop forest management practices that expand carbon storage, including afforestation and reforestation policies, in the forest ecosystem including soils, without negatively affecting long term productivity or biodiversity.

ii) Parties should, where appropriate and with regard to sustainable environmental and land use considerations, particularly the need to mitigate global climate change, take or initiate actions to:

a) Expand afforestation/reforestation that produce a basis for viable biofuel and wood production for local demand and for industrial use, and that provide other beneficial effects such as watershed protection, protection against natural hazards or recreation.

b) Develop and make use of environmentally sustainable and competitive wood or non-wood biofuel production systems according to local conditions and the amount of forest resources.

f) Undertake measures and forest management practices to decrease N₂O and CH₄ emissions and increase soil carbon.

FLUOROCARBONS AND SF₆

i) product standards with respect to a.o. leakages of fluorocarbons emissions;

ii) use, as far as possible, of selected low GWP fluorocarbons instead of high GWP fluorocarbons;

iii) international co-operation in the development of policies and agreements with the sector organisations (a.o. International Primary Aluminium Industry; International Semiconductor Association; Refrigeration Industry) for the reduction of fluorocarbon emissions;

At this stage, policies and measures not listed as belonging to Annexes A or B are to be considered as belonging to Annex C.

AGBM 5

Agenda item 3(b)

Geneva, December 1996

QELROs

Substantive negotiations

Ireland, on behalf of the European Community and its Member States, welcomes, as a necessary and constructive step towards the acceleration of the Berlin Mandate process, the steps taken at this AGBM to address the issue of quantified objectives for significant overall reductions of greenhouse gas emissions after the year 2000 below 1990 levels.

Guiding Objectives

The EU agrees with the suggestion in paragraph 18 of the Chairman's Synthesis of Proposals, document FCCC/AGBM/1996/10, that Parties should develop a common recognition of the CO₂ concentration level thought likely to result in dangerous anthropogenic interference with the Climate system as defined in Article 2 of the Framework Convention on Climate Change. In this context, the EU recalls that, according to the IPCC SAR, stabilisation of atmospheric concentrations of CO₂ at twice the pre-industrial level, i.e. 550 ppm, will eventually require global emissions to be less than 50% of current levels of emissions; such a concentration level is likely to lead to an increase of the global average temperature of around 2° C above the pre-industrial level. The EU believes that global average temperatures should not exceed 2 degrees above pre-industrial level and that therefore concentration levels lower than 550 ppm CO₂ should guide global limitation and reduction efforts. This means that the concentrations of all greenhouse gases should also be stabilised. This is likely to require a reduction of emissions of greenhouse gases other than CO₂, in particular CH₄ and N₂O.

Legal Character

The Chairman's Synthesis in document FCCC/AGBM/1996/10 identifies four options in relation to the degree of commitment that should attach to QELROs. The EU reaffirms its full support for the Geneva Ministerial Declaration at the Second Session of the Conference of the Parties. This calls for, inter alia, commitments for Annex I Parties regarding policies and measures and quantified legally-binding objectives for emission limitations and significant overall reductions within specified timeframes, such as 2005, 2010 and 2020. Accordingly, the EU has a preference for the first of the options identified by the Chairman in paragraph 20 of the synthesis document, viz "the QELROs should be legally binding". The EU notes that this would not be the only legally binding provisions in the Protocol and refers in this regard to its proposal on policies and measures.

Timeframes

In relation to paragraph 24 of the synthesis document, the EU supports the need for QELROs within the timeframes 2005 and 2010 as a preferable shorter time process, and 2020 as a possible longer term perspective. There might also be a need to develop an understanding of the necessary longer term QELROs beyond these dates.

The short and medium term objectives will affect the levels of reductions required to be achieved over the longer term also, significantly affecting the scope for investment decisions made at any time in the future. Stabilisation as defined by Article 2 of the Framework Convention on Climate Change could be achieved by various emission paths within clear limits if overall objectives are to be met. It must be clearly understood that insufficiently ambitious short- and medium-term QELROs will require severe reductions later in order to meet the ultimate objective of the Framework Convention on Climate Change and could jeopardize the attainment of that objective. The EU does not see, therefore, that it is possible to optimise investment options and decisions over a longer time-horizon without agreeing appropriate and realistic short and medium term QELROs. In this context, the EU reiterates its beliefs that objectives should be ambitious enough to ensure an appropriate Annex I contribution to the global effort, that the precautionary principle has to be applied, and that there is a need for early action.

Distribution of commitments

Paragraphs 25 to 29 of the Chairman's synthesis identify a number of options for differentiation put forward by a number of Parties. The EU is prepared to examine these proposals, on the basis of a concrete understanding of their implications, and calls on Parties for quantification of the relative implications for the Parties or for different classes of Parties, and of the variables in formulae that have been advanced.

Flexibility

The EU considers that all Annex X Parties could be given a degree of flexibility in meeting their QELROs and that there are a number of policies and measures and potential mechanisms, including JI, and emissions trading.

AIJ/Joint Implementation

The EU has advanced, in Article 2 of its proposals for a Protocol Structure, an option to allow Annex X Parties to implement policies and measures, and attain limitation and reduction objectives, in greenhouse gases, jointly with other Parties listed in Annex X, and with Parties that have made a notification of intention to be bound by commitments on emission limitation and reduction objectives. This proposal is contained in the second option of paragraph 32 of the Chairman's Synthesis document.

Furthermore, the EU proposes that a decision on criteria for joint implementation with other Parties will be taken by the COP at the end of the pilot phase for AIJ

The EU joint implementation provisions in relation to Parties with targets, and between these Parties and others, should be regarded as two separate provisions.

Cumulative or aggregate targets

The EU has not taken a final position on cumulative or aggregate targets.

However, we consider that it would be worthwhile to explore the possibility of carrying forward any emissions below the total allocated to a future period. In that way, for example, extra efforts, using opportunities from replacement of capital stock, would not be wasted but would remain valid.

The EU considers this option might be given further attention by AGBM.

Emissions Trading

The EU notes that some Parties have made proposals for regimes for emissions trading. The EU has also included, in its proposal for policies and measures, an option for a "framework for an emission trading system" in its proposed Protocol structure. However, the EU has not yet finalised its position on the option of emission trading. In fact, this system needs further study. In this respect, the EU welcomes the analysis undertaken by the Annex I Expert Group of the OECD. It is understood that a study from this Group will be available at AGBM 6.

The methodological aspects of possible interactions between Joint Implementation and various concepts of emissions trading need to be carefully studied. In any case, emissions trading cannot replace the agreeing of policies and measures in a Protocol as proposed by the EU.

Annex X Parties

The EU has proposed that the QELROs apply to Parties to be included in Annex X to the Protocol, consisting of developed country Parties and other appropriate Parties. Currently, the existing commitment in art. 4.2 (a) and (b) of the Convention applies to Annex I Parties, and the Berlin Mandate provides for the setting of QELROs for Annex I Parties. However, the group of industrialised countries is expanding, as countries join the OECD. Annex X would therefore cover the Annex I Parties and new OECD members, who might be candidates for inclusion in revised Annexes I and II, when these are reviewed in accordance with Article 4.2 (f) of the Convention. The EU believes that it will be necessary to allow for the commitments under the Protocol to be extended to other Parties on the basis of voluntary acceptance of QELROs. The EU proposals for regular review will facilitate the revision of Annex X to include additional Parties as their individual circumstances allow.

Conclusion

The compilation set out in the synthesis document, together with the EU analysis of the action necessary in this regard, reinforce the position adopted by the EU at previous sessions in relation to the levels and timings of QELROs, and their interdependence with policies and measures. They also reinforce the EU call for timely substantive negotiations based on a negotiating text at AGBM6.

AGBM 5
Agenda Item 5
Geneva, December 1996

Possible Features of a Protocol or Another Legal Instrument

Ireland, on behalf of the European Community and its Member States, welcomes this opportunity to present an elaboration of the EU draft Protocol Structure.

Need for a Protocol

Parties will recall that the EU has a strong preference for a Protocol. In the view of the EU, a Protocol allows for building on the commitments already provided for in the UN Framework Convention on Climate Change, including the ultimate objective of the Convention in relation to the stabilisation of greenhouse gas concentrations as well as incorporating the requirements of the Berlin Mandate. The Berlin Mandate requires the elaboration of policies and measures and the setting of quantified emission limitation and reduction objectives within specified timeframes such as 2005, 2010 and 2020, with a mechanism for ongoing review. In addition, the EU considers that a dynamic Protocol as it has proposed meets these requirements and in the most appropriate manner and will have the flexibility to develop and evolve over time.

EU Protocol structure

The EU submitted an outline of a Protocol structure to AGBM2. This, and the submissions by the EU for this session and at this session, provide a draft text of a Protocol and a substantive basis for advancing negotiations. A copy of the consolidated text of the EU draft Protocol is being circulated with this statement.

The EU statements on the other agenda items dealing with policies and measures, QELROs and continuing to advance the implementation of existing commitments in Article 4.1 deal with relevant aspects of the proposed EU Protocol and Parties should have regard to these statements also in relation to this agenda item.

Communication and review of information

The Chairman's Synthesis of Proposals, document FCCC/AGBM/1996/10, outlines a number of proposals in relation to the communication and review of information under the Protocol. Article 2(e) of the EU proposed Protocol makes provision for a single communication for both the Convention and the Protocol for Annex X Parties, for the practical reason that their commitments under the Convention will be incorporated with their commitments under the Protocol for the period after 2000. The EU proposed that these Parties submit their first consolidated national communication within six months of the Protocol coming into effect.

Non-Annex X Parties will make their first communication within three years of the Protocol coming into effect for that Party. The decision on frequency of communications after the initial communication should remain with the COP.

The EU proposes that national communications should contain detailed description of the policies and measures adopted to meet their commitments in relation to policies and measures and QELROs, giving specific estimates of their effects and, to the extent possible, their costs, and resulting projected emissions.

Review of the commitments

The EU considers that the review of the commitments is a most important aspect of the longer term implementation of the Berlin Mandate. The proposals contained in paragraphs 51 to 53 of the synthesis document provide a basis for further reflection on this issue.

The provisions of Article 4 and of Article 12 of the EU Protocol structure, on the simplified procedures for the review and amendment of Annexes, provide an appropriate structure for incorporating the outcome of the review of commitments. The EU would expect that reviews of commitments would lead, where necessary, to the enhancement of commitments in the light of progress on the implementation of policies and measures by Parties, the identification or elaboration of additional policies and measures, in the light of new scientific or technical, social and economic information, and other relevant developments.

Annexes

The EU Protocol structure includes significant proposals for Annexes, including those under the first 4 headings of paragraph 54 of the synthesis document. The EU also proposes a further Annex in relation to advancing the implementation of existing commitments under Article 4.1 of the Convention. The EU proposals for new Annexes are outside the scope of Article 16(1) of the Convention and accordingly are a further reason for the implementation of the Berlin Mandate by way of a Protocol.

Voluntary application by non-Annex X Parties

The voluntary application by non-Annex X Parties is provided for in Article 2(f) of the EU proposal.

Institutions and institutional support

The EU proposal provides for the greatest degree possible of institutional economy, as called for at previous sessions of the AGBM, with reliance on the same COP, SBI, SBSTA and Secretariat. Within such reliance on the Convention's institutions, only Parties to the Protocol should take decisions in relation to the Protocol, and the Bureau members shall be drawn from Parties to the Protocol for these purposes.

PAPER NO. 9: NEW ZEALAND
(IN ASSOCIATION WITH CANADA AND THE UNITED STATES OF AMERICA)

15 January 1997

**SUBMISSION ON MECHANISMS THAT WOULD ENABLE ANNEX I PARTIES
FLEXIBILITY IN MEETING LEGALLY BINDING COMMITMENTS UNDER THE BERLIN
MANDATE**

1. Introduction

This submission has been prepared by New Zealand following discussions with other interested countries in response to the invitation by the Chairman at the fifth session of the AGBM for "Parties to submit further proposals, especially proposals incorporating draft text". The United States and Canada wish to be associated with this submission. While associating with this submission, they may also be separately making submissions which may address these same issues among a broader set of issues.

This proposal reflects our view that mechanisms for *flexibility* in the means by which Annex I Parties meet their commitments must be incorporated in any eventual legal instrument.

This submission, in particular, notes and relates to paragraphs 21 and 30 of document FCCC/AGBM/1996/10 Synthesis of Proposals, which address *coverage* and *flexibility*. We fully concur with the view that minimising the costs of achieving objectives is of central importance to achieving real and sustainable reductions in greenhouse gas emissions. Providing mechanisms for flexibility also increases the likelihood of more readily reaching a degree of commitment agreeable to all Annex I parties.

Broadly speaking, flexibility covers geographic and temporal opportunities to reduce greenhouse gas emissions in the most cost effective manner, and this, by necessity, includes the *coverage* issue of "all greenhouse gases, their emissions by sources and removal by sinks". Mechanisms for flexibility are about the means and actions by which Parties meet their commitments at least cost; they are not about avoiding those commitments.

This submission does not propose draft negotiating text. Rather, through its proposals, it makes some points that we believe that articles dealing with the level and timing of QELROs, coverage and flexibility must take into account. These can be viewed as essential 'building blocks' that enable flexible mechanisms, such as emissions trading, to be provided for in the legal instrument resulting from the Berlin Mandate process.

2. Level and Timing of QELROs

We propose that:

- a. Emission reduction commitments should be based on a cumulative emissions basis⁶, ideally for all Annex I Parties but at a minimum as an option for those Annex I Parties seeking to implement mechanisms that enable flexibility⁷.
- b. Parties who have established their commitments on a cumulative basis and that, in one time period, have emissions lower than their commitments for that time period, should be able to carry forward such emission reduction 'overachievement' to a future period.
- c. IPCC inventory methodologies, approved by FCCC COP as recommended by FCCC SBSTA, should form the basis of determining compliance with Parties' emission limitation and reduction commitments.

3. Coverage

As stated in paragraph 21 of FCCC/AGBM/1996/10 "the AGBM must take a decision on the treatment of different gas sources and sinks within QELROs."

We propose that:

- d. Annex I Party commitments should be based on the CO₂ equivalence of their emission contributions to the atmospheric stock of greenhouse gases.
- e. while inventories should be fully disaggregated by gas, sources and sinks and include data certainty classes, a mechanism be developed by FCCC SBSTA that establishes the procedures by which Parties calculate the equivalence of their emissions of different gases from sources and sinks⁸.

⁶ The practical application of a cumulative emissions basis would be for commitments to amount to averages over defined periods by comparison with some base year (or period).

Irrespective of flexibility, the use of cumulative emissions follows from the simple but powerful notion that, while not minimising the importance of non carbon based greenhouse gases, the essence of the challenge is to prevent an excessive portion of total global carbon from residing in the atmosphere, and the measure (or metric) of determining how successful we are being, is by performing a physical inventory of the additions to and subtractions from the atmospheric carbon stock.

⁷ The key issue is the mechanism by which, for example, if within a certain commitment period a party has excessive emissions for one greenhouse gas, but has overachieved the reductions of another, how these may be reconciled together on a single CO₂ equivalence basis given the potential different data accuracies and GWP uncertainties. Further, even for a single gas there may be different data certainties, eg CO₂ emissions from energy as compared with that from land use change and forestry.

4. Flexibility

As stated in paragraph 30 of FCCC/AGBM/1996/10 "the AGBM must take a decision on whether or not mechanisms that would provide Annex I parties with some flexibility in meeting their QELROs should be included in the instrument". Noting that the first three 'bullet' points of the following paragraph 31 have already been addressed above in Section 2, on the topics of emissions trading (which can alternatively be viewed as commitment sharing) and joint implementation, we propose that:

- f. Annex I Party commitments for a given time period can be met through a combination of a Party's cumulative emissions in that time period (as measured by emission inventories)
- less
- any cumulative emissions 'overachievement' banked from a previous period (per 2b)
- plus
- trading of commitments between countries who have legally binding emission limitation and reduction commitments (i.e. allows for trades when comparing inventory results with national commitments). Inventory 'adjustments' would be positive for one Party and negative for the other.
- g. Decisions on the means and criteria by which Annex I Parties might 'adjust' their inventories in relation to joint implementation projects conducted with Parties who do not have legally binding commitments, should be included as part of the text for this agreement.

PAPER NO. 10: NIGERIA

PROPOSAL FOR INCLUSION IN ARTICLE ON DEFINITIONS

[NOTE : The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE 1

DEFINITIONS

For the purposes of this Protocol :

1. "Convention" means the United Nations Frame Convention on Climate Change, adopted at New York on 9 May 1992 and opened for signature in Rio de Janeiro on 4 June 1992.
2. "Protocol" means this [insert full name of Protocol, followed by date and place of adoption and date and place it is opened for signature].
3. "Parties" means those States or regional economic integration organizations (as defined in Article 1, Paragraph 6 of the Convention) as to which this Protocol has entered into force in accordance with its terms.
4. "Parties to the Convention" means those States or regional economic integration organizations(as defined in Article 1, Paragraph 6 of the Convention) as to which the Convention has entered into force in accordance with its terms, whether or not they are Parties to this Protocol.
5. "Conference of the Parties" means the Conference of the Parties to the Convention established by Article 7 of the Convention.
6. "Annex_ Parties" means Parties included in Annex _ [insert identification of the Annex or Annexes listing Parties making commitments for quantified emissions limitation and reduction objectives and policies and measures].
7. "Secretariat" means the permanent secretariat designated by the Conference of the Parties in accordance with Article 8, Paragraph 3 of the Convention.
8. "Depositary" means the Depositary designated in Article 19 of the Convention.

9. All terms used in this Protocol that are defined in Article 1 of the Convention shall have the meanings set forth in Article 1 of the Convention.
10. Unless the context of a provision otherwise indicates, the plural form of the terms defined in Paragraphs 3,4, and 6 shall include the singular.

**PROPOSAL FOR INCLUSION OF AN ARTICLE IMMEDIATELY FOLLOWING
THE ARTICLE OR ARTICLES CONTAINING COMMITMENTS FOR
QUANTIFIED EMISSIONS LIMITATION AND REDUCTION OBJECTIVES
AND
POLICIES AND MEASURES**

[Note : The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provision of the proposal may have to be modified].

Article__

IMPLEMENTATION OF COMMITMENTS

1. Each Annex __ Party :

(a) within six months of the entry into force of this Protocol for that Party, shall communicate to the Conference of the Parties, through the secretariat, the following information :

- (i) A detailed description of the policies and measures that it plans to adopt to implement its commitments under Articles __ and __ [i.e., the Articles setting forth commitments for quantified emissions limitation and reduction objectives and for policies and measures]; and
- (ii) Detailed and specific estimates, accompanied by detailed explanation as to the basis of such estimates, of the anticipated effects of each of the policies and measures identified in the communication referred to the subparagraph (i) and of the aggregate anticipated effects of all such policies and measures on the Party's anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during each of the periods referred to in Paragraphs __ of Article __ [i.e., the paragraphs establishing timeframes for achieving quantified emissions limitation and reduction objectives].

(b) within twelve months of the entry into force of this Protocol for that Party and on or before the 15th day of April of each year thereafter, shall submit to the Conference of the Parties, through the secretariat, a certificate signed by a duly authorized official of that Party, which contains the following information.

- (i) Detailed and specific information identifying all changes to the information communicated pursuant to Paragraph 1(a) that would make such information more current, informative, or reliable;
- (ii) A list of all laws and other acts of government having the effect of law that, since entry into force of this Protocol for that Party, the Party has adopted in accordance with its internal lawmaking procedures to implement its commitments under Articles __ and __ [i.e., the Articles setting forth commitments for quantified emissions limitation and reduction objectives and for policies and measures];
- (iii) Specific estimates, accompanied by detailed explanation as to the basis of such estimates, of (A) annual imports (measured in physical units and in monetary value) by the Party from the developing country Parties to the Convention of fossil fuels, fossil fuel products, raw materials other than fossil fuels, and finished or semi-finished following entry into force of this Protocol for that Party and (B) any changes in the future amounts of such imports (measured in Physical units and in monetary value) which the Party believes could occur following entry into force of this Protocol for that Party and during each of the periods referred to in Paragraphs __ of Article __ [i.e., the paragraphs establishing timeframes for achieving quantified emissions limitation and reduction objectives] and in Paragraphs __ or Article __ [i.e., the paragraphs establishing timeframes for compliance with commitments to adopt or implement policies or measures]; and
- (iv) Specific estimates, accompanied by detailed explanation as to the basis of such estimates, of changes (measured in physical units and in monetary value) in the imports identified pursuant to subparagraph (iii) that the Party believes may be directly or indirectly attributable to the Party's actual or prospective fulfilment of its commitments under Articles __ and __ [i.e., the Articles containing commitments for quantified emissions limitation and reduction objectives and for policies and measures].

2. Information communicated by Parties pursuant to Paragraph 1 shall be transmitted by the secretariat as soon as possible to each of the Parties to the Convention.

3. Upon the initiative of the secretariat, or promptly following delivery to the secretariat of a written request by any Party to the Convention, the secretariat shall undertake an in-depth review of the information contained in a communication of certification submitted by a Party pursuant to Paragraph 1 for the purpose of clarifying or supplementing , and making assessments with regard to the completeness and apparent accuracy of, all or part of such information. Each Party that has submitted information which is the subject of such in-depth review shall cooperate reasonably with the secretariat in all matters concerning such review. In conducting in-depth reviews, the secretariat shall enlist the assistance of individuals who are qualified to make the assessments referred to above concerning the information that is the subject of such review. Any team or group of individuals providing such assistance to the secretariat shall consist of equal number of individual from all regions [those recognised by the United nations]and, insofar as feasible, also shall reflect reasonable balance taking into account the diverse nature of the economies, within each region, of the Parties to the Convention. Insofar as possible, the secretariat shall complete each in-depth review that has been requested by a Party to the Convention within six months following receipt of the request and shall transmit a written report of the in-depth review to each Party to the Convention as soon as possible, but no later than four months, following completion of the in-depth review.

4. Notwithstanding any other provision of this Protocol, the provisions of Articles__ and__ [i.e, the Articles containing commitments for quantified emissions limitation and reduction objectives and for policies and measures] shall expire and shall cease to have further force or effect if any one or more Annex__ Parties that, according to the most recent national inventories that have been communicated pursuant to Article 12, Paragraph 1 of the Convention, represent individually or in the aggregate ten percent or more of the total gross emissions of greenhouse gases(without regard to comparative radiative forcing or consideration of sinks) of all Annex__ Parties:

(a) shall fail to submit in any one year a communication or a certification as required by Paragraph 1; or

(b) shall fail, at any time after the first anniversary of entry into force of this Protocol, to have adopted, implemented and kept in force policies and measures(including, but not limited to, laws and other acts of government having the effect of law) that, in light of such national inventories, the communications or certifications submitted by such Party or Parties pursuant to Paragraph 1, and/or the report of any in-depth review prepared pursuant to Paragraph 3 with respect to such communication or certification, reasonably appear to be necessary to enable such Party or Parties to fulfill its or their commitments set forth in

Article __[i.e., the Article containing commitments for quantified emissions limitation and reduction objectives].

5. [Insert provisions that may be proposed later concerning adjudication of disputes regarding Paragraph 4].

**PROPOSAL FOR INCLUSION OF AN ARTICLE IMMEDIATELY FOLLOWING
THE ARTICLE OR ARTICLES CONTAINING COMMITMENTS FOR
QUANTIFIED EMISSIONS LIMITATION AND REDUCTION OBJECTIVES
AND
POLICIES AND MEASURES**

[Note : The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provision of the proposal may have to be modified].

Article__

ECONOMIC INJURIES SUSTAINED BY DEVELOPING COUNTRIES

1. Any developing country Party to the convention shall have a claim against all Annex__Parties, jointly and severally, for loss of income from exports of fossil fuels, fossil fuel products, raw materials other than fossil fuels, or finished or semi-finished goods in any given year after adoption of this Protocol by the Conference of the Parties that is a direct or indirect consequence of the inclusion in this Protocol of commitments by any or all of such Annex __ Parties for quantified emissions limitation and reduction objectives or for policies and measures, or performance or attempted performance by any or all of such Annex__Parties of any such commitments. For purposes of this Paragraph 1, "loss of income" shall be liberally interpreted. Not in limitation of the foregoing, "loss of income" may be estimated by taking into account estimates of gross revenue by the claimant in the absence of the inclusion of the aforesaid commitments in this Protocol, less reasonably estimated costs of production and export that likely would have been incurred by the claimant in connection with lost exports.
2. A party to the Convention asserting a claim pursuant to this Article__shall submit its claim in writing to any Annex__Party against whom it makes such claim within six years following the year for which the claim is made.
3. [Insert provisions that may be proposed later concerning arbitration of claims made pursuant to this Article].
4. [Insert provisions that may be proposed later concerning alternatives to arbitration of claims].
5. Any Annex __Party liable on a claim made pursuant to this Article__shall have a claim for contribution against another Annex__Party for the portion of the liability that attributable to the performance or attempted performance by such other Annex __Party of its commitments referred to in Paragraph 1.

**PROPOSAL FOR ARTICLE CONCERNING AMENDMENTS TO PROTOCOL
AND ADOPTION AND AMENDMENT OF ANNEXES TO PROTOCOL**

[Note: The following proposal assumes adoption of a protocol. If the Conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE _

**AMENDMENTS TO PROTOCOL
AND
ADOPTION AND AMENDMENT OF ANNEXES TO PROTOCOL**

1. Any Party to the Convention may propose amendments to this Protocol, annexes to this Protocol, and amendments to annexes to this Protocol. For purposes of Article 17.5 of the Convention, the phrase "Decisions under any protocol" shall not be interpreted or applied to include adoption of an amendment or annex to this Protocol nor amendment to any such annex. The authority to adopt any of the foregoing is vested in the conference of the Parties.
2. Amendments to this Protocol may be adopted only at an ordinary session of the conference of the Parties by consensus. The text of any proposed amendment shall be prepared in one of the following languages -- Arabic, Chinese, English, French, Russian and Spanish -- and shall be translated into each of such other languages, and the Secretariat shall communicate the text of the proposed amendment to each of the Parties to the Convention in one of those languages reasonably believed by the Secretariat to be preferred by the Party of the Convention at least six months before the meeting of the Conference of the Parties at which it is proposed for adoption. The Secretariat also shall communicate proposed amendments to the signatories to the Convention and, for information, to the Depositary.
3. An adopted amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to each of the Parties for ratification or acceptance in one of the languages identified in Paragraph 2 that is reasonably believed by the Depositary to be preferred by the Party. Instruments of ratification or acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with Paragraph 2 shall enter into force for those Parties having ratified or accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of ratification or acceptance by at least three fourths of the Parties.
4. An adopted amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of ratification, acceptance, or accession with respect to the amendment.

5. Annexes to this Protocol shall form an integral part thereof and, unless otherwise expressly provided, a reference to this Protocol constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to lists, forms, and any other material of a descriptive nature that is of a scientific, technical, procedural, or administrative character.

6. Annexes to this Protocol and amendments to such annexes shall be adopted in accordance with the procedures set forth in Paragraphs 1 and 2. Entry into force of annexes to this Protocol and of amendments to such annexes shall be subject to the same procedure and requirements for entry into force of amendments to this Protocol that are set forth in Paragraphs 3 and 4; provided that if the adoption of an annex or an amendment to an annex involves an amendment to this Protocol, that annex or amendment to an annex shall not enter into force until such time as the amendment to this Protocol enters into force.

PROPOSAL FOR ARTICLE CONCERNING WITHDRAWAL

[Note: The following proposal assumes adoption of a protocol. If the conference of the Parties adopts a legal instrument other than a protocol, the provisions of the proposal may have to be modified.]

ARTICLE _

WITHDRAWAL

1. At any time after this Protocol has entered into force with respect to a Party, that Party may withdraw from this Protocol by giving written notification to the Depositary. Any such withdrawal shall take effect of the ninetieth day after the date of its receipt by the Depositary. The Depositary shall communicate to all Parties to the Convention a copy of each such notification of withdrawal.

2. Notwithstanding Paragraph 1, the withdrawal by an Annex _ Party from this Protocol shall not operate to limit its liability for any claim that may have accrued against it pursuant to Article _ [i.e. the Article concerning Economic Injuries Sustained by Developing Countries] prior to the effective date of such withdrawal.

PAPER NO. 11: POLAND
(ON BEHALF OF BULGARIA, ESTONIA, LATVIA, POLAND AND SLOVENIA)

**Poland submits on behalf of Bulgaria, Estonia, Latvia, Poland and Slovenia
some comments on principal issues related to current discussion carried
out during the fifth session of the AGBM.**

In general this group of countries supports position of EU countries and proposed draft protocol presented in the Doc. FCCC/AGBM/1996/Misc.2/Add.2. Our specific comments are given below:

1. According to decision 1/CP.1 - Berlin Mandate, only Annex I Parties are obliged to elaborate and implement policies and measures for strengthening commitments included in Article 4.2 (a) and (b) of the Convention. In this context idea of establishing a new Annex X should be further clarified. In our opinion any Party which is not listed in Annex I may declare through Depository its will to be bound by the provisions of Article 4.2 (a) and (b) and to be included into the Annex I and declare a base year which is chosen. For Parties which declare such access after the COP 2 base year may be different than for UNFCCC Annex I Parties e.g. 1995 or 2000 year. For UNFCCC Annex I Parties base year established by the Convention (Art. 4.2 (b)) and decision 9/CP.2, paragraph 4 should be applied.
2. "Menu Approach" is preferred for establishing sets of measures to be adopted by Parties. Each Party should declare (e.g. in national communication) P&M's chosen for implementation and after that proposed set should become mandatory. Group of Parties may also agree on common measures which in such case can be included in Annex A according to proposal made by EU.
3. QELROs should be legally binding.
4. For each Annex I Party some flexibility in adopting quantified emission reduction targets should be allowed. Formula proposed by Norway could be used for differentiation calculations. However, we prefer to use the following criteria for this purpose: GDP per capita, Party's contribution to global emissions, emission per capita and/or emission intensity of GDP.
5. Proposed structure of the EU draft protocol should be further considered taking into account above mentioned comments.

PAPER NO. 12: SWITZERLAND

**United Nations Framework Convention on Climate Change
Ad Hoc Group on the Berlin Mandate (AGBM)
Sixth session, 3 - 7 March 1997, Bonn
Elements of a Protocol or another Legal Instrument**

In response to the request at the fifth session of the AGBM to submit proposals for elements of a protocol or another legal instrument, Switzerland would like to present the following views.

1. First of all we would like to mention that with occasion of AGBM5, Switzerland has submitted elements for a Protocol (cf. document FCCC/AGBM/1996/MISC.2/Add.3) and we refer to our proposal for more details.
2. In order to narrow down the proposals, Switzerland strongly support the proposal made by the European Union (EU) at AGBM5 concerning the Protocol's structure. We propose to complete the list of policies and measures presented by the EU with the measures contained in the UN ECE protocols on control and reduction of Volatile Organic Compounds (VOC) and NO_x. As for the transport sector, the use of railroads for the transport of goods and passengers (in particular, the combined use of rail/road transport) should be taken into account as a «B» policy (i.e. to be given high priority for inclusion in national programmes and for co-ordination with other Parties). Furthermore, we would like to emphasise that aviation fuel taxation is an important measure to be agreed upon by all Parties to the Convention.
3. As regards quantified emission limitation and reduction objectives (QELROs), Switzerland proposes 10% reduction of the total greenhouse gas emissions of Annex I Parties by the year 2010 compared to 1990 levels. We propose the approach consisting in setting a global objective for the Annex I Parties. This objective should be periodically revised to include new information delivered by science. In order to differentiate the QELROs among Parties, we maintain our proposal to use only the CO₂-equivalent emissions per capita as an indicator. Furthermore, we recognise that the proposal made by France addresses correctly equity by stating that emissions per capita should, in the long term, be the same for all countries. Nevertheless, in opposition to the French proposal, we think that the gross emissions should be considered and not the net emissions. Whatever differentiation criteria will be used to define QELROs, the result should be consistent with the Berlin Mandate, i.e. prevent that some Parties be allowed to increase their emissions.
4. Concerning other indicators for the differentiation (as e.g. GDP or emission intensity), it seems to us that their definition and use bear too many uncertainties which need to be clarified before these indicators could be used for differentiation.

5. Finally, concerning the institutional arrangements, we believe that a wide participation of Annex I Parties to the Protocol is necessary. Therefore, we suggest that at least twenty ratifications by Annex I Parties be required before the Protocol can enter into force.

PAPER NO. 12: UNITED STATES OF AMERICA

1/17/97

U.S. DRAFT PROTOCOL FRAMEWORK

(submitted without prejudice to ultimate form of agreement)

The Parties to this Protocol,

Have agreed as follows:

Article 1
Definitions

For purposes of this Protocol:

1. "The Convention" means the United Nations Framework Convention on Climate Change done at New York on 9 May 1992.
2. "Party" means Party to this Protocol.
3. "Greenhouse gas" means any greenhouse gas for which a global warming potential is set forth in Annex C of this Protocol.
4. "Tonne of carbon equivalent" means one metric tonne of carbon, or a quantity of one or more other greenhouse gases equivalent to one metric tonne based on the global warming potentials set forth in Annex C of this Protocol.
5. "Net anthropogenic emissions" of greenhouse gases is the calculated difference between emissions by sources and removals by sinks.
6. [other definitions to be developed or cross-referenced to the Convention as necessary]

Article 2
Emissions Budgets

1. Each Annex A and Annex B Party shall ensure that its net anthropogenic emissions of greenhouse gases do not exceed its emissions budget for any applicable budget period, as specified in this Article.
2. For each Annex A and Annex B Party, its emissions budget shall be denominated in tonnes of carbon equivalent emissions allowed and shall equal.

(a) the tonnes of carbon equivalent emissions it is allowed under paragraph 3 or 4 below, plus

(b) any tonnes of carbon equivalent emissions allowed that are carried over from a prior budget period under paragraph 5 below, plus

(c) up to [_ percent] of the tonnes of carbon equivalent emissions allowed under paragraph 3 or 4 below, such as may be borrowed from the subsequent budget period under paragraph 6 below, plus

(d) any tonnes of carbon equivalent emissions allowed that are acquired from another Party under Article 6 (International Emissions Trading) or Article 7 (Joint Implementation), minus

(e) any tonnes of carbon equivalent emissions allowed that are transferred to another Party under Article 6 (International Emissions Trading).

3. (a) For the first budget period, [20_ through 20_], each Annex A Party shall have a number of tonnes of carbon equivalent allowed equal to [a percentage of] its net anthropogenic emissions of tonnes of carbon equivalent in 1990, multiplied by [the number of years in this budget period].

(b) For the second budget period, [20_ through 20_], each Annex A Party shall have a number of tonnes of carbon equivalent emissions allowed equal to [a percentage equal to or less than the percentage in subparagraph 3(a)] of its net anthropogenic emissions of tonnes of carbon equivalent in 1990, multiplied by [the number of years in this budget period].

(c) [possible subsequent budget period(s)]

4. For the budget period [20_ through 20_], each Annex B Party (see Annex B for States included) shall have a number of tonnes of carbon equivalent emissions allowed equal to [options for Annex B Parties include: budget periods, baseyears, and/or percentages different from those applicable to Annex A Parties].

5. At the end of a budget period applicable to a Party, any amount by which the Party's emissions of tonnes of carbon equivalent is under its emissions budget for that period may be carried over and added to its emissions budget for the next budget period.

6. At the end of a budget period applicable to a Party, any amount of tonnes of carbon equivalent emissions allowed that is borrowed from the subsequent budget period shall be subtracted at a rate of [1.2:1] from the subsequent budget period.

7. [Provision requiring control of greenhouse gases not listed in Annex C]

8. Any State not listed in Annex A may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depositary that it intends to be bound by obligations of Annex A Parties. It will then be an Annex A Party. The Depositary shall inform the other signatories and Parties of any such notification.

9. Any State not listed in Annex A may, in its instrument of ratification, acceptance, approval, or accession, or at any time thereafter, notify the Depositary that it intends to be bound by obligations of Annex B Parties. It will then be an Annex B Party. The Depositary shall inform the other signatories and Parties of any such notification.

Article 3 **Measurement and Reporting**

1. Each Annex A and Annex B Party shall have in place by [the first year of its first budget period] a national system for the accurate measurement of anthropogenic emissions by sources, and removals by sinks, of greenhouse gases.

2. For the purposes of implementing paragraph 1 and promoting comparability, consistency, and transparency, the Parties shall, not later than their second Meeting, decide on minimum standards for the measurement of anthropogenic emissions by sources, and removals by sinks, of greenhouse gases.

3. Each Annex A and Annex B Party shall put in place, if it has not already done so, national compliance and enforcement programs relevant to its implementation of the obligations under this Protocol.

4. Each Annex A and Annex B Party shall submit to the Secretariat, as part of its communication under Article 12 of the Convention, information on its implementation of this Protocol, including policies and measures it is taking to meet its obligations in Article 2. Such submission shall be in accordance with guidelines which the Parties adopt at their first Meeting, taking into account any relevant guidelines adopted by the Parties to the Convention. Such submission shall also contain the following information:

(a) once the obligation in paragraph 1 above becomes effective, a description of the national measurement system that it has in place;

(b) once the obligation in paragraph 1 above becomes effective, the results of its national measurement system;

(c) a quantitative projection of its net anthropogenic emissions of greenhouse gases through the budget periods; and

(d) a description of relevant national compliance and enforcement programs it has in place pursuant to paragraph 3 above, as well as a description of their effectiveness, including actions taken in cases of non-compliance with national law.

5. In addition to the information required to be submitted under paragraph 4, each Annex A and Annex B Party shall submit to the Secretariat, on an annual basis and in accordance with the guidelines referred to in paragraph 4, its current calculation corresponding to each of the subparagraphs in Article 2.2 and its remaining emissions budget for that budget period. With respect to any tonnes of carbon equivalent emissions allowed that are acquired or transferred under Articles 6 or 7, the Party shall specify the quantity, Party of origin or destination, and the relevant budget period.
6. The first of the submissions referred to in paragraph 5 shall be part of a Party's first communication that is due after the Protocol has been in force for that Party for two years. The frequency of subsequent submissions shall be determined by the Parties.
7. Information communicated by Parties under this Article shall be transmitted by the secretariat as soon as possible to the Parties and to any subsidiary bodies concerned.
8. Without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make information communicated by Parties under this Article publicly available at the time it is submitted to the Parties.

Article 4 **Review and Compliance Process**

1. In addition to the review of communications conducted under Article 10.2(b) of the Convention, the Meeting of the Parties shall consider the information submitted by Annex A and Annex B Parties under Article 3 in order to assess those Parties' implementation of their obligations.
2. Reviews will be conducted by expert review teams, which will be coordinated by the secretariat and composed of experts selected from those nominated by Parties and, as appropriate, by intergovernmental organizations.
3. Reviews will be in accordance with guidelines to be adopted by the Meeting of the Parties. These guidelines shall, *inter alia*, provide for how information will be made available to the public and define mechanisms by which observers and the public may provide comments, supplemental data or other information to facilitate and improve reviews. The guidelines shall be periodically reviewed by the Parties for appropriate revision.
4. Review teams will review all aspects of a Party's implementation of this Protocol, including the likelihood that a Party will achieve its emissions budgets obligations. They will prepare a report assessing a Party's implementation of its obligations, identifying any areas of apparent non-compliance, as well as potential problems in achieving obligations. Reports will be provided to a Meeting of the Parties.
5. Based on such reports, a Meeting of the Parties may make recommendations to a Party. In such case, the Party shall review its implementation, take appropriate action, and report back to the next Meeting of the Parties on its action.

6. There would also be provisions setting forth various consequences for non-compliance with obligations, as determined by a Meeting of the Parties. Consequences would correspond to the type, degree, and frequency of non-compliance. Some would be automatic, while others might be discretionary. Examples of consequences could include, e.g.:

(a) denial of the opportunity to sell tonnes of carbon equivalent emissions allowed through international emissions trading and/or joint implementation;

(b) loss of voting rights and/or other opportunities to participate in processes under the Protocol.

Article 5

Advancement of the Implementation of Article 4.1 of the Convention

Recognizing the progress that has been made to date in implementing commitments under Article 4.1 of the Convention:

1. The Parties reaffirm their commitments under Article 4.1 of the Convention and the need to continue to advance the implementation of such commitments.
2. Each Party shall strengthen its legal and institutional framework to advance the implementation of its commitments under Article 4.1 of the Convention.
3. Each Party shall take measures to facilitate investment in climate-friendly technologies.
4. Each Party shall report, as part of its communication under the Convention, on how it is promoting public education and participation in the development of climate change policy.
5. Each Party that is neither in Annex A nor Annex B shall identify and implement "no-regrets" measures for mitigating net anthropogenic emissions of greenhouse gases, including any identified through the review process under paragraph 7 below. In this regard, each such Party shall also:
 - (a) quantify the effects of the measures it implements;
 - (b) evaluate barriers to the adoption of potential measures; and
 - (c) report to the Secretariat, as part of its communication under the Convention, on the measures it has implemented, plans to implement, and barriers to the adoption of potential measures.
6. Each Party that is neither in Annex A nor Annex B shall submit to the Secretariat, on an annual basis, its inventory of greenhouse gas emissions. Such inventory shall be consistent with any guidelines adopted by the Parties.

7. The Parties shall establish a process for reviewing communications received under the Convention from the Parties identified in paragraphs 5 and 6. The process shall be designed to:

- (a) enable the review of the effects of individual measures described in paragraph 5;
- (b) assist such Parties in identifying and implementing "no-regrets" measures for mitigating net anthropogenic emissions of greenhouse gases;
- (c) seek to identify key sectors and technological options within them;
- (d) consider possibilities for promoting voluntary arrangements with industry aimed at identifying and encouraging implementation of "no regrets" measures; and
- (e) explore various means through which such Parties could obtain both the know-how and the technology needed to implement options identified.

Article 6 **International Emissions Trading**

1. An Annex A or Annex B Party that is in compliance with its obligations under Article 3 (Measurement and Reporting) and that has in place a national mechanism for certification and verification of trades, may transfer to, or receive from, any Annex A or Annex B Party, any of its tonnes of carbon equivalent emissions allowed for a budget period, for the purpose of meeting its obligations under Article 2.
2. A Party may authorize any domestic entity (e.g., government agencies, private firms, non-governmental organizations, individuals) to participate in actions leading to transfer and receipt under paragraph 1 of tonnes of carbon equivalent emissions allowed.
3. A Meeting of the Parties may further elaborate guidelines to facilitate the reporting of emissions trading information.

Article 7 **Joint Implementation**

1. Any Party that is neither in Annex A nor B may generate tonnes of carbon equivalent emissions allowed through projects that meet the criteria set forth in paragraph 2.
2. In addition to any criteria adopted by the Parties to this Protocol, the following criteria shall apply to projects:
 - (a) Projects must be compatible with and supportive of national environment and development priorities and strategies, as well as contribute to cost-effectiveness in achieving global benefits;

(b) Projects must provide a reduction in emissions that is additional to any that would otherwise occur.

3. [Additional provisions to be added on calculation, measurement, monitoring, verification, review, reporting]

4. Any Party that generates tonnes of carbon equivalent emissions allowed consistent with this Article may:

(a) hold such tonnes of carbon equivalent emissions allowed; or

(a) transfer any portion thereof to any Party.

1. An Annex A or Annex B Party may acquire tonnes of carbon equivalent emissions allowed under this Article for the purpose of meeting its obligations under Article 2, provided it is in compliance with its obligations under Article 3 (Measurement and Reporting).

1. A Party may authorize any domestic entity (e.g., government agencies, private firms, non-governmental organizations, individuals) to participate in actions leading to generation, transfer and receipt under this Article of tonnes of carbon equivalent emissions.

7. Any Party that is neither in Annex A nor Annex B that generates or acquires tonnes of carbon equivalent emissions allowed under this Article shall notify the Secretariat annually of the quantity, origin, and destination of such tonnes.

Article 8 **Science**

The Parties shall periodically review this Protocol, and guidelines established thereunder, in light of evolving scientific knowledge related to climate change.

Article 9 **Progress Toward Long-Term Goal**

The Parties shall cooperate in the establishment of a long-term goal with respect to atmospheric concentrations of greenhouse gases.

Article 10 **Meetings of the Parties**

1. The Parties shall hold meetings at regular intervals. The secretariat shall convene the first meeting of the Parties not later than one year after the date of the entry into force of this Protocol and in conjunction with a meeting of the Conference of the Parties to the Convention.

2. Subsequent meetings of the Parties shall be held, unless the Parties decide otherwise, in conjunction with meetings of the Conference of the Parties to the Convention. Extraordinary meetings of the Parties shall be held at such other times as may be deemed necessary by a meeting of the Parties, or at the written request of a Party, provided that within six months of such a request being communicated to them by the secretariat, it is supported by at least one third of the Parties.

3. The Parties, at their first meeting, shall:

(a) adopt, by consensus, rules of procedure for their meetings;

(b) [other].

4. The functions of the meetings of the Parties shall be to:

(a) review the implementation of this Protocol, including the information submitted in accordance with Article 3;

(b) periodically review the adequacy of this Protocol;

(c) [other].

5. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not party to this Protocol, may be represented at meetings of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in fields relating to climate change which has informed the secretariat of its wish to be represented at a meeting of the Parties as an observer may be admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties.

Article 11 **Secretariat**

1. In accordance with Article 8.2(g) of the Convention, the secretariat of this Protocol shall be the secretariat of the Convention.

2. The functions of the secretariat shall be:

(a) ...

Article 12 **Subsidiary Body for Scientific and Technological Advice**

1. The Subsidiary Body for Scientific and Technological Advice of the Convention shall serve as the Subsidiary Body for Scientific and Technological Advice of the Protocol.

2. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.

3. When the Subsidiary Body for Scientific and Technological Advice exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Scientific and Technological Advice representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

Article 13

Subsidiary Body for Implementation

1. The Subsidiary Body for Implementation of the Convention shall serve as the Subsidiary Body for Implementation of the Protocol.

2. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, decisions shall be taken only by those of its members that are, at the same time, Parties to the Protocol.

3. When the Subsidiary Body for Implementation exercises its functions with regard to matters concerning the Protocol, any member of the bureau of the Subsidiary Body for Implementation representing a Party to the Convention, but, at the same time, not a Party to the Protocol, shall be substituted by an additional member to be elected by and from the Parties to the Protocol.

Article 14

Multilateral Consultative Process

[The Parties, at their first Meeting or as soon as practicable thereafter, shall consider the establishment of a multilateral consultative process to promote effective implementation of the Convention.]

Article 15

Dispute Settlement

[silence, with the result that Article 14 of the Convention would apply to this Protocol.]

[in addition, mandatory, binding dispute settlement [with specific consequences flowing from a violation] among Annex A and Annex B Parties, as well as against other Parties as appropriate (e.g., host countries under Article 7)]

Note: this process would be without prejudice to the review and compliance process under Article 4

Article 16 **Evolution**

The Parties shall adopt, by [2005], binding provisions so that all Parties have quantitative greenhouse gas emissions obligations and so that there is a mechanism for automatic application of progressive greenhouse gas emissions obligations to Parties, based upon agreed criteria.

Views on Certain Final Clauses

Adoption and Amendments of Annexes

Depending upon what type of material is eventually included in annexes, it may not be appropriate to restrict the content of all annexes to "lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character". For any substantive annex, it may not be appropriate to provide for tacit adoption/amendment.

Signature

This provision should state that only Parties to the Convention may be Parties to the Protocol.

Entry into Force

To ensure effective implementation, as well as to minimize the potential "free rider" problem, this provision may need to stipulate an entry into force trigger that requires ratification by States that account for a particular percentage of global emissions of greenhouse gases.

Annex A

This Annex would include the same States as those listed in Annex I of the Convention, plus those that join subsequently pursuant to Article 2.

Annex B

This Annex would include those States not listed in Annex A that indicate before adoption of the protocol that they want to be included in this Annex, plus those that join subsequently pursuant to Article 2.

Annex C

This Annex would list greenhouse gases not covered by the Montreal Protocol, with the exception of gases, or particular sources and sinks, for which there is insufficient knowledge of the GWP or inability to accurately measure emissions or removals. GWPs would be those developed by the IPCC.

PAPER NO. 13: UZBEKISTAN

Proposals of Uzbekistan to the protocol or any other legal document

For strengthening of obligations of Annex I Parties on the Convention by Article 4.2 (a) and (b) it is necessary to use criteria for differentiation of obligatory policies and measures, to define the prior policies and measures and mechanisms of their reviewing and/or co-ordination. It should be agreed that one of the differentiating criterion of the obligations of Annex I Parties is the level of economical development and GDR per capita.

For Annex I Parties with economy in transition their actual contribution into the decrease of the greenhouse gases emissions should be taken into account and to ensure certain flexibility in the fulfillment of obligations under the protocol or any other legal document. Non-Annex I Parties can take due obligations only being provided the financial support for their implementation from the developed countries. It is important to consider and include the due activities for supporting Non-Annex I Parties into the Annex of Protocol or other legal document alongside with measures for the encouraging their proposals on National obligations. The implementation of such measures can be facilitated by more effective co-ordination between FCCC and GEF.

It is necessary to evaluate the possibilities of developed countries both regarding the fulfillment of their obligations and assisting the developing countries with taking into account possible occurrence of the negative economical, social and ecological consequences for the developing countries due to the new obligations of Annex I Parties possible options of their reduction should be envisaged. IPCC can assist in giving recommendations on the options of mitigation of negative consequences due to new obligations of Annex I Parties.

The mechanism of technology transfer to the developing countries and definition of the co-operations terms should be worked out in the protocol.

Cooperative implementation can serve as the instrument for the technology transfer on more beneficial basis.
