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SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE
Eighth session
Bonn, 2-12 June 1998
Agenda items 6 (b) and (c) and 8 (b) to (d)

SUBSIDIARY BODY FOR IMPLEMENTATION
Eighth session
Bonn, 2-12 June 1998
Agenda item 8 (b) to (d)

PREPARATORY WORK NEEDED FOR THE FOURTH SESSION OF THE CONFERENCE OF THE PARTIES ON THE ITEMS LISTED IN DECISION 1/CP.3, PARAGRAPH 5

Submissions by Parties

Addendum

1. In addition to the submissions already received and contained in documents FCCC/SB/1998/MISC.1 and Add. 1, 2, 3, 4 and 5, two further submissions have been received.

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

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PAPER NO. 1 UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

(On behalf of the European Community and its member States and Switzerland)

PRELIMINARY RESPONSE OF THE EU AND SWITZERLAND TO THE INITIAL LIST OF ISSUES RAISED BY G77 AND CHINA ON MECHANISMS OF THE KYOTO PROTOCOL

In order to help all Parties to consider these issues further, the EU and Switzerland set out below our preliminary responses to the questions raised by the G77 and China. We have set out these preliminary responses here to share them with other delegations, but wish to consider these issues more fully in future.

The EU and Switzerland welcome this valuable input from the G77 and China. The issues raised are important, and need to be properly addressed.

General

1. What are the points of difference and points of similarity among the three mechanisms provided for in the Kyoto Protocol to the Convention.

> The EU and Switzerland see both similarities and differences between the three mechanisms. Because of the similarities, we believe that the framework for the three mechanisms should be developed in parallel to ensure consistency.
>
> Joint Implementation (JI) and International Emissions Trading are mechanisms that operate between developed countries, whilst the CDM involves developing countries and one of its twin objectives is to assist those countries in achieving sustainable development. Other differences and points of similarity will be mentioned in our later answers.

2. How to ensure that domestic actions by developed countries are their primary means of GHG limitation and reduction, and that the overseas mechanisms remain supplemental to such domestic actions by developed countries, for the purpose of meeting their quantified emission limitation and reduction commitments.

> This is an important issue. The EU and Switzerland believe that domestic action should provide the main means of meeting commitments under Article 3, and that there should be a concrete ceiling established on the use of flexible mechanisms to ensure this. A paper on international emissions trading tabled by the EU and other countries (FCCC/SB/1998/2/MISC.1/Add.3) explained that we had not yet come to a firm view on how such a ceiling should be defined. We would welcome discussion with other delegations about how best to define the ceiling.

3. How can it be ensured that these mechanisms lead to real and verifiable limitation and reduction of GHG emissions by developed countries.

This is also a very important issue, which is closely linked to question 2. It is crucial that these mechanisms deliver real and verifiable emissions reductions, and do not create 'loopholes' that undermine the objectives of the Protocol. This is why the EU and Switzerland believe that principles, rules, modalities and guidelines for these mechanisms need to be defined to ensure real and verifiable emissions reductions, before these mechanisms can be used by Parties to help meet their emissions reduction commitments.

4. How to ensure that the COP or COP/MOP will maintain the responsibility for every stage of defining, developing, structuring and institutionalizing the mechanisms.

We believe that the relevant Articles are very clear with respect to the responsibilities of the COP and the COP/MOP.

5. What are the specific roles of the SBSTA and the SBI with regard to these mechanisms.

In accordance with Article 15 of the Protocol, we believe that SBSTA and SBI should continue to operate in their respective roles as subsidiary bodies of the COP/MOP under the Protocol as they currently operate as subsidiary bodies of the COP under the Convention. This will be a matter for further discussion when elaborating the details of the operation of the mechanisms.

6. What will be the systems for ensuring independent auditing, verifications and accountability of the working of these mechanisms.

Independent auditing, verification and accountability is essential for confidence to be established in these mechanisms. This question is therefore very important, and needs to be fully addressed in our development of the three mechanisms.

<u>Article 6 projects</u>

1. What will be the elements of the guidelines for projects under Article 6, in particular, for ensuring transparency, accountability, reporting and verification.

The EU and Switzerland have already outlined some important elements of the guidelines for projects under Article 6 in our Statement last week. We have developed a more detailed paper, together with Bulgaria, Croatia, Czech Republic, Hungary, Latvia, Poland, Slovakia and Slovenia, which we have tabled.

2. What will be the criteria for deciding the baseline of projects.

It is essential that projects provide reductions in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur. JI thus needs to be assessed on a project basis, and project baselines need to be established against which environmental benefits can be accounted or estimated. Again, this is an issue that is further addressed in the paper mentioned above.

3. How can compliance with Article 5 and 7 of the Protocol be ensured, and how is this related to the work to be accomplished under Article 18.

Article 6.1 c) makes clear that Parties can only use JI to help meet their commitments under Article 3 if they are in compliance with Articles 5 & 7. The EU and Switzerland believe that all Parties that conduct JI projects should submit an annual report in accordance with Article 7 of the Protocol. The EU and Switzerland believe that an independent mechanism for verification should be put in place which might, inter alia, use the provisions established under Article 8. The EU and Switzerland believe that adoption and ratification of a strong compliance system according to Article 18 is a prerequisite for the use of any of the flexible mechanisms to meet commitments under Article 3.

4. What will be the procedure for transferring or acquiring emission reduction units resulting from projects under Article 6.

As stated in Article 6, the Parties involved must approve and agree the creation and transfer of ERUs. The requirements for such transfers need to be further developed.

5. What will be the system for auditing and verifying projects under Article 6.

A national mechanism for accounting, certification and documentation and for verification of emission reduction and removals by JI projects needs to be in place before emission reduction units (ERUs) from JI projects can count towards fulfilment of commitments. In addition, the EU and Switzerland believe that an independent mechanism for verification should be put in place which might, inter alia, use the provisions established under Article 8.

6. How will "legal entities", to be involved in these projects, be defined, and how will the responsibility of the Party over "legal entities" for the purpose of the projects be ensured.

This is an important question that is relevant to all cases where legal entities are permitted to participate in international flexible mechanisms. We want to underline that Parties remain responsible for their assigned amounts, and so will wish to have sufficient monitoring, verification and enforcement of the activities of the legal entities which they have authorised.

7. How will the benefits of a project under Article 6 be equitably shared between the participating Parties.

Allocation of the direct benefits of a project are a matter for negotiation between those Parties. JI projects could also enhance the capacity of host countries to take domestic action of their own, and could create other secondary benefits in the host country, such as a reduction in local pollution effects.

8. What will be the reporting criteria of a project under Article 6 to the COP/MOP.

The reporting criteria should be based on the uniform reporting format for AIJ under the pilot phase. It should also take into account any recommendations on improvements to this format. More detailed proposals are contained in our paper.

Article 12 - Clean Development Mechanism

1. What will be the criteria for ensuring a balance wherein each CDM project attains the objective of assisting developing country Parties in achieving sustainable development in accordance with their national priorities and strategy, and assisting developed country Parties in achieving compliance with their commitments under Article 3.

The COP/MOP will be responsible for establishing modalities and procedures to ensure that the twin objectives of Article 12 (of assisting non-Annex I Parties in achieving sustainable development and of assisting Annex I Parties in achieving compliance with their QELRCs) are met through the cdm. We support the idea of the COP/MOP (and prior COPs of the Convention) considering how this should be done in detail. We look forward to further discussion with the G77 and China and other Parties on how to achieve this.

2. How to enure that the CDM shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

The Article explicitly states that the cdm shall be subject to the authority and guidance of the COP/MOP (Article 12.4).

3. How to ensure that the executive board of the CDM shall function under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Protocol.

The executive board will be an executive board "of the clean development mechanism" (Article 12.4) and therefore subject to the authority and guidance of the COP/MOP in accordance with that Article (in line with our response to Q.2 above).

4. What will be the constitution, character and functions of the executive board of the CDM.

We continue to believe it is logical and practical to decide first on the functions of the various aspects of the whole mechanism before starting to consider what form and constitution the various institutional components might have. We believe that the constitution and functions of the executive board can only be successfully discussed and agreed once the COP has a common understanding of the form and functions of the cdm as a whole.

5. How will the emissions reductions of a CDM project be certified? What will be the certification procedure, and by whom will this be done.

Just as we believe that it is essential to ensure that auditing and verification of cdm project activities is fully effective (see Q.10 below), we place great importance on effective certification. Effective certification depends on effective verification. Certification will be by operational entities designated by the COP/MOP. The identity of these has to be agreed by the COP/MOP. The modalities for certifying project activities need to be agreed by the COP/MOP, as part of its consideration of the cdm system as a whole.

6. How to define and quantify "part" in " ... part of quantified emission limitation and reduction commitments", in Article 12.3(b) of the Protocol.

Under Article 12.3(b), it is for the COP/MOP to determine the “part”. We believe that, to assist this process, it is essential for COP4 to agree such a determination for recommendation to the COP/MOP in a way which ensures that Annex I Parties still achieve a significant reduction in their emissions. Please also see our comments under question 2 (of the general questions) above, on the supplementary nature of the mechanisms in general. We welcome the opportunity to hold further discussions on this issue.

7. How to ensure the responsibility and role of governments at each stage of the CDM projects.

Since commitments and responsibilities are vested in Parties, rather than other entities, we believe that Parties will have the principal role in ensuring that the cdm functions in accordance with its objectives.

8. How will it be ensured that the operational entity of the CDM, as designated by the COP, functions under the authority of the COP, and that its governance is separate from those of existing institutions.

The Article states that operational entities (acting under the cdm) shall be designated by the COP/MOP (Article 12.5) and that the cdm shall be subject to the authority and guidance of the COP/MOP (Article 12.4).

9. How will Article 12.6 of the Protocol be implemented? What will be the criteria and processes for the CDM for arranging due funding.

The implications of the wording of Article 12.6 are not clear and need to be discussed and agreed. We would note, however, that the Article states that the cdm shall "assist in arranging funding", rather than "arranging due funding", as your questionnaire suggests.

10. How to ensure the independent auditing and verification of CDM project activities.

(See also our response to Q.6 under "General" above.) The EU and Switzerland believe it is essential to ensure that the auditing and verification of cdm project activities is independent (Article 12.7).

11. What will be the criteria for deciding the baseline of projects.

(See also our response to Q.2 under "Article 6 projects" above.) We believe that the criteria and modalities for establishing effective baselines under Article 6 and Article 12 should be consistent, particularly since these are both project-based mechanisms. Further work would include a clear definition of additionality and of the calculation of baselines, to confirm that cdm projects will produce real, measurable reductions.

12. When should the benefits of CDM projects accrue to the participating developed country Parties.

(Please also see our response to Q.18 below.) The modalities by which the benefits of cdm projects might accrue to participating Parties remain for discussion.

13. What will be the action for non-compliance if a CDM project goes against the CDM criteria.

We believe that Article 18 should apply in respect of non-compliance by Parties under all flexible mechanisms. (See also our response to Q.3 of the "Article 6 projects" questions above.)

14. How to define : "a share of the proceeds", and how will this share be apportioned for administrative expenses and adaptation.

This is an important issue on which we would welcome further discussion with other Parties.

15. How will the responsibility of a Party be ensured over the private/public entities authorized by the Party to be involved in CDM projects.

Please see our response to question 6 of the "Article 6 projects" questions above.

16. How to ensure that CDM projects are equally distributed so as to benefit all developing country Parties, in particular the least developed country Parties, and that the distribution of projects does not exacerbate regional/sub-regional imbalances.

The EU and Switzerland would wish to see the cdm contributing to sustainable development in a large number of developing countries and regions over time. Since the modalities for cdm project activities have not been agreed and since there are a number of ways in which cdm projects could be generated, there is no clear answer at present.

17. How will it be ensured that the financing for CDM projects shall be additional to ODA and other international funding, additional to and separate from the financial obligations under GEF and additional to the financial obligation of the Parties as provided in the Convention and the Protocol.

This is a very important question. The EU and Switzerland expect that the majority of funds for project activities under the cdm will come from the private sector. Therefore, financing for CDM activities should not compete with ODA and GEF funding.

18. How will the additional economic benefits, if any, of a CDM project be shared equitably between the participating Parties.

We would be grateful for an explanation of the meaning of the phrase "additional economic benefits", since it does not feature in Article 12.

19. How will the participating Parties report their CDM projects to the COP/MOP.

Reporting is a very important element of the system. It will be a responsibility of both Parties and any participating private/public entity to report accurately on their activities. The detailed reporting requirements will have to be elaborated by the COP/MOP as part of the requirements of Article 12.7 to "elaborate modalities and procedures with the objective of ensuring transparency, efficiency and accountability through independent auditing and verification of project activities."

20. What are the implications of Article 12.10 of the Protocol.

The EU and Switzerland believe that an analysis of the implications of Article 12.10 is important. But this should be seen in the wider context of making the cdm truly effective and operational in promoting long term reductions and sustainable development. The EU and Switzerland also believe that the cdm cannot become operational until a clear framework has been established on this and other issues.

Article 17 - Emissions Trading between developed country Parties

1. How will the emission rights and entitlements of developed country Parties be determined and created for trading emissions? Will this be consistent with the principle of equity keeping in view the historical and current responsibility of developed countries to climate change and the ultimate objective of the Convention.

The basis for emissions trading under Article 17 of the Protocol will be the quantified emission reduction and limitation commitments established under Article 3 and Annex B of the Protocol. The second part of the question is an issue that goes much wider than the area of flexible mechanisms, and should be further considered in the context of increasing participation in global efforts to combat climate change. In this context, the EU and Switzerland reiterate their belief that in the longer term, methods to allocate reduction or limitation targets, should eventually lead to convergence of emission levels based on appropriate indicators.

2. How to ensure that any emissions trading between the developed country Parties shall be supplemental to domestic actions for the purpose of meeting their quantified emission limitation and reduction commitments.

As stated earlier, this is an important question, which has also been raised by the EU and Switzerland. The EU and Switzerland have stated that domestic action should provide the main means of meeting commitments under Article 3, and that there should be a concrete ceiling established on the use of flexible mechanisms to ensure this. A paper on international emissions trading tabled by the EU and other countries (FCCC/SB/1998/MISC.1/Add.3) explained that we had not yet come to a firm view on how such a ceiling should be defined. We would welcome discussion with other delegations about how best to define the ceiling.

3. How to ensure that emissions trading between developed country Parties will lead to real and verifiable limitation and reduction of GHG emissions for meeting the objective of the Convention and contributing to the protection of the environment.

This is also a very important issue. It is crucial that these mechanisms deliver real and verifiable environmental benefits, and do not create 'loopholes' that undermine the objectives of the Protocol. If Parties assigned amounts are higher than their expected emissions - so-called 'hot air' trading may occur. This would lead to higher emissions than would be the case in the absence of a trading system. It is essential that the rules, modalities and guidelines that are developed for emissions trading should prevent this. For example, this could require that net transfers by a Party shall not be greater than the amount of emissions reduced by that Party as a result of domestic action.

4. What will be the environmental or economic impacts in any area due to emissions trading between developed country Parties.

Emissions trading between developed countries should lead to emissions reductions where abatement costs are lowest. This means that more reductions will occur in developed countries that have relatively cheap abatement opportunities. In the absence of 'hot air' (see above) emissions trading should not lead to emissions being higher - so the environmental impact should be unchanged compared to a situation in which no trading were allowed. But the overall costs of emissions reduction should be reduced for participating Parties.

5. How to ensure that any emissions trading between developed country Parties fully reflects the principle of equity between developed and developing countries.

Equity is an important issue. But emissions trading under Article 17 of the Kyoto Protocol will only take place between developed countries. It should not affect equity between developed and developing countries.

6. How to ensure that emissions trading between developed country Parties shall conform to the principles, modalities, rules and guidelines including any compliance procedure to be defined by the COP.

The EU and Switzerland believe that adoption and ratification of a strong compliance system according to Article 18 is a prerequisite for the use of any of the flexible mechanisms to meet commitments under Article 3. The EU and Switzerland also believe that we need to define the principles, rules, modalities and guidelines before international emissions trading can begin.

PAPER NO.2: UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
(on behalf of the European Community and its member States and Bulgaria, Croatia, Czech Republic, Hungary, Latvia, Poland, Slovakia, Slovenia and Switzerland)

NON PAPER ON JOINT IMPLEMENTATION
(as part of detailed comments on the mechanisms)

Purpose

This paper sets out the preliminary views of the European Community, Austria, Germany, Finland, Portugal, France, Sweden, Belgium, Spain, Denmark, Greece, Italy, Ireland, The Netherlands, Luxembourg, United Kingdom, Bulgaria, Croatia, Czech Republic, Hungary, Latvia, Poland, Slovakia, Slovenia, Switzerland on the guidelines on joint implementation. The above Parties believe that trading, CDM and JI should be developed in parallel and the frameworks for them should be consistent with each other.

We believe that the flexible mechanisms adopted in Kyoto can make a cost-effective and efficient contribution towards fulfilling the commitments decided on in Kyoto and that they should ensure verifiable environmental benefits and minimise potential adverse environmental, social and economic effects. Project-based approaches such as joint implementation between Annex I Parties, offer the opportunity for intensive cooperation between these Parties. They could provide a mechanism which directly serves the objective of the Protocol and the Convention by developing the capacity of host countries to implement the Convention. In particular, these projects could enhance the capacity for host countries to take domestic action of their own. Joint implementation projects must be compatible with, and supportive of, national environment and development priorities and strategies, policies and measures and must contribute to cost-effectiveness in achieving global benefits. In developing JI the COP should take account of the lessons of the pilot phase of AIJ and should consider the future status of AIJ projects.

2. This paper includes a draft decision for COP4 on joint implementation.

Principles

3. Recalling the principles and objectives of the United Nations Framework Convention on Climate Change, and the Kyoto Protocol, joint implementation shall be designed to contribute to the achievement of real, cost-effective and verifiable environmental benefits whilst ensuring that:

(i) additionality: JI projects should provide reductions in emissions that are additional to any that would otherwise have occurred, as is stipulated in Article 6(1)(b) of the Protocol;

(ii) supplementarity: JI projects shall be supplemental to domestic actions for the purposes of meeting commitments under Article 3. In this regard Article 6.1d, 12.3b and 17 of the Kyoto Protocol should be taken into account. In this context a "concrete ceiling" on the use of all the flexible mechanisms has to be defined. The guidelines governing the joint implementation system should reflect this principle*;

(iii) transparency: information that improves knowledge about project opportunities and the results of project based activities should be made publicly available;

(iv) eligibility: a mechanism for accounting, certification and documentation and for verification of emission reductions and removals from JI projects needs to be in place before emission reduction units from JI projects can count towards fulfilment of commitments;

(v) compliance: a strong compliance regime under Article 18 must have been adopted by Parties and been ratified by Annex I Parties who want to participate in JI.

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* The above Parties have not yet come to a firm view on as to how the ceiling should be defined and welcome discussions with other delegations. The ceiling could be defined in relation to a number of variables, including: the assigned amount, 1990 emission levels, or required effort by a party.

Draft Decision CP/4

Implementation of Article 6 of the Kyoto Protocol

The Conference of the Parties,

Pursuant to Article 6 of the Kyoto Protocol,

Recalling decision 1/CP.3,

1. Decides in accordance with article 6.2 of the Protocol to elaborate guidelines for the implementation of this Article, including for verification and reporting, for recommendation to COP/MOP-1 for adoption.

2. Decides in accordance with article 6.1 of the Protocol that guidelines should be developed in order to ensure that:

a) Any such project has the approval of the Parties involved (article 6.1 (a);

b) Any such project provides a reduction in emissions by sources, or an enhancement of removals by sinks, that is additional to any that would otherwise occur (article 6.1 (b);

c) A Party may not acquire any emission reduction units if it is not in compliance with its obligations under articles 5 and 7 (article 6.1 (c);

d) The acquisition of emission reduction units shall be supplemental to domestic actions for the purpose of meeting commitments under article 3 (article 6.1 (d).

3. Decides that elaboration of the guidelines should meet the following principles:

a) A strong compliance regime, according to Article 18, must have been adopted by Parties and been ratified by Annex I Parties who want to acquire from or transfer to another Party emission reduction units in accordance to Article 6;

b) Projects should bring about real, measurable and long-term environmental benefits related to mitigation of climate change, whilst minimising adverse environmental, social and economic effects;

c) Procedures and administrative requirements should be elaborated in such a way that they work efficiently and cost-effectively, and are consistent with the environmental objectives of the Protocol.

4. Decides that guidelines should be elaborated on the following issues:

a) Common methodologies for determining project baselines and actual emissions or removals, in order to assess additionality and the reductions of anthropogenic emissions from sources or enhancement of anthropogenic removals by sinks of greenhouse gases;

b) Common methodologies for certification, project monitoring and verification of actual reductions of anthropogenic emissions from sources or enhancing anthropogenic removals by sinks of greenhouse gases;

c) Reporting requirements on annual basis, based on the uniform reporting format taking into account any recommendations on improvements to the format that may arise from the review of the AIJ pilot phase to improve information and transparent reporting;

d) Accounting procedures under Article 3.10 and 3.11;

e) Review of implementation of Article 6 by expert review teams as required by Article 8.4 of the Protocol;

f) Eligibility of projects to enhance removals by sinks based on those guidelines consistent with article 3.3.

5. Decides that

a) the recommendation for guidelines on paragraph 4 (a) to 4 (e), to be adopted by COP/MOP-1, should be finalised at COP-5 ;

b) the recommendation for guidelines on paragraph 4 (f), to be adopted by COP/MOP-1, should be finalised at COP-6.

6. Requests the subsidiary bodies as appropriate at their next sessions to assist COP in preparing these guidelines.

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