

**Submission by Nauru on behalf of the Alliance of Small Island Developing States on Addressing the Implications of decisions -2/CMP.7 to -5/CMP.7 on the previous decisions on methodological issues related to the Kyoto Protocol including those relating to Articles 5, 7 and 8 of the Kyoto Protocol.**

**16 April 2013**

Nauru, on behalf of the Alliance of Small Island States (AOSIS), welcomes this opportunity to provide input in response to the SBSTA request for the submission of views on and proposals or elements of proposals to address the implications referred to in paragraphs 6 and 8 of decision 2/CMP.8: *Addressing the Implications of decisions -2/CMP.7 to -5/CMP.7 on the previous decisions on methodological issues related to the Kyoto Protocol including those relating to Articles 5, 7 and 8 of the Kyoto Protocol*.

**1. Role of Articles 5, 7 and 8 and the Marrakech Accord rule set**

Public confidence in the delivery of Kyoto commitments, and in Annex I Party mitigation commitments as a whole, depends on the robustness of the reporting and review provisions applied to Parties' annual inventories under Articles 5, 7 and 8. This robustness in turn derives from the rule set for monitoring, reporting and verification that has evolved under the Marrakesh Accords to ensure accurate reporting of inventories and transactions by Kyoto Parties, to inform and support the Kyoto Protocol's compliance procedures and mechanisms.

The Kyoto Protocol's rules and procedures have been developed carefully, over an extended period of time, with the participation of all Parties. For this reason, in reviewing the implications of recent CMP decisions on the Marrakesh Accords, the only changes to the existing rule set that should be made are those that: (1) are necessitated by previous decisions; or (2) enhance transparency with respect to national systems, enhance transparency with respect to national inventories, enhance transparency with respect to the flow of Kyoto units, improve environmental integrity, and enhance the existing compliance system.

For transparency, AOSIS believes that any such changes for the second commitment period should be addressed not by reopening the existing Marrakech Accords, but through adoption of an overarching decision that is specific to the second commitment period, so that any updates or necessary adjustments are clear.

**2. Lessons from the Kyoto Protocol**

One of the strengths of the Kyoto Protocol is the link made through the Marrakech Accords between: (1) monitoring, reporting and review based on a common accounting framework designed to ensure environmental integrity; and (2) agreed consequences for non-compliance with these agreed rules, including adjustments, automatic suspension of trades, suspension of eligibility to trade, declarations of non-compliance, and the prospect of the deduction of tonnes from subsequent commitment periods. Each of these elements has been useful to date in maintaining the environmental integrity of inventories and consequently quantified economy-wide emission reduction or limitation commitments.

A second strength of the Marrakech Accords is that they were designed to apply to multiple commitment periods so as to accommodate changes as science improves and commitments deepen.

### **3. General references to CP1 that need to be updated**

In AOSIS's view, because the Marrakech Accords were designed to apply to multiple commitment periods, the default assumption should be that any provisions that applied in the first commitment period should be assumed to apply in subsequent commitment periods as well, unless explicitly altered by a subsequent decision. If and where clarifications are needed, they should be clearly set out in a new overarching decision rather than in complete revisions to existing CMP.1 decisions. This approach was adopted in Doha and resulted in decision 2/CMP.8, which addresses the report to facilitate the calculation of assigned amounts for CP2 and LULUCF methodologies for CP2 in two clear annexes.

### **4. Specific issues on which further guidance may be needed through an overarching decision**

#### **A. IPCC Methodologies**

In Durban, the Parties agreed that the 2006 IPCC Guidelines would be used for second commitment period reporting. Nevertheless, there may be some instances in which the 2006 Guidelines do not provide sufficient guidance to support decisions already taken for the second commitment period. It may be helpful to consider language such as "*be guided by the IPCC 2006 Guidelines and any further guidance agreed by the Conference of Parties serving as the meeting of Parties to the Protocol*" to ensure the relevant guidance is reflected. It is important that the CMP approve any further guidance that is applied for purposes of meeting Kyoto commitments.

#### **B. Modalities for accounting of assigned amounts under Article 7.4 - 13/CMP.1**

The implications of previous decisions for the calculation and accounting of assigned amount for purposes of CP2 can be made through an overarching decision that references the new quantified emission limitation and reduction commitments contained in the third column of amended Annex B and the requirements of decision 1/CMP.8, and new rules under Article 3 for the calculation of assigned amounts and for the cancellation of units after this calculation according to Article 3.7 ter.

#### **C. Carry-over – Previous Period Surplus Reserve**

By decision 1/CMP.8, the Parties agreed that surplus AAUs that are eligible for carryover will be carried over to previous period surplus reserve (PPSR) accounts, established in national registries by those Parties with commitments in column 3 of amended Annex B. The annual review of national registries and national systems will have to ensure that these carryover rules have been followed and that any AAUs that are not able to be carried over because the relevant Parties lack column 3 commitments, are properly cancelled. Consequently, there may be a need to provide references to the relevant paragraphs of 1/CMP.8 relating to carryover in the context of the review of national registries and the review of national systems.

After the expert review of Parties' reports to facilitate the calculation of assigned amount for the second commitment period, Parties with commitments in column 3 of amended Annex B will need to report information on the quantity of AAUs transferred to and acquired from PPSR accounts consistent with decision 1/CMP.8 and the quantity of AAUs that were not carried over or cancelled as a result of 1/CMP.8. Any additional guidance needed to 15/CMP.1, Section E in this regard can be undertaken in the context of an overarching decision.

#### **D. Use of Convention units**

By decision 1/CMP.18, the Parties agreed that Convention units from market-based mechanisms to be established under the Convention or its instruments could be used for compliance with Article 3 Kyoto commitments. However, there are currently no units available from any market-based mechanisms under the Convention and much work to be done in preparing modalities and

procedures for new market mechanisms under the Convention. In addition, AOSIS remains convinced that the environmental integrity of any Convention units must be assessed and determined by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol before these units are applied to Annex B Party commitments under the Kyoto Protocol.

Accordingly, AOSIS proposes that a process be established under the CMP to develop modalities, procedures and guidelines for the prior approval of Convention units from market-based mechanisms, to ensure that any Convention units applied to Kyoto commitments do not undermine the environmental integrity of Kyoto commitments in terms of the emission reductions the atmosphere sees. Issues to be addressed through these procedures and modalities include:

- Qualitative limits on the use of Convention units
- Eligibility requirements for the hosting of Convention projects
- Unique serials numbers for eligible Convention units, so that these units may be traced from issuance to retirement or cancellation, to minimize the potential for fraud.
- Means to track transfers of eligible units between national registries
- Procedures to ensure that the verification of emission reductions represented by Convention units is no less stringent than the current rules for the Kyoto Protocol's flexible mechanisms
- Means to avoid double counting, to avoid erosion of the aggregate emission reductions anticipated from pledges made under the Convention
- Procedures to ensure no circumvention of the Kyoto Protocol's qualitative or quantitative rules through transactions in Convention units (e.g., existing limits on use of LULUCF units toward CP2 commitments, and quantitative limits of LULUCF units from afforestation and reforestation in developing countries under the CDM).

Finally, the question of whether Annex I Parties to the Convention that *do not* have column 3 Kyoto commitments for the second commitment period can trade *Convention units* to Kyoto Parties for purposes of their Kyoto commitments needs to be addressed, as this was not addressed in the Doha Amendments. Clear rules for these units will need to be developed.

#### **E. Share of proceeds**

In Doha, by decision 1/CMP.8 paragraph 20, the Parties agreed that "for the second commitment period, the Adaptation Fund will be augmented by a share of the proceeds levied on the first international transfers of AAUs and the issuance of ERUs for Article 6 projects immediately upon the conversion to ERUs of AAUs or RMUs previously held by the Parties."

There may be a need to clarify the understanding of "first international transfers of AAUs", to ensure that this provision is not read narrowly to include only the first transactions in AAUs, regardless of volume. In addition, there is a need to consider how the share of proceeds levied will operate in practice -- whether this share of proceeds is in a monetary form or in the form of assigned amount units. For example, if trades happen between PPSRs immediately prior to the end of the second commitment period, this may leave limited time for auctioning proceeds that are levied in the form of assigned amount units. However, where transfers happen during the additional period for the fulfilment of commitments (the true up period), there will be even less opportunity to auction units for purposes of the Adaptation Fund, defeating the purpose of the levy if this levy is understood as a share of the volume of AAUs transferred.

Finally, new Article 3.12 ter provides for a share of the proceeds from the trading of units generated from new market-based mechanisms under the Convention units in certain circumstances. More work will be needed to clarify the operation of this Article once there is more

clarity on the operation of new market-based mechanisms under the Convention and additional clarity on the modalities and procedures for approving the use of such units toward compliance under the Protocol.

**F. Implementation of Article 3.1 quater**

In Doha, the Parties also agreed on a new Article 3.1 ter and quater to the Protocol and further agreed under decision 1/CMP.8, paragraph 8 that *"in order to ensure that an increase in ambition referred to in Article 3, paragraphs 1 ter and 1 quater, is effective, the Party concerned shall either adjust the calculation of its assigned amount or cancel, upon the establishment of its assigned amount, a number of assigned amount units (AAUs) equivalent to the decrease in its quantified emission limitation and reduction commitment inscribed in the third column in Annex B as contained in annex I to this decision through transferring these units to a cancellation account established in its national registry for this purpose, and communicating such adjustment of the calculation or transfer to the secretariat."* This mechanism has links to accounting for assigned amounts under Article 7, paragraph 4, and additional guidance may be required to reflect reporting obligations in connection with unit cancellations.

**G. Implementation of Article 3.7ter**

In Doha, the Parties agreed on a new Article 3.7ter which provides that for the cancellation of assigned amount in certain situations: *"Any positive difference between the assigned amount of the second commitment period for a Party included in the Annex I and average annual emissions for the first three years of the preceding commitment period multiplied by eight shall be transferred to the cancellation account of that Party."* This provision may require additional decisions related to the timing of this transfer, and the reporting of supplementary information on the quantity of AAUs that have been cancelled.

**H. Compliance - 27/CMP.1**

The Kyoto Protocol's procedures and mechanisms on compliance (27/CMP.1) were designed to apply to multiple commitment periods. Although certain provisions explicitly apply to the first commitment period, in AOSIS's view, the default assumption should be that any provisions that applied in the first commitment period should be assumed to be applicable in subsequent commitment periods as well, unless explicitly altered by a subsequent decision including with respect to questions of implementation raised in connection with reporting obligations and requirements of the Marrakech Accords, impacting eligibility, and questions of implementation raised in connection with non-compliance with second commitment period commitments.

Provisions under Section XV, para 5, that relate to non-compliance with quantified commitments should equally apply to second commitment period commitments. The consequences of non-compliance with quantified commitments under Article 3 in the second commitment period should continue to include declarations of non-compliance, deduction of tonnes from the Party's subsequent commitment period with a 1.3 multiplier where Parties have excess emissions in the second commitment period, development of a compliance action plan and suspension of eligibility to make transfers under Article 17.

ERT review reports thus far have shown little follow through in response to prior year ERT report recommendations for Annex I Convention Parties without legally-binding Kyoto commitments. This demonstrates the value of the inventory adjustment process in the context of all Annex I Kyoto Parties, with or without column 3 commitments, and the need for a such a parallel process under the Convention, as well the need for ongoing eligibility requirements for participation in international emissions trading to motivate continuous improvements in inventory reporting by all Annex I Kyoto Parties.

## **I. National systems and national registries**

AOSIS is of the view that provisions on the reporting of supplementary information relating to national systems and national registries set out in 15/CMP.1, paragraphs 27-32, do not need to be updated for the second commitment period. Parties that are newly taking quantified commitments in the second commitment period will need to prepare and submit information on their national systems and registries for review and will benefit from these provisions.

At the same time, any necessary adjustments to reduce the burden on Parties that have already detailed the operation of their national systems and national registries in the first commitment period can be made in an overarching decision. For example, where Parties have already detailed the operation of their **national registries**, and these registries have already been reviewed and approved for the first commitment period as outlined in decision 22/CMP.1, this should be sufficient, provided changes to national registries continue to be reported and provided that the review process ensures that any new elements required of national registries are in fact reflected as changes (e.g., the establishment of new cancellation accounts). An overarching decision could for example state that where Parties with first commitment period commitments have already had their national registries reviewed and approved for the first commitment period, the information requested under 15/CMP.1, paragraph 32 does not need to be re-submitted annually.

However, this situation is different with respect to **national systems**. Most recent questions of implementation relate to the capacity of Parties' national systems to prepare inventories. For this reason, it may be reasonable to continue to have reporting on both the operation of Parties' national systems and on any changes in Parties' national systems in annual inventory reports.

## **J. Annual Reporting and Annual Review**

AOSIS does not support a move from annual inventory reviews to inventory reviews every two years under the Protocol, as some Parties have proposed. The quality and accuracy of annual inventories should continue to be a key concern for expert review teams (ERTs) in the second commitment period.

Annual reviews of Party inventories promote consistency and transparency in national reporting and promote the continuous improvement of inventories, which is essential to maintain the environmental integrity of the Kyoto Protocol. The prospect of annual reviews encourages Parties to prepare robust inventories and ERT recommendations are valuable to Parties in preparing their subsequent inventories. While some Parties assert that annual reviews do not leave sufficient time for Parties to implement previously-recommended improvements, in reality, many necessary improvements actually take place during the course of the annual review process.

Annual Review Reports (ARRs) produced for each Party contain valuable recommendations for the improvement of Party inventories. In 2011, AARs (the latest full set of inventory reports available for all Annex I Parties), Expert Review Teams made between 4 and 18 recommendations to Annex I Parties, with an average of 8 recommendations. Inventory adjustments were made to four Party inventories. Parties made recalculations to most inventories in response to prior year ERT reviews. For the LULUCF sector, recalculations were done for nearly all Annex I Parties. ERTs also highlighted important cross-cutting issues for improvement. One Party was found not in compliance with the guidelines for national systems and a question of implementation was raised to the Compliance Committee, which in 2012 continued its oversight of questions of implementation previously raised with respect to 5 Parties.

AOSIS appreciates the additional burden the Secretariat faces in organising annual reviews now that a process for the review of Biennial Reports and Biennial Update Reports has been agreed. See *Technical Paper on the Current review processes under the Convention* (FCCC/TP/2012/8). Nevertheless, moving to a biennial approach could jeopardise the robustness of the current inventory review process under the Kyoto Protocol. The Kyoto Protocol is a legally binding agreement and any issues related to inventory calculations should be remedied in the shortest time possible to avoid compounding reporting difficulties and ensure that any trading, including trading based on LULUCF-related units, proceeds based on reliable inventories.

A move to biennial reviews would enable Parties to delay the implementation of recommendations and delay adjustments for up to two years and create delays in bringing questions of implementation to the attention of Parties. AOSIS believes that if the only concern is the burden of conducting reviews, there are approaches that can be taken to improve the efficiency of the review process before moving to less frequent reviews. We urge all Annex II Parties to contribute more funding for additional resources as well as all Parties to the Convention to contribute to the UNFCCC Roster of Experts.

#### **K. Public Information**

FCCC/TP/2012/6, at paragraph 24 notes that decision 13/CMP.1, paragraph 43 (d), requires the international transaction log (ITL) to make all transaction records publicly available and paragraphs 47 and 49(b) and (c) of the same decision require the inclusion of serial numbers of ERUs, CERs, AAUs, and RMUs on Parties' accounts into reporting to the secretariat and to make this information publicly available.

AOSIS believes that national inventory information and information on transactions should continue to remain publicly accessible in the second commitment period to the greatest extent possible, including information on holdings and transactions of international units conducted through the international transaction log and information on the serial numbers of these transactions. Where it is prohibitively expensive to make each transaction record and each individual serial number public, then AOSIS believes that blocks of serial units transacted and held should be made public instead, to ensure that this information is as transparent as possible. The only information that should be withheld from national registries is information that may jeopardize registry security or lead to abuse (e.g. e-mail addresses of account holders), but the burden should be on each individual registry to justify its need for the withholding of this information.

#### **L. Annual compilation and accounting report**

An issue raised in FCCC/TP/2012/6, paragraph 29, is whether the requirement contained in 13/CMP.1 (Modalities for accounting for assigned amounts under Article 7.4), at paragraph 61 -- that the secretariat publish annual compilation and accounting reports for each Party included in Annex I -- should be retained, as some of this information is now on the greenhouse gas data interface. AOSIS believes that the annual compilation and accounting reports provide a very handy and useful synthesis of information on how individual Parties are implementing their Kyoto commitments. For this reason, these reports should continue to be prepared as required by 13/CMP.1. As these reports will primarily be accessed in electronic form on the UNFCCC website and downloaded, the production of these reports should not present an undue strain on printing resources.

#### **M. Standard independent assessment reports (SIARs)**

Technical paper FCCC/TP/2012/6, paragraph 77, notes that certain paragraphs of decision 22/CMP.1 (Guidelines for review under Article 8 of the Kyoto Protocol) require the annual review

to cover transaction log records. However these transaction log records are already subjected to a technical review by national registry administrators with the results reflected in SIARs. The technical paper notes that it may be more efficient for ERTs to review the SIARs prepared by national registry administrators for purposes of their annual reviews, rather than the underlying transaction logs. AOSIS notes that ERTs already use information from SIARs on units in the registry for reviews of National Inventory Reports and supports the concept that flexibility could be accorded to ERTs to review SIARs and their findings if helpful to increase the efficiency of the review process, rather than underlying transaction records.

#### **N. Cancellation accounts - establishment and review**

Technical paper FCCC/TP/2012/6, paragraph 23, refers to decision 13/CMP.1, paragraph 12(f), and suggests that a division of cancellation accounts into sub-accounts for voluntary cancellations and mandatory cancellations may be useful. AOSIS supports this suggestion. In addition, following decision 1/CMP.8, there may be value in references to sub-categories of mandatory cancellation accounts to more readily identify the source of units that have been cancelled. For example:

- decision 10/CMP.7 addresses carbon capture and storage (CCS) projects under the CDM and requires accounts for cancellation of Kyoto units in national registries in the event of a net reversal of storage or failure to submit a certification report for CCS project activities;
- decisions 13/CMP.1, paragraphs 15 and 16, and 1/CMP.8, paragraphs 23 and 24 require the cancellation of units after the expiration of the additional period for fulfilling commitments for units that are not carried over consistent with that these decisions;
- decision 1/CMP.8, paragraph 8, requires the cancellation of assigned amount units consistent with Article 3.1 quater, to reflect an increase in ambition;
- decision 1/CMP.8, Article 3.7 ter requires the cancellation of assigned amount units in excess of 2008-2010 average emission levels, times the number of years in the commitment period.