

Vice-Chair's non-paper on possible elements for a Doha decision adopting the Kyoto Protocol amendments

(1) preamble¹

Proposal by the African Group

Recalling that at the Seventh Conference of the Parties serving as Meeting of the Parties to the Kyoto Protocol, held in Durban from 28 November to 9 December 2011, the Parties by decision 1/CMP.7, requested the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol to deliver the results of its work to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its eighth session with a view to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to adopting these QELROs as amendments to Annex B of the Kyoto Protocol at that session, while ensuring coherence with the implementation of decision 2/CP.17;

Recalling further that the second commitment period under the Kyoto Protocol shall begin on 1 January 2013 as decided in decision 1/CMP.7;

Proposal by AOSIS

Reaffirming the eligibility requirements for the clean development mechanism, joint implementation, and emissions trading under the Kyoto Protocol set out in, *inter alia*, decision 2/CMP.1, in particular paragraph 5; decision 3/CMP.1; decision 9/CMP.1; decision 11/CMP.1; decision 13/CMP.1; decision 15/CMP.1; decision 22/CMP.1; and decision 27/CMP.1;

Proposal by Australia

The Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol

...

Recognising the need to facilitate the transition to the second commitment period starting on 1 January 2013, including by ensuring that Kyoto Protocol mechanisms, processes and infrastructure continue to function to the fullest extent possible during the transitional period;

Desiring to facilitate the broad participation of Parties in the second commitment period

...

Aware of decisions 1/CMP.7, 1/CP.17...,

...

Proposal by the European Union

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,

Recalling Article 3, paragraph 9, Article 20, paragraph 2, and Article 21, paragraph 7, of the Kyoto Protocol,

¹ As suggested at the meeting on 4 September 2012, one of the preambular paragraphs could also take note of a comprehensive list of the CMP decisions relevant to the second commitment period. A number of such decisions are identified in the Technical Paper prepared by the secretariat at the request of the SBSTA. The technical paper is available through <http://unfccc.int/resource/docs/2012/tp/06.pdf>.

Also recalling Decisions 1/CMP.7 and 1/CP.17,

Further recalling that the second commitment period under the Kyoto Protocol shall begin on 1 January 2013,

[Placeholder to acknowledge the role played by emissions trading and the project-based mechanisms and the necessity to ensure their continuity pending the entry into force of the second commitment period]

Noting decision 1/CP.18,

Also noting the importance of continued progress of the Ad Hoc Working Group on the Durban Platform to adopt a protocol, another legal instrument or an agreed outcome with legal force as soon as possible but no later than 2015 and to come into effect and be implemented from 2020,

Further noting the progress on the workplan on enhancing mitigation ambition to identify and to explore options for a range of actions that can close the ambition gap with a view to ensuring the highest possible mitigation efforts by all Parties under the Ad Hoc Working Group on the Durban Platform,

Emphasizing the role of the Kyoto Protocol in the mitigation efforts by Parties included in Annex I,

(2) adoption of the amendments contained in the annex to the decision

Proposal by AOSIS

Decides that the second commitment period shall begin on 1 January 2013 and shall end on 31 December 2017;

Proposal by Australia

Reaffirms that the second commitment period will begin on 1 January 2013, before the amendments annexed to this decision can enter into force in accordance with Articles 20 and 21 of the Kyoto Protocol;

Proposal by Brazil

Decides that the second commitment period of the Kyoto Protocol shall begin on 1 January 2013 and end on 31 December [2017/ 2020], in order to ensure there is no legal gap in relation to the first commitment period;

Adopts, in accordance with Articles 20 and 21, the amendment set out in the annex to the present decision on further commitments for Annex I Parties for the second commitment period of the Kyoto Protocol;

Requests the Secretariat to communicate the adopted amendment to the Depository for circulation to all Parties for acceptance, in accordance with Article 20, paragraph 5, of the Kyoto Protocol;

Proposal by the European Union

Adopts the amendments to the Kyoto Protocol developed by the Ad Hoc Working Group on Further commitments for Annex I Parties under the Kyoto Protocol, establishing the second commitment period of the Kyoto Protocol, as contained in the annexes to this decision;

(3) urging Parties to ratify the amendments in an expedited manner with a view to facilitating their prompt entry into force

Proposal by the African Group

Agrees that Parties shall as a matter of urgency and without delay take the necessary domestic steps to accept the amendments to the Kyoto Protocol contained in the Annex pursuant to Articles 20 of the Kyoto Protocol;

Proposal by Brazil

Urges Parties to take all necessary measures for the expeditious deposit of their instruments of acceptance of the adopted amendment, in order to ensure its prompt entry into force, in accordance with Article 20, paragraph 4;

Proposal by the European Union

Invites the Parties to deposit their instruments of acceptance in respect of the amendments with the Depository as soon as possible with a view to expedite their entry into force.

(4) provisional application

Proposal by the African Group

Agrees that in order to avoid a gap between first and second commitment period and to facilitate a smooth transition, that the amendments to the Kyoto Protocol contained in the Annex to this decision shall provisionally apply from 1 January 2013 pending the entry into force thereof for individual Parties in accordance with Article 20 of the Kyoto Protocol;

Decides that Parties which have agreed to the adoption of the amendments to the Kyoto Protocol contained in the Annex and which are due to national constitutional procedures are not in the position to provisionally apply the amendments, may within 90 days of the adoption of this decision notify the Depository accordingly and also indicate how they intend to implement the amendments pending the entry into force of the amendments for them in light of the agreement in Decision 1/CMP.7 that the second commitment period shall start on 1 January 2013;

Proposal by AOSIS

Option 1

Agrees that each Party will provisionally apply from 1 January 2013 the amendments to the Kyoto Protocol contained in the Annex to this decision pending their entry into force for such Party in accordance with Article[s 20 and] 21 of the Kyoto Protocol to the extent that such provisional application is not inconsistent with its constitution, laws or regulations;

Option 2

Decides that each Party will provisionally apply from 1 January 2013 the amendments to the Kyoto Protocol contained in the Annex to this decision pending their entry into force for such Party in accordance with Article[s 20 and] 21 of the Kyoto Protocol, except for any Party which notifies the Depository in writing prior to 1 January 2013 that it cannot provisionally apply these amendments pending their entry into force due to inconsistency with its constitution, laws or regulations, or its domestic processes or requirements.

(5) any additional language related to legal continuity

Proposal by Australia

Reaffirms that, prior to the entry into force of the amendments annexed to this decision in accordance with Articles 20 and 21 of the Kyoto Protocol, Parties to the Protocol will continue to be bound by their commitments and responsibilities under the Protocol;

Decides that, prior to the entry into force of the amendments annexed to this decision in accordance with Articles 20 and 21 of the Kyoto Protocol, Parties to the Kyoto Protocol will, to the extent possible and consistent with their necessary domestic processes, apply their commitments and other responsibilities under the amendments to the Protocol contained in the annex to this decision;

Proposal by the European Union

Decides that, prior to the entry into force of the amendments in the annex to this decision in accordance with Articles 20 and 21 of the Kyoto Protocol, Parties to the Kyoto Protocol will apply their commitments and other responsibilities under the amendments to the Protocol contained in the Annex to this decision;

(6) operational and technical continuity

Proposal by AOSIS

Decides that for the second commitment period, a Party shall only be eligible to use CERs under Article 12, transfer and/or acquire ERUs under Article 6, and transfer and/or acquire ERUs, CERs, tCERs, ICERs, AAUs, or RMUs under Article 17 of the Kyoto Protocol, if the Party concerned has a QELRC for the second commitment period inscribed in Annex B, and:

(a) the Party concerned is provisionally applying the amendments contained in the annex to this decision in accordance with [para x of this decision] pending their entry into force; or

(b) the Party concerned has deposited its instrument of acceptance of the amendments contained in annexes to this decision in accordance with Article 20(4) of the Kyoto Protocol.

Proposal by Australia

Requests the Secretariat and all relevant bodies under the Convention and Kyoto Protocol to take all necessary measures to facilitate the implementation of the amendments annexed to this decision and the uninterrupted operation of Kyoto Protocol mechanisms, processes and infrastructure;

Proposal by the European Union

[Placeholder to confirm that emissions trading and the project-based mechanisms will also continue pending the entry into force of the second commitment period].

(7) any outstanding consequential revisions of the previous CMP decisions, including by linking to any outstanding work under SBSTA

Proposal by the African Group

Request the Subsidiary Body for Implementation, at its thirty-eighth session to identify areas where consequential revisions to the existing rules may be needed to safeguard the integrity and the operational and technical continuity of the system and to ensure the smooth transition from the first to the second commitment period with a view to recommending draft decisions for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its ninth session;

Proposal by Australia

Decides that the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol will monitor the operation of this decision until the amendments annexed to this decision enter into force in accordance with Articles 20 and 21 of the Kyoto Protocol.

Proposal by Brazil

Takes note, with appreciation, the work undertaken by the Subsidiary Body for Scientific and Technological Advice to assess and address the implications of the implementation of decisions 2/CMP.7 to 5/CMP.7, as presented in decision [2]/CMP.8;

Requests the Subsidiary Body for Scientific and Technological Advice to continue its work on issues that may need to be further addressed at the ninth and subsequent sessions of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, in order to enable the full and effective implementation and operationalization of the second commitment period of the Kyoto Protocol;

Proposal by the European Union

Takes note of decision -/CMP.8 on the implications of the implementation of decisions 2/CMP.7 to 5/CMP.7 on the previous CMP decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8²;

(8) Other

Proposal by the European Union

Decides that the second commitment period shall end on 31 December 2020 in order to ensure convergence with a protocol, another legal instrument or an agreed outcome with legal force to come into effect and be implemented from 2020;

Proposal by Brazil

Welcomes the successful conclusion of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol;

Welcomes further the declaration[s] set out in the appendix to this decision, reiterating the commitment of Parties to the Kyoto Protocol to ensure there is no legal gap between the first and the second commitment periods;

² This draft text is without prejudice to additional references to other decisions of the CMP.8