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**Subsidiary Body for Implementation****Report of the Subsidiary Body for Implementation on its  
thirty-fourth session, held in Bonn from 6 to 17 June 2011**

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## **I. Opening of the session**

(Agenda item 1)

1. The thirty-fourth session of the Subsidiary Body for Implementation (SBI) was held at the Maritim Hotel, Bonn, Germany, from 6 to 17 June 2011.
2. The Chair of the SBI, Mr. Robert Owen-Jones (Australia), opened the session and welcomed all Parties and observers. He also welcomed Mr. Samuel Ortiz Basualdo (Argentina) as Vice-Chair of the SBI and Mr. Petrus Muteyauli (Namibia) as Rapporteur.

## **II. Organizational matters**

(Agenda item 2)

### **A. Adoption of the agenda**

(Agenda item 2(a))

3. At its 1<sup>st</sup> meeting, on 7 June, the SBI considered a note by the Executive Secretary containing the revised provisional agenda and annotations (FCCC/SBI/2011/1/Rev.1).
4. Statements were made by representatives of 12 Parties, including statements on behalf of the least developed countries (LDCs), the European Union and its member States and the African Group.
5. At its 2<sup>nd</sup> meeting, on 9 June, the SBI considered a proposal by the Chair of the SBI containing a provisional agenda (FCCC/SBI/2011/L.1).
6. At the same meeting, following a proposal by the Chair, the SBI adopted the agenda contained in document FCCC/SBI/2011/L.1, with sub-item 4(b) held in abeyance, sub-items 3(e) and 4(e) deleted and the footnote of item 11 amended, as follows:
  1. Opening of the session.
  2. Organizational matters:
    - (a) Adoption of the agenda;
    - (b) Organization of the work of the session.
  3. National communications and greenhouse gas inventory data from Parties included in Annex I to the Convention:
    - (a) Status of submission and review of fifth national communications from Parties included in Annex I to the Convention;
    - (b) Compilation and synthesis of fifth national communications from Parties included in Annex I to the Convention;
    - (c) Compilation and synthesis of supplementary information incorporated in fifth national communications from Parties included in Annex I to the Convention that are also Parties to the Kyoto Protocol and submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol;
    - (d) Further implementation of Article 12, paragraph 5, of the Convention.
  4. National communications from Parties not included in Annex I to the Convention:

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- (a) Work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention;
  - (b) Information contained in national communications from Parties not included in Annex I to the Convention (*agenda item held in abeyance*);<sup>1</sup>
  - (c) Further implementation of Article 12, paragraph 5, of the Convention;
  - (d) Provision of financial and technical support.
5. Financial mechanism of the Convention.
  6. Article 6 of the Convention.
  7. Matters relating to Article 4, paragraphs 8 and 9, of the Convention:
    - (a) Progress on the implementation of decision 1/CP.10;
    - (b) Matters relating to the least developed countries.
  8. National adaptation plans:<sup>2</sup>
    - (a) A process to enable least developed country Parties to formulate and implement national adaptation plans, building upon their experience in preparing and implementing national adaptation programmes of action;<sup>3</sup>
    - (b) Modalities and guidelines for least developed country Parties, and other developing country Parties to employ the modalities formulated to support national adaptation plans.<sup>4</sup>
  9. Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity<sup>5</sup>
    - Activities to be undertaken under the work programme.
  10. Matters relating to Article 3, paragraph 14, of the Kyoto Protocol.
  11. Forum on the impact of the implementation of response measures at the thirty-fourth and thirty-fifth sessions of the subsidiary bodies, with the objective of developing a work programme under the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to address these impacts, with a view to adopting, at the seventeenth session of the Conference of the Parties, modalities for the operationalization of the work programme and a possible forum on response measures.<sup>6</sup>
  12. Development and transfer of technologies.
  13. Capacity-building under the Convention.

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<sup>1</sup> As there was no consensus to include this sub-item on the agenda, it was held in abeyance. On a proposal by the Chair, the SBI decided to include this sub-item on the provisional agenda for its thirty-fifth session, with an appropriate footnote.

<sup>2</sup> Decision 1/CP.16, paragraphs 15–18.

<sup>3</sup> Decision 1/CP.16, paragraphs 15, 17 and 18.

<sup>4</sup> Decision 1/CP.16, paragraphs 15–18.

<sup>5</sup> Decision 1/CP.16, paragraphs 26–29.

<sup>6</sup> Decision 1/CP.16, paragraph 93.

14. Capacity-building under the Kyoto Protocol.
15. Amendment of the Kyoto Protocol in respect of procedures and mechanisms relating to compliance.
16. Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism.
17. Arrangements for intergovernmental meetings:
  - (a) Seventeenth session of the Conference of the Parties;
  - (b) Seventh session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol;
  - (c) Future sessional periods;
  - (d) Organization of the intergovernmental process;
  - (e) Observer organizations in the intergovernmental process.
18. Administrative, financial and institutional matters:
  - (a) Budget performance for the biennium 2010–2011;
  - (b) Programme budget for the biennium 2012–2013;
  - (c) Implementation of the Headquarters Agreement;
  - (d) Privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol.
19. Other matters.
20. Report on the session.

7. During the adoption of the agenda, the representative of the Plurinational State of Bolivia made the following statement: “Decision 1/CP.16 was adopted over the explicit and formal objection of one Party State, the Plurinational State of Bolivia”.

8. Also at the 2<sup>nd</sup> meeting, statements were made by representatives of 14 Parties, including statements on behalf of the Group of 77 and China, the European Union and its member States, the Umbrella Group, the Environmental Integrity Group (EIG), the Alliance of Small Island States (AOSIS), the LDCs, the African Group and the Central American Integration System (SICA).

## **B. Organization of the work of the session**

(Agenda item 2(b))

9. The SBI considered this sub-item at its 2<sup>nd</sup> meeting, on 9 June, at which the Chair drew attention to the proposed programme of work posted on the UNFCCC website. On a proposal by the Chair, the SBI agreed to proceed on the basis of that programme of work.

### **III. National communications and greenhouse gas inventory data from Parties included in Annex I to the Convention**

(Agenda item 3)

#### **A. Status of submission and review of fifth national communications from Parties included in Annex I to the Convention**

(Agenda item 3(a))

##### **1. Proceedings**

10. The SBI considered this sub-item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings, on 10 June and 16–17 June, respectively. It had before it document FCCC/SBI/2011/INF.6/Rev.1. A representative of one Party made a statement.

11. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this sub-item together with sub-items 3(b–d) in a contact group co-chaired by Ms. Helen Plume (New Zealand) and Ms. Diann Black Layne (Antigua and Barbuda). At the 4<sup>th</sup> meeting, Ms. Black Layne reported on the contact group's consultations.

12. At the same meeting, the SBI considered and adopted conclusions<sup>7</sup> proposed by the Chair.

##### **2. Conclusions**

13. The SBI welcomed the report on the status of submission and review of fifth national communications.<sup>8</sup>

14. The SBI encouraged the secretariat to explore ways to improve the presentation of information in the report referred to in paragraph 13 above.

15. The SBI noted that 16 Parties included in Annex I to the Convention (Annex I Parties) submitted their fifth national communications before the due date of submission in accordance with decision 10/CP.13 and that 24 Parties submitted after that date.

16. The SBI urged Parties to submit their national communications by the relevant due date in the future.

#### **B. Compilation and synthesis of fifth national communications from Parties included in Annex I to the Convention**

(Agenda item 3(b))

#### **Compilation and synthesis of supplementary information incorporated in fifth national communications from Parties included in Annex I to the Convention that are also Parties to the Kyoto Protocol and submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol**

(Agenda item 3(c))

<sup>7</sup> Adopted as document FCCC/SBI/2011/L.2.

<sup>8</sup> FCCC/SBI/2011/INF.6/Rev.1.

17. The SBI considered these sub-items at its 3<sup>rd</sup> and 4<sup>th</sup> meetings (see para. 11 above). It had before it documents FCCC/SBI/2011/INF.1 and Add.1 and 2 and FCCC/SBI/2011/INF.2.

18. At its 4<sup>th</sup> meeting, the SBI agreed to continue consideration of these sub-items at its thirty-fifth session and, in accordance with rule 16 of the draft rules of procedure being applied, to include these sub-items on the provisional agenda for that session.

### **C. Further implementation of Article 12, paragraph 5, of the Convention**

(Agenda item 3(d))

#### **1. Proceedings**

19. The SBI considered this sub-item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings (see para. 11 above).

20. At its 3<sup>rd</sup> meeting, the SBI considered and adopted conclusions<sup>9</sup> proposed by the Chair.

#### **2. Conclusions**

21. The SBI continued its consideration of the further implementation of Article 12, paragraph 5, of the Convention.

22. The SBI recalled that, in accordance with decision 9/CP.16, paragraph 5, Annex I Parties are requested to submit to the secretariat, by 1 January 2014, a sixth national communication, in accordance with Article 12, paragraphs 1 and 2, of the Convention, with a view to submitting a seventh national communication no later than four years after this date.

23. The SBI agreed to continue consideration of the further implementation of Article 12, paragraph 5, of the Convention at its thirty-fifth session.

## **IV. National communications from Parties not included in Annex I to the Convention**

(Agenda item 4)

### **A. Work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention**

(Agenda item 4(a))

#### **1. Proceedings**

24. The SBI considered this sub-item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/SBI/2011/5/Rev.1 and FCCC/SBI/2011/5/Add.1 and 2. Statements were made by representatives of two Parties on issues under agenda item 4, including a statement on behalf of the Group of 77 and China.

25. At the 3<sup>rd</sup> meeting, the Chair invited Ms. Sangchan Limjirakan (Thailand), Chair of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention (CGE), to make a statement.

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<sup>9</sup> Adopted as document FCCC/SBI/2011/L.3.



26. At the same meeting, the SBI agreed to consider this sub-item together with sub-items 4(c) and (d) in a contact group co-chaired by Ms. Plume and Ms. Black Layne. At the 4<sup>th</sup> meeting, Ms. Plume reported on the contact group's consultations.

27. Also at its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>10</sup> proposed by the Chair.

## 2. Conclusions

28. The SBI welcomed the progress report on the work of the CGE.<sup>11</sup>

29. The SBI expressed its gratitude to the Government of Antigua and Barbuda for hosting the fourth meeting of the CGE and the CGE workshop to exchange views on possible elements to be considered in a future revision of the UNFCCC guidelines for the preparation of national communications from Parties not included in Annex I to the Convention, taking into account the difficulties encountered by Parties not included in Annex I to the Convention (non-Annex I Parties) in the preparation of their most recent national communications, held on 21–23 March 2011.<sup>12</sup> It also thanked the European Union for providing financial support to the work of the CGE.

30. The SBI welcomed the report of the CGE on the workshop referred to in paragraph 29 above, as well as the recommendations made by the CGE on elements to be considered in a future revision of the UNFCCC guidelines for the preparation of national communications from non-Annex I Parties contained in its progress report. It encouraged Parties to take into account these recommendations in such a future revision.

31. The SBI welcomed the technical report of the CGE on the common challenges, options and case studies/best practices available to countries and possible means of facilitating the development and long-term sustainability of processes for the preparation of national communications.<sup>13</sup> It encouraged Parties and/or relevant organizations, as appropriate, in providing assistance to non-Annex I Parties, to take into consideration the recommendations provided in the report.

32. The SBI noted the usefulness of the two surveys conducted by the CGE under its work programme in accordance with its terms of reference, and invited those non-Annex I Parties that have not yet completed the surveys to provide the CGE with the required information as soon as possible. The SBI invited the CGE to further explore options, in addition to the surveys, on ways of gathering information from non-Annex I Parties.

33. The SBI noted the planned workshop of the CGE on facilitating the development and long-term sustainability of processes, and the establishment and maintenance of national technical teams, for the preparation of national communications, including greenhouse gas inventories, on a continuous basis, to be held on 20 and 21 June 2011.

34. The SBI encouraged the CGE to organize workshops in accordance with its work programme in such a way as to facilitate the maximum participation of representatives of non-Annex I Parties, and to continue to explore and use the most effective ways to deliver the content of the workshops to those representatives who cannot travel to such workshops, subject to the availability of resources.

35. The SBI recognized the important role played by the CGE in improving the process of and preparation of national communications from non-Annex I Parties, by providing technical advice and support to non-Annex I Parties, including those Parties that have not

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<sup>10</sup> Adopted as document FCCC/SBI/2011/L.8.

<sup>11</sup> FCCC/SBI/2011/5/Rev.1.

<sup>12</sup> FCCC/SBI/2011/5/Add.1.

<sup>13</sup> FCCC/SBI/2011/5/Add.2.

yet completed their initial national communications. It highlighted the importance of the training activities to be organized by the CGE, which remain unfunded. It also reiterated its request to the CGE to organize, to the extent possible, at least two training activities per region in the period 2011 to 2012, subject to the availability of resources.<sup>14</sup>

36. The SBI reiterated the invitation to the CGE, in implementing its work programme, to take into account the current and future needs of non-Annex I Parties and to take into consideration the provisions under the Convention and the relevant decisions of the Conference of the Parties (COP).<sup>15</sup>

37. The SBI invited Parties included in Annex II to the Convention, and other Parties in a position to do so, to provide financial resources, as soon as possible, to enable the CGE to plan any future activities. It encouraged bilateral, multilateral and international organizations to support the work of the CGE.

38. The SBI noted that the term and the mandate of the CGE and the need for the continuation of the group shall be reviewed by the COP at its seventeenth session.<sup>16</sup>

## **B. Information contained in national communications from Parties not included in Annex I to the Convention**

(Agenda item 4(b) *held in abeyance*)

## **C. Further implementation of Article 12, paragraph 5, of the Convention**

(Agenda item 4(c))

39. The SBI considered this sub-item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings (see para. 26 above).

40. At its 4<sup>th</sup> meeting, the SBI agreed to continue consideration of this sub-item at its thirty-fifth session and, in accordance with rule 16 of the draft rules of procedure being applied, to include this sub-item on the provisional agenda for that session.

## **D. Provision of financial and technical support**

(Agenda item 4(d))

### **1. Proceedings**

41. The SBI considered this sub-item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings (see para. 26 above). It had before it document FCCC/SBI/2011/INF.4.

42. At the 3<sup>rd</sup> meeting, the Chair of the SBI invited the representative of the secretariat of the Global Environment Facility (GEF) to make a statement.

43. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>17</sup> proposed by the Chair.

### **2. Conclusions**

44. The SBI took note of the information provided by the secretariat of the GEF on financial support provided by the GEF for the preparation of national communications from non-Annex I Parties.<sup>18</sup>

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<sup>14</sup> FCCC/SBI/2010/27, paragraph 32.

<sup>15</sup> FCCC/SBI/2010/27, paragraph 33.

<sup>16</sup> Decision 5/CP.15, paragraph 6.

<sup>17</sup> Adopted as document FCCC/SBI/2011/L.9.

45. The SBI invited the GEF to continue to provide detailed, accurate, timely and complete information on its activities relating to the preparation of national communications by non-Annex I Parties, in accordance with decision 10/CP.2, paragraph 1(b), including information on the dates of approval of funding and disbursement of funds. It also invited the GEF to continue to provide information on the approximate date of completion of the draft national communications and an approximate date of submission of the national communications to the secretariat, for consideration by the SBI at its thirty-fifth session.

46. The SBI took note with appreciation of the information provided by the GEF in its oral report<sup>19</sup> to the SBI on the expanded possibilities and options available to non-Annex I Parties to access resources for their national communications and looked forward to being provided with information in the report of the GEF to the COP at its seventeenth session on this issue.

47. The SBI noted the concern expressed by some Parties that the funding provided for national communications through expedited procedures may not be adequate for some non-Annex I Parties to implement activities that they are to undertake as part of the process of preparation of their national communications.

48. The SBI invited non-Annex I Parties to make submissions, by 19 September 2011, on the detailed costs incurred by non-Annex I Parties, including in-kind contributions, for the preparation of their most recent national communications and on the financial resources received through the GEF. The SBI requested the secretariat to compile these submissions into a document to be considered by the SBI at its thirty-fifth session.

49. The SBI reiterated its recommendation to the COP, at its sixteenth session, to request the GEF to continue to provide funds for technical support for the preparation of national communications of non-Annex I Parties, similar to that provided by the National Communications Support Programme, recognizing that the costs of such technical support are not deducted from the funds provided to non-Annex I Parties for the preparation of their national communications.

50. The SBI noted with appreciation that, as at 15 May 2011, 140 initial, 44 second, two third and one fourth national communications from non-Annex I Parties had been submitted. It also noted that 59 non-Annex I Parties are expected to submit their second national communications by the end of 2011.

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<sup>18</sup> FCCC/SBI/2011/INF.4.

<sup>19</sup> The GEF representative, in his oral report, presented the following options:

Option 1: Countries can work with the GEF agency of their choice, as was the case in previous national communications;

Option 2: Countries can be part of the United Nations Environment Programme umbrella project for national communications;

Option 3: Countries can access resources of up to USD 500,000 via direct access with the GEF secretariat for their national communications;

Option 4: If countries need additional resources above the USD 500,000 provided for the preparation of national communications, countries can utilize their System for Transparent Allocation of Resources (STAR) allocation.

## V. Financial mechanism of the Convention

(Agenda item 5)

### 1. Proceedings

51. The SBI considered this item at its 2<sup>nd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/SBI/2011/MISC.3, FCCC/SBI/2010/INF.7 and FCCC/SBSTA/2010/MISC.9. Statements were made by representatives of three Parties, including statements on behalf of the Group of 77 and China and the LDCs.

52. At its 2<sup>nd</sup> meeting, the SBI agreed to consider this item in a contact group co-chaired by Ms. Ana Fornells de Frutos (Spain) and Ms. Alexa Kleysteuber (Chile). At the 4<sup>th</sup> meeting, Ms. Kleysteuber reported on the contact group's consultations.

53. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>20</sup> proposed by the Chair. After the adoption of the conclusions, the Group of 77 and China, Gambia, on behalf of the LDCs, and Malawi, requested to add at SBI 35, a sub-item on the LDC Fund under the agenda item on the financial mechanism, to continue the discussion on funding for the other elements of the LDCs work programme.

### 2. Conclusions

54. The SBI took note of the views submitted by Parties on the synthesis report on the National Economic, Environment and Development Study (NEEDS) for climate change project prepared by the secretariat.<sup>21</sup> In particular, the SBI considered the outcomes, lessons learned and recommendations which were identified by countries participating in the project in the conduct of their financial needs assessments to implement mitigation and adaptation measures.

55. The SBI invited United Nations agencies to continue supporting developing countries in assessing their financial needs to implement mitigation and adaptation actions, in collaboration with the secretariat, and to explore the possibility of organizing a workshop to exchange lessons learned and methodologies, processes and tools used to assess financial needs.

56. The SBI considered that the issues identified in the NEEDS report, particularly on the proposed next steps, relate to respective parts of decisions 1/CP.13 and 1/CP.16 and that the report therefore could be used as input to the work of relevant bodies of the UNFCCC.

57. The SBI considered the invitation by the Subsidiary Body for Scientific and Technological Advice (SBSTA) at its thirty-third session<sup>22</sup> to discuss the funding needs for global climate observations and to explore how further support could be provided to strengthen observation networks and capabilities in developing countries, especially LDC Parties and small island developing States (SIDS).

58. The SBI also recognized that other developing countries raised the need to explore how support could be provided to them for global climatic observation to strengthen observation networks and capabilities.

59. The SBI noted the information related to additional funding needs identified in the 2010 updated Global Climate Observing System (GCOS) implementation plan and emphasized the importance of ensuring that these needs be taken into account in the future financial architecture of the Convention, recognizing that their funding is also being

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<sup>20</sup> Adopted as document FCCC/SBI/2011/L.17.

<sup>21</sup> FCCC/SBI/2010/INF.7.

<sup>22</sup> FCCC/SBSTA/2010/13, paragraph 57.

processed through multiple existing channels, including those under other specialized programmes, such as GCOS, and other conventions.

60. The SBI invited the GEF, as an operating entity of the financial mechanism, to clarify in its annual report to the COP at its seventeenth session whether the activities in decision 5/CP.7, paragraph 7(a)(iv), fall within its mandate.

61. The SBI invited Parties to submit to the secretariat, by 19 September 2011, information on support provided to developing country Parties and activities undertaken to strengthen existing and, where needed, establish national and regional systematic observation and monitoring networks, for compilation into a miscellaneous document for consideration by the SBI at its thirty-fifth session.

62. It requested the secretariat to compile, into an information document, the information from national communications from Annex I Parties and the submissions from Parties referred to in paragraph 61 above on support provided to developing country Parties and on activities undertaken to strengthen existing and, where needed, establish national and regional systematic observation and monitoring networks, for consideration by the SBI at its thirty-fifth session.

## VI. Article 6 of the Convention

(Agenda item 6)

### 1. Proceedings

63. The SBI considered this item at its 2<sup>nd</sup> and 4<sup>th</sup> meetings.

64. At its 2<sup>nd</sup> meeting, the SBI agreed to consider this item in a contact group chaired by Mr. Mohammed Chowdhury (Bangladesh). At the 4<sup>th</sup> meeting, Mr. Chowdhury reported on the contact group's consultations.

65. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>23</sup> proposed by the Chair.

### 2. Conclusions

66. The SBI endorsed the terms of reference for the review of the implementation of the amended New Delhi work programme on Article 6 of the Convention to be undertaken in 2012 as contained in annex I.

67. The SBI invited Parties, and relevant intergovernmental and non-governmental organizations, as well as relevant stakeholders, to submit to the secretariat, by 14 February 2012, information and views that may be relevant to the completion of the review of the amended New Delhi work programme. It invited the aforementioned entities to submit to the secretariat, by the same date, their views on possible elements of a successor work programme on Article 6 of the Convention.

68. The SBI further invited the GEF and its implementing agencies to provide to the SBI at its thirty-fifth session information on resources made available for the implementation of Article 6 related activities for consideration at its thirty-sixth session.

69. The SBI requested the secretariat, subject to the availability of resources:

(a) To organize a workshop on the implementation of Article 6 of the Convention in the LDCs, to be held prior to the thirty-sixth session of the SBI;

<sup>23</sup> Adopted as document FCCC/SBI/2011/L.6.

(b) To prepare documents to support the review of the amended New Delhi work programme, as referred to in paragraph 6 of annex I;

(c) To continue developing and promoting the information network clearing house CC:iNet, to facilitate the addition of content in the official languages of the United Nations and other languages, and to create new tools and features;

(d) To develop broad guidelines for the development of national strategies and action plans on Article 6 of the Convention, according to national circumstances and cultural contexts;

(e) To prepare a publication on good practices in the implementation of Article 6 of the Convention.

70. The SBI recalled the invitation made by the COP in decision 7/CP.16 to all Parties and international organizations to enhance support provided to the national focal points on Article 6 of developing countries, in particular the LDCs and SIDS, through the provision of information, materials, training of trainers programmes and regional and national projects on topics relating to education, training and public awareness. In this context, the SBI encouraged Parties in a position to do so, as well as the GEF and its implementing agencies, to provide financial and technical assistance to developing countries, in particular the LDCs, to enhance their use of, and access to, CC:iNet.

71. The SBI also recalled the invitation made by the COP in the same decision to Parties in a position to do so, as well as international organizations and bilateral and multilateral agencies, to continue to support the convening of regional, subregional and national workshops focusing on specific elements of Article 6 of the Convention, and the maintenance and further development of CC:iNet.

72. The SBI encouraged the GEF, as an operating entity of the financial mechanism of the Convention, in accordance with decision 7/CP.16, to work on increasing access to funding for Article 6 related activities.

73. The SBI also encouraged Parties to continue reporting on the implementation of Article 6 related activities in their national communications.

## **VII. Matters relating to Article 4, paragraphs 8 and 9, of the Convention**

(Agenda item 7)

### **A. Progress on the implementation of decision 1/CP.10**

(Agenda item 7(a))

#### **1. Proceedings**

74. The SBI considered this sub-item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings.

75. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this item in a contact group chaired by Mr. Ortiz Basualdo. At the 4<sup>th</sup> meeting, Mr. Ortiz Basualdo reported on the contact group's consultations.

76. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>24</sup> proposed by the Chair.

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<sup>24</sup> Adopted as document FCCC/SBI/2011/L.14.

## 2. Conclusions

77. The SBI agreed to continue its consideration of this matter at its thirty-fifth session, on the basis of the draft decision text contained in document FCCC/SBI/2010/10, annex IV, taking into account relevant decisions adopted by the COP at its sixteenth session, with a view to recommending a draft decision for adoption by the COP.

78. The SBI took note of the progress made in the implementation of the interim actions referred to in the conclusions of the SBI at its thirty-third session.<sup>25</sup>

## B. Matters relating to the least developed countries

(Agenda item 7(b))

### 1. Proceedings

79. The SBI considered this sub-item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it document FCCC/SBI/2011/4.

80. At the 3<sup>rd</sup> meeting, the Chair of the SBI invited Ms. Pepetua Laatasi (Tuvalu), Vice-Chair of the Least Developed Countries Expert Group (LEG), to make a statement.

81. At the same meeting, the SBI agreed to consider this item in a contact group chaired by Mr. Rence Sore (Solomon Islands). At the 4<sup>th</sup> meeting, Mr. Sore reported on the contact group's consultations.

82. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>26</sup> proposed by the Chair.

### 2. Conclusions

83. The SBI took note of the oral report by the Vice-Chair of the LEG and welcomed the report on the nineteenth meeting of the LEG,<sup>27</sup> held in Blantyre, Malawi, on 14–17 March 2011.

84. The SBI thanked the Government of Malawi for hosting the meeting and expressed its gratitude to the Governments of Canada, the European Union, Ireland and Spain for providing financial resources in support of the work of the LEG.

85. The SBI noted with appreciation the contributions made by some Parties to the LDC Fund and encouraged other Parties to do the same.

86. The SBI welcomed the submission by LDC Parties of 45 national adaptation programmes of action (NAPAs) to the secretariat as at 11 June 2011.<sup>28</sup> It noted the important role played by the LEG in assisting LDC Parties with the preparation of their NAPAs. It invited the LEG to continue to assist the LDCs that have not yet completed their NAPAs to complete and submit these as soon as possible, in collaboration with the GEF and its agencies.

87. The SBI expressed its appreciation to the LEG for its effective work in support of the preparation and implementation of NAPAs, and welcomed the LEG work programme for 2011–2012,<sup>29</sup> which was developed in response to decision 6/CP.16.

<sup>25</sup> FCCC/SBI/2010/27, paragraphs 82–90.

<sup>26</sup> Adopted as document FCCC/SBI/2011/L.4.

<sup>27</sup> FCCC/SBI/2011/4.

<sup>28</sup> Available at <<http://unfccc.int/4585.php>>.

<sup>29</sup> FCCC/SBI/2011/4, annex I.

88. The SBI endorsed the work programme of the LEG for 2011–2012 and requested the LEG to report on its work to the SBI at each of its sessions, in accordance with decision 6/CP.16. The SBI encouraged the LEG to maintain flexibility in the execution of its work programme, taking into account the availability of resources, and to ensure that activities are in accordance with the mandate of the LEG.

89. The SBI welcomed the adoption of the Istanbul Programme of Action (IPoA) for LDCs<sup>30</sup> by the Fourth United Nations Conference on the Least Developed Countries, held in Istanbul, Turkey, on 9–13 May 2011, and recognized that there may be possible linkages between the IPoA and the work of the LEG.

90. The SBI invited Parties in a position to do so to continue to provide resources in support of the implementation of the LEG work programme.

## VIII. National adaptation plans<sup>31</sup>

(Agenda item 8)

### **A process to enable least developed country Parties to formulate and implement national adaptation plans, building upon their experience in preparing and implementing national adaptation programmes of action<sup>32</sup>**

(Agenda item 8(a))

### **Modalities and guidelines for least developed country Parties, and other developing country Parties to employ the modalities formulated to support national adaptation plans<sup>33</sup>**

(Agenda item 8(b))

#### 1. Proceedings

91. The SBI considered these sub-items at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. Statements were made by representatives of three Parties, including statements on behalf of the Group of 77 and China and the LDCs.

92. At its 3<sup>rd</sup> meeting, the SBI agreed to consider these sub-items together in a contact group co-chaired by Mr. Balisi Justice Gopolang (Botswana) and Mr. Andrew Ure (Australia). At the 4<sup>th</sup> meeting, Mr. Gopolang reported on the contact group's consultations.

93. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>34</sup> proposed by the Chair.

#### 2. Conclusions

94. The SBI welcomed the initiation of discussions on the matter of national adaptation plans. In accordance with the agenda for its thirty-fourth session, the SBI discussed the following issues in its consideration of this item:

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<sup>30</sup> Available at <[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/CONF.219/3](http://www.un.org/ga/search/view_doc.asp?symbol=A/CONF.219/3)>.

<sup>31</sup> Decision 1/CP.16, paragraphs 15–18.

<sup>32</sup> Decision 1/CP.16, paragraphs 15, 17 and 18.

<sup>33</sup> Decision 1/CP.16, paragraphs 15–18.

<sup>34</sup> Adopted as document FCCC/SBI/2011/L.16.



(a) A process to enable LDC Parties to formulate and implement national adaptation plans, building upon their experience in preparing and implementing NAPAs;<sup>35</sup>

(b) Modalities and guidelines for LDC Parties and other developing country Parties to employ the modalities formulated to support national adaptation plans.<sup>36</sup>

95. The SBI noted that the process to enable LDC Parties to formulate and implement national adaptation plans should benefit from engagement with the LEG, including through consideration of the output of its work on medium- and long-term adaptation in LDC Parties.

96. The SBI noted that the efforts by LDCs and other developing country Parties to enhance national adaptation planning processes could benefit from the exchange of information on lessons learned, best practices and experiences of other countries in integrating adaptation approaches into national planning. The SBI decided to continue its consideration of this issue at its subsequent sessions.

97. The SBI recalled the importance of the provision of support in accordance with decision 1/CP.16, including paragraph 18, and other relevant decisions of the COP.

98. The SBI requested the secretariat to explore the possibility of convening an expert meeting, taking into account these conclusions, and input from the LEG and other relevant sources, subject to the availability of resources and in conjunction with any other relevant event to be held prior to the seventeenth session of the COP, including experts from Parties and relevant organizations, the LEG and relevant stakeholders, to:

(a) Identify and discuss elements and deliverables of the process to enable LDC Parties to formulate and implement national adaptation plans, building upon their experience in preparing and implementing NAPAs;

(b) Elaborate draft modalities and guidelines for LDC Parties and other developing country Parties to employ the modalities formulated to support national adaptation plans.

99. It requested the secretariat to prepare a report on the expert meeting referred to in paragraph 98 above.

100. It invited Parties and relevant organizations to submit to the secretariat their views on the following matters, by 15 August 2011, for compilation and as input to the possible expert meeting mentioned in paragraph 98 above:

(a) The process to enable LDC Parties to formulate and implement national adaptation plans, building upon their experience in preparing and implementing NAPAs;

(b) The modalities and guidelines for LDC Parties and other developing country Parties to employ the modalities formulated to support national adaptation plans.

101. It requested the secretariat to prepare a synthesis report based on these submissions.

102. The SBI decided to consider the submissions referred to in paragraph 100 above, the synthesis report and the outcomes of the expert meeting at its thirty-fifth session, with a view to making recommendations to the COP at its seventeenth session.

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<sup>35</sup> Decision 1/CP.16, paragraphs 15, 17 and 18.

<sup>36</sup> Decision 1/CP.16, paragraphs 15–18.

## **IX. Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity<sup>37</sup>**

### **- Activities to be undertaken under the work programme**

(Agenda item 9)

#### **1. Proceedings**

103. The SBI considered this item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/SBI/2011/3 and FCCC/SBI/2011/MISC.1. Statements were made by representatives of 21 Parties, including statements on behalf of the European Union and its member States and the LDCs.

104. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this item in a contact group co-chaired by Mr. Mark Berman (Canada) and Mr. Munjurual Hannan Khan (Bangladesh). At the 4<sup>th</sup> meeting, Mr. Berman reported on the contact group's consultations.

105. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>38</sup> proposed by the Chair, as amended.

#### **2. Conclusions**

106. The SBI recalled decision 1/CP.16, whereby the COP decided to establish a work programme in order to consider approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity (hereinafter referred to as the work programme),<sup>39</sup> and requested the SBI to agree on activities to be undertaken under the work programme.<sup>40</sup>

107. The SBI reaffirmed the need to strengthen international cooperation and expertise in order to understand and reduce loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow onset events.<sup>41</sup>

108. The SBI, in accordance with decision 1/CP.16, considered the documents prepared for the session,<sup>42</sup> and agreed to implement the work programme in accordance with paragraphs 109–116 below.

109. The SBI took note of the importance of addressing the following thematic areas in the implementation of the work programme:

(a) Assessing the risk of loss and damage associated with the adverse effects of climate change and the current knowledge on the same;

<sup>37</sup> Decision 1/CP.16, paragraphs 26–29.

<sup>38</sup> FCCC/SBI/2011/L.20, adopted as amended.

<sup>39</sup> Decision 1/CP.16, paragraph 26.

<sup>40</sup> Decision 1/CP.16, paragraph 27.

<sup>41</sup> Including sea level rise, increasing temperatures, ocean acidification, glacial retreat and related impacts, salinization, land and forest degradation, loss of biodiversity and desertification.

<sup>42</sup> FCCC/SBI/2011/3 and FCCC/SBI/2011/MISC.1. The views and information on this subject submitted by non-governmental organizations are available at <<http://unfccc.int/3689.php>>.

(b) A range of approaches to address loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow onset events, taking into consideration experience at all levels;

(c) The role of the Convention in enhancing the implementation of approaches to address loss and damage associated with the adverse effects of climate change.

110. The SBI invited Parties and relevant organizations to submit to the secretariat, by 15 August 2011, further views and information on the themes to be addressed in paragraph 109(a–c) above. It requested the secretariat to compile these submissions into a miscellaneous document for consideration at its thirty-fifth session and to prepare a synthesis report based on the submissions and other relevant information before its thirty-fifth session.

111. In order to address the thematic areas contained in paragraph 109 above, the SBI requested the secretariat to explore the possibility of convening an expert meeting, subject to the availability of resources and in conjunction with any other related event to be held by its thirty-sixth session, to include experts nominated by Parties, relevant organizations and other stakeholders.

112. The SBI agreed to continue to further elaborate on the details of the broad thematic areas mentioned in paragraph 109 above at its subsequent sessions, as appropriate, with a view to generating a knowledge base for making recommendations on loss and damage to the COP for consideration at its eighteenth session, including elaborating the elements set out in decision 1/CP.16, paragraph 28(a),(b),(c) and (d), and drawing upon the submissions mentioned in paragraph 110 above as well as those contained in document FCCC/SBI/2011/MISC.1, in the context of the work programme.

113. In the context of the work programme, the SBI invited relevant organizations and other stakeholders to undertake further actions to assist Parties to enhance understanding of, and expertise that will help to address, loss and damage associated with the adverse effects of climate change in developing countries that are particularly vulnerable to the climate change impacts. It encouraged them to share the outcomes of their activities with the SBI at subsequent sessions, as appropriate.

114. The SBI requested the secretariat to strive to engage a wide range of stakeholders in the implementation of the work programme.

115. The SBI further agreed to consider additional activities, at subsequent sessions, including by taking into account, as appropriate:

(a) The outcomes of the workshop to identify challenges and gaps in the implementation of risk management approaches to the adverse effects of climate change referred to in document FCCC/SBI/2010/27, paragraph 86;

(b) The outcomes of the initial activities undertaken in the context of the work programme;

(c) Inputs from processes relevant to this issue.

116. The SBI encouraged Parties included in Annex II to the Convention and other developed country Parties in a position to do so to provide financial and technical support, as appropriate, for the implementation of the work programme.

## **X. Matters relating to Article 3, paragraph 14, of the Kyoto Protocol**

(Agenda item 10)

### **1. Proceedings**

117. The SBI considered this item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/SB/2011/1 and FCCC/SB/2011/MISC.1.

118. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this item together with SBSTA 34 agenda item 8, "Matters relating to Article 2, paragraph 3, of the Kyoto Protocol", in a joint contact group co-chaired by Ms. Anastasia Theodorou (Hungary) and Mr. Eduardo Calvo Buendia (Peru). At the 4<sup>th</sup> meeting, Mr. Calvo Buendia reported on the contact group's consultations.

119. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>43</sup> proposed by the Chair.

### **2. Conclusions**

120. The SBI and the SBSTA considered the synthesis of information and views on issues that will be addressed at the joint workshop<sup>44</sup> on matters relating to Article 3, paragraph 14, and Article 2, paragraph 3, of the Kyoto Protocol.<sup>45</sup>

121. The SBI and the SBSTA recalled their request to the secretariat to organize the joint workshop and encouraged Parties in a position to do so to provide support to the secretariat in organizing the workshop, with a view to maximizing participation, before their thirty-fifth sessions.

122. The SBI and the SBSTA identified issues that will be addressed at their joint workshop on matters referred to in paragraph 120 above, including, inter alia:

(a) Sharing information to enhance understanding of adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts;

(b) Minimizing the adverse effects through a process to implement Article 3, paragraph 14, and Article 2, paragraph 3, of the Kyoto Protocol:

(i) Further implementation of decision 31/CMP.1;

(ii) Research and assessment;

(iii) Enhancing support to developing country Parties, particularly those identified in Article 4, paragraphs 8 and 9, of the Convention;

(iv) Enhancing reporting and verification.

123. The SBI and the SBSTA agreed to continue to discuss matters related to Article 3, paragraph 14, and Article 2, paragraph 3, of the Kyoto Protocol, including consideration of the report on the workshop referred to in paragraph 120 above, in a joint contact group to be established by them at their thirty-fifth sessions.

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<sup>43</sup> Adopted as document FCCC/SBI/2011/L.12.

<sup>44</sup> FCCC/SBI/2010/27, paragraph 124.

<sup>45</sup> FCCC/SB/2011/1.

**XI. Forum on the impact of the implementation of response measures at the thirty-fourth and thirty-fifth sessions of the subsidiary bodies, with the objective of developing a work programme under the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to address these impacts, with a view to adopting, at the seventeenth session of the Conference of the Parties, modalities for the operationalization of the work programme and a possible forum on response measures<sup>46</sup>**

(Agenda item 11)

**1. Proceedings**

124. The SBI considered this item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it document FCCC/SB/2011/MISC.2.

125. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this item in a joint SBSTA/SBI forum co-chaired by Mr. Mama Konaté (Mali), Chair of the SBSTA, and Mr. Owen-Jones. At the 4<sup>th</sup> meeting, Mr. Owen-Jones reported on the forum, including on a special event organized in the context of the forum.

126. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>47</sup> proposed by the Chair.

**2. Conclusions**

127. The SBSTA and the SBI took note of submissions<sup>48</sup> from Parties and relevant intergovernmental organizations on the elements for the development of a work programme with a view to adopting modalities for the operationalization of the work programme, and on a possible forum on response measures.

128. The SBSTA and the SBI invited Parties and relevant intergovernmental and non-governmental organizations to submit further views on the matter referred to in paragraph 127 above by 19 September 2011. They requested the secretariat to compile these views into a miscellaneous document for consideration by the SBSTA and the SBI at their thirty-fifth sessions.

129. The SBSTA and the SBI welcomed the special event in the context of the forum on the impact of the implementation of response measures held during their thirty-fourth sessions, which was organized by the Chairs of the SBSTA and the SBI. The SBSTA and the SBI requested the secretariat, under the guidance of the Chairs of the SBSTA and the SBI, to prepare a report on this special event and make it available at the thirty-fifth sessions of the SBSTA and the SBI.

130. In accordance with paragraph 93 of decision 1/CP.16, the SBSTA and the SBI held during their thirty-fourth sessions a forum on the impact of the implementation of response measures, with the objective of developing a work programme under the SBSTA and the SBI to address these impacts, with a view to adopting, at COP 17, modalities for the operationalization of the work programme and a possible forum on response measures. The forum on the impact of the implementation of response measures will continue at the thirty-

<sup>46</sup> Decision 1/CP.16, paragraph 93.

<sup>47</sup> Adopted as document FCCC/SBSTA/2011/L.16–FCCC/SBI/2011/L.18.

<sup>48</sup> FCCC/SB/2011/MISC.2.

fifth sessions of the SBSTA and the SBI, to carry out the work as agreed in paragraph 93 of decision 1/CP.16.

## **XII. Development and transfer of technologies**

(Agenda item 12)

### **1. Proceedings**

131. The SBI considered this item at its 2<sup>nd</sup> and 4<sup>th</sup> meetings.

132. At its 2<sup>nd</sup> meeting, the SBI agreed to consider this item in informal consultations co-chaired by Mr. Carlos Fuller (Belize) and Mr. Zitouni Ould-Dada (United Kingdom of Great Britain and Northern Ireland). At the 4<sup>th</sup> meeting, Mr. Ould-Dada reported on the informal consultations.

133. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>49</sup> proposed by the Chair.

### **2. Conclusions**

134. The SBI noted the oral report by the GEF and expressed its appreciation to the GEF and its agencies, the United Nations Development Programme and the United Nations Environment Programme on the progress made in carrying out the Poznan strategic programme on technology transfer.<sup>50</sup>

135. The SBI welcomed the progress made in providing technical and financial support to assist 36 non-Annex I Parties in developing and updating their technology needs assessments (TNAs). The SBI noted that many non-Annex I Parties expressed their interest to conduct or update their TNAs. The SBI recommended that the COP, at its seventeenth session, invite the GEF to continue to provide financial support to other non-Annex I Parties, as appropriate, to conduct or update their TNAs, noting the availability of the updated handbook *Conducting Technology Needs Assessments for Climate Change*.<sup>51</sup>

136. The SBI welcomed the progress made by the GEF in providing support for piloting priority technology projects as part of the Poznan strategic programme. The SBI noted that the pilot project proposals submitted by non-Annex I Parties and supported by the GEF included only one project on technologies for adaptation. The SBI also noted the importance of projects on technologies for adaptation, including on the development and strengthening of local knowledge, and invited the GEF, Parties and relevant organizations in a position to do so to provide financial support for project proposals, including those for pilot projects, of the types supported by the Poznan strategic programme related to technologies for adaptation.

137. The SBI recalled the conclusions of its thirty-second session inviting the GEF to provide half-yearly progress reports on the implementation of the activities receiving support under the Poznan strategic programme.<sup>52</sup> It invited the GEF to provide reports on the progress made in carrying out its activities under the Poznan strategic programme, including its long-term implementation, for consideration by the SBI at its thirty-fifth and subsequent sessions, for the duration of the Poznan strategic programme.

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<sup>49</sup> Adopted as document FCCC/SBI/2011/L.10.

<sup>50</sup> FCCC/SBI/2008/16.

<sup>51</sup> <<http://unfccc.int/ttclear/pdf/TNA%20HANDBOOK%20EN%2020101115.pdf>>.

<sup>52</sup> FCCC/SBI/2010/10, paragraph 102.

### **XIII. Capacity-building under the Convention**

(Agenda item 13)

138. The SBI considered this item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/CP/2010/5 and Add.1, FCCC/SBI/2010/20, FCCC/SBI/2010/MISC.6, FCCC/SBI/2009/4, FCCC/SBI/2009/5, FCCC/SBI/2009/MISC.1, FCCC/SBI/2009/MISC.2 and FCCC/SBI/2009/MISC.12/Rev.1.

139. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this item in a contact group co-chaired by Ms. Paula Caballero Gomèz (Colombia) and Ms. Yuka Greiler (Switzerland). At the 4<sup>th</sup> meeting, Ms. Caballero Gomèz reported on the contact group's consultations.

140. At the same meeting, the SBI agreed to continue consideration of this item at its thirty-fifth session, on the basis of the draft text contained in annex II, with a view to recommending a draft decision on this matter for adoption by the COP at its seventeenth session. In accordance with rule 16 of the draft rules of procedure being applied, the SBI decided to include this item on the provisional agenda for that session.

### **XIV. Capacity-building under the Kyoto Protocol**

(Agenda item 14)

141. The SBI considered this item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/KP/CMP/2010/10, FCCC/SBI/2010/20, FCCC/SBI/2010/MISC.6, FCCC/SBI/2009/4, FCCC/SBI/2009/5, FCCC/SBI/2009/MISC.1, FCCC/SBI/2009/MISC.2 and FCCC/SBI/2009/MISC.12/Rev.1.

142. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this item in a contact group co-chaired by Ms. Caballero Gomèz and Ms. Greiler. At the 4<sup>th</sup> meeting, Ms. Caballero Gomèz reported on the contact group's consultations.

143. At its 4<sup>th</sup> meeting, the SBI agreed to continue consideration of this item at its thirty-fifth session, on the basis of the draft text contained in annex III, with a view to recommending a draft decision on this matter for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) at its seventh session. In accordance with rule 16 of the draft rules of procedure being applied, the SBI decided to include this item on the provisional agenda for that session.

### **XV. Amendment of the Kyoto Protocol in respect of procedures and mechanisms relating to compliance**

(Agenda item 15)

144. The SBI considered this item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it document FCCC/KP/CMP/2005/2.

145. At the 3<sup>rd</sup> meeting, the Chair of the SBI announced that he would consult with interested Parties and report on the outcome of these consultations to the SBI at its closing plenary. At the 4<sup>th</sup> meeting, the Chair reported that there was agreement to continue to discuss this matter further at the thirty-fifth session of the SBI and to include this item on the provisional agenda for that session.

## **XVI. Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism**

(Agenda item 16)

### **1. Proceedings**

146. The SBI considered this item at its 3<sup>rd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/SBI/2011/MISC.2 and FCCC/TP/2011/3. Statements were made by representatives of two Parties, including a statement on behalf of the European Union and its member States.

147. At its 3<sup>rd</sup> meeting, the SBI agreed to consider this item in a contact group co-chaired by Ms. Trudene Dobson (New Zealand) and Mr. Yaw Bediako Osafo (Ghana). At the 4<sup>th</sup> meeting, Mr. Bediako Osafo reported on the contact group's consultations.

148. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>53</sup> proposed by the Chair.

### **2. Conclusions**

149. The SBI took note of the submissions from Parties, intergovernmental organizations and admitted observer organizations contained in document FCCC/SBI/2011/MISC.2 and the information provided in the synthesis document prepared by the secretariat on procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism.<sup>54</sup>

150. It noted the recommendations made by the Executive Board contained in annex II to its 2010 annual report.<sup>55</sup>

151. The SBI also noted the views on this matter expressed at the session.

152. The SBI took note of the initial draft text, as proposed by the co-chairs of the group, contained in annex IV, while there were divergent views among Parties. It agreed to continue consideration of the matter at its next session.

## **XVII. Arrangements for intergovernmental meetings**

(Agenda item 17)

### **Seventeenth session of the Conference of the Parties**

(Agenda item 17(a))

### **Seventh session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol**

(Agenda item 17(b))

### **Future sessional periods**

(Agenda item 17(c))

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<sup>53</sup> Adopted as document FCCC/SBI/2011/L.11.

<sup>54</sup> FCCC/TP/2011/3.

<sup>55</sup> FCCC/KP/CMP/2010/10.



## Organization of the intergovernmental process

(Agenda item 17(d))

## Observer organizations in the intergovernmental process

(Agenda item 17(e))

### 1. Proceedings

153. The SBI considered these sub-items at its 2<sup>nd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/SBI/2011/6 and Add.1 and FCCC/SBI/2011/INF.7. Statements were made by 17 Parties, including statements on behalf of the European Union and its member States, the Group of 77 and China and the LDCs.

154. At its 2<sup>nd</sup> meeting, the SBI agreed to consider these sub-items together in a contact group chaired by Mr. Owen-Jones. In addition, an in-session workshop to further develop ways to enhance the engagement of observer organizations in the UNFCCC process was held on Wednesday, 8 June. At the 4<sup>th</sup> meeting, Mr. Owen-Jones reported on the contact group's consultations.

155. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>56</sup> proposed by the Chair, as amended.

### 2. Conclusions

*Seventeenth session of the Conference of the Parties*

*Seventh session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*

156. The SBI reiterated its gratitude to the Government of South Africa for its generous offer to host COP 17 and CMP 7 in Durban, South Africa, from 28 November to 9 December 2011. It took note with appreciation of the preparations being undertaken by the Government of South Africa and the secretariat to convene COP 17 and CMP 7 and to facilitate the success of those sessions.

157. The SBI recalled its conclusions from its thirty-second session, which requested that the secretariat take steps to ensure that any official logo, poster or other material that appears at UNFCCC climate conferences or on official websites refers to the COP and the CMP and gives them equal treatment.<sup>57</sup>

158. The SBI recommended that arrangements for the high-level segment of COP 17 and CMP 7 build upon the positive experiences of previous COP and CMP sessions as appropriate.

159. The SBI agreed that arrangements should be made for the delivery of concise national statements by ministers and other heads of delegation, within a recommended time limit of three minutes, and that concise statements should be made by representatives of intergovernmental organizations and non-governmental organizations (NGOs), within a recommended time limit of two minutes, in the joint meetings of the COP and the CMP during the high-level segment.

160. The SBI invited the Bureau of COP 16 and CMP 6 to finalize the details of the arrangements for COP 17 and CMP 7, including arrangements for the high-level segment,

<sup>56</sup> FCCC/SBI/2011/L.19, adopted as amended.

<sup>57</sup> FCCC/SBI/2010/10, paragraph 144.

in consultation with the President Designate of COP 17 and CMP 7 and the secretariat. The SBI stressed the importance of the principles of transparency and inclusiveness in the lead up to and during COP 17 and CMP 7.

#### *Future sessional periods*

161. The SBI noted the agreement of Parties on the necessity for an additional intersessional resumed meeting of the ad hoc working groups. The SBI noted the statement by the Executive Secretary on the critical and urgent need for financial contributions in order that the secretariat can make the necessary arrangements.

162. The SBI recalled decision 12/CP.16, which noted that, in keeping with the principle of rotation among regional groups, the President of COP 18 would normally come from the Asian Group.<sup>58</sup>

163. The SBI noted the ongoing consultations with regard to hosting COP 18 and CMP 8, and looked forward to receiving the results of these consultations, in order that a decision be taken at COP 17 on this matter.

164. The SBI recalled that the President of COP 19 would come from the Eastern European Group. The SBI invited Parties to come forward with offers to host future sessions of the COP and the CMP.

165. The SBI recommended the following dates for future sessional periods for adoption by the COP at its seventeenth session:

- Wednesday, 4 June to Sunday, 15 June and Wednesday, 3 December to Sunday, 14 December for the sessional periods in 2014;
- Wednesday, 3 June to Sunday, 14 June and Wednesday, 2 December, to Sunday, 13 December for the sessional periods in 2015;
- Wednesday, 18 May to Sunday, 29 May and Wednesday, 30 November to Sunday, 11 December for the sessional periods in 2016.

#### *Organization of the intergovernmental process*

166. The SBI also recommended that further consideration be given to planning future sessional periods in the context of new meetings of constituted bodies, technical meetings of experts and workshops. The SBI agreed to continue its deliberations on this matter in the light of further information on the modalities and scheduling of constituted bodies.

167. The SBI recalled the conclusions from its thirty-second session that recommended that the secretariat, in organizing future sessional periods, follow the practice of holding no more than two meetings of plenary and/or contact groups concurrently, with the total number of meetings held concurrently, including informals, not exceeding six, to the extent possible.<sup>59</sup> The SBI noted the existing practices with regard to informals. In the event that there is no contact group for an agenda item, the SBI recommended that at least the first and the last meetings of the informals may be open to observer organizations, recognizing the right of Parties to keep informal meetings closed.

#### *Observer organizations in the intergovernmental process*

168. The SBI took note of the information provided by the secretariat on observer organizations in the UNFCCC process and on the good practices from other processes in

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<sup>58</sup> FCCC/CP/2010/7/Add.2.

<sup>59</sup> FCCC/SBI/2010/10, paragraph 164.

the United Nations system,<sup>60</sup> and of the report on the in-session workshop to further develop ways to enhance the engagement of observer organizations in the UNFCCC process.<sup>61</sup>

169. The SBI recalled the conclusions from its thirty-third session recognizing that the range and value of observer organization engagement is diverse, broad and rich, and that the role and contributions of observer organizations in the UNFCCC process should be enhanced.

170. The SBI recognized the need to engage a broad range of stakeholders at the global, regional, national and local levels, be they government, including subnational and local government, private business or civil society, including youth and persons with disability, and that gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change.<sup>62</sup>

171. The SBI reaffirmed the fundamental value of effective participation by observers and the value of contributions from observer organizations to deliberations on substantive issues, while recognizing the recent significant increase in the number of participants from observer organizations.

172. The SBI welcomed the current efforts by the Chairs of the subsidiary bodies and the President of the COP and the CMP to hold in-session briefings and dialogue sessions. It invited the Chairs of the subsidiary bodies and the President of the COP and the CMP to increase these efforts, and encouraged observer organizations to take advantage of these opportunities as a platform for direct dialogue with the President of the COP and the CMP and the Chairs of the subsidiary bodies.

173. The SBI welcomed the efforts made by the Government of Mexico, before and during its Presidency of the COP and the CMP, in engaging stakeholders, including the local civil society, in the lead up to and during COP 16 and CMP 6, as well as its continued commitment to observer engagement in 2011.

174. The SBI also welcomed the commitment of the Government of South Africa to maintain open engagement with civil society in the lead up to and during COP 17 and CMP 7.

175. The SBI further welcomed the efforts made by the secretariat to use technical means of participation, including the ongoing redesign of the UNFCCC website and the examination of virtual participation for intersessional informal consultations, in-session side events and press conferences. The SBI requested the secretariat to continue the development of technical means of participation, subject to the availability of resources.

176. The SBI agreed that existing means of engagement in workshops should be enhanced. Recalling its conclusions from its seventeenth session on attendance by observer organizations at intersessional workshops,<sup>63</sup> the SBI encouraged the chairs of workshops and expert meetings to invite, time permitting, observer organizations to make presentations, while maintaining the balance of participation between Parties and observer organizations. In this context, the SBI welcomed the practices of the recent mitigation workshops, at which observers could make presentations when time allowed.

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<sup>60</sup> FCCC/SBI/2011/6, paragraphs 33–49.

<sup>61</sup> FCCC/SBI/2011/INF.7.

<sup>62</sup> Decision 1/CP.16, paragraph 7.

<sup>63</sup> FCCC/SBI/2002/17, paragraph 50(c). The SBI requested the Chairs of the subsidiary bodies, workshop chairs and the secretariat to make additional efforts to promote transparency and observer participation, while safeguarding the effectiveness of workshops.

177. The SBI took note of the report on the in-session workshop to further develop ways to enhance the engagement of observer organizations in the UNFCCC process. The SBI considered the range of proposals contained in the report and examined their implementation. The SBI welcomed the initiatives by the secretariat to improve the participation of observer organizations and requested the secretariat to continue its efforts in this regard.

178. The SBI agreed that the existing means of engagement of observer organizations could be further enhanced, in the spirit of fostering openness, transparency and inclusiveness, through:

- (a) Inviting the presiding officers of various bodies, as relevant, subject to the availability of funding, time and space, to:
  - (i) Seek opportunities for observer organizations to make interventions;
  - (ii) Make greater use of observer inputs in workshops and technical meetings in accordance with the conclusions of the SBI at its seventeenth session in 2002;<sup>64</sup>
  - (iii) Increase opportunities for regular briefings and debriefings as a means for dialogue for observer organizations with presiding officers and Parties;
- (b) Encouraging the hosts of future sessions of the COP and the CMP to:
  - (i) Consider, in their planning and organization, the size of the venue, the distance between buildings and the need to facilitate the participation of all Parties and admitted observer organizations, recalling the conclusions of the SBI at its thirty-second session;<sup>65</sup>
  - (ii) Engage stakeholders in the lead up to and during the sessions of the COP and the CMP;
- (c) Encouraging all Parties to further engage stakeholders at the national level, including information dissemination and consultation;
- (d) Requesting the secretariat, where feasible and appropriate, to:
  - (i) Post submissions from observer organizations on the UNFCCC website in a way that makes them accessible to Parties;
  - (ii) Make use of observer inputs, including scientific and technical, for the preparation of background documentation;
- (e) Requesting the secretariat, subject to the availability of resources and where appropriate, to:
  - (i) Enable the replacement of names of nominated representatives of admitted observer organizations in the online registration system before and during sessions in exceptional circumstances;
  - (ii) Increase the number of meetings that are webcast.

179. The SBI agreed to examine, at its thirty-sixth session, options for new channels for observer organizations to provide formal inputs into the high-level segment of the sessions of the COP and the CMP.

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<sup>64</sup> FCCC/SBI/2002/17, paragraph 50.

<sup>65</sup> FCCC/SBI/2010/10, paragraph 166.

## **XVIII. Administrative, financial and institutional matters**

(Agenda item 18)

### **A. Budget performance for the biennium 2010–2011**

(Agenda item 18(a))

#### **1. Proceedings**

180. The SBI considered this sub-item at its 2<sup>nd</sup> and 4<sup>th</sup> meetings. It had before it documents FCCC/SBI/2011/INF.3 and FCCC/SBI/2011/INF.5.

181. At the 2<sup>nd</sup> meeting, the Chair proposed drafting conclusions on this sub-item, with the assistance of the secretariat and in consultation with interested Parties. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>66</sup> proposed by the Chair.

#### **2. Conclusions**

182. The SBI took note of the interim financial statements for the biennium 2010–2011 as at 31 December 2010.<sup>67</sup>

183. It also took note of the information relating to the status of contributions as at 15 May 2011<sup>68</sup> and expressed its appreciation to Parties that had paid their indicative contributions to the core budget and their fees for the international transaction log (ITL) on time, and particularly to those Parties that had made voluntary contributions to the Trust Fund for Participation in the UNFCCC Process and the Trust Fund for Supplementary Activities. In addition, the SBI expressed its concern over the contributions which remained outstanding and urged those Parties that had not yet paid their contributions to do so as soon as possible.

### **B. Programme budget for the biennium 2012–2013**

(Agenda item 18(b))

#### **1. Proceedings**

184. The SBI considered this sub-item at its 2<sup>nd</sup> and 4<sup>th</sup> meetings. It had before it document FCCC/SBI/2011/2 and Add.1–3. Statements were made by representatives of four Parties. A statement was made by the Executive Secretary.

185. At its 2<sup>nd</sup> meeting, the SBI agreed to consider this sub-item in a contact group chaired by Mr. Owen-Jones. At the same meeting, the SBI also agreed that at the first meeting of the contact group a spin-off group would be established and chaired by Mr. Toshiaki Nagata (Japan) for the consideration of the ITL budget.

186. At the 4<sup>th</sup> meeting, Mr. Owen-Jones reported on the contact group's consultations. At the same meeting, Mr. Nagata reported on the spin-off group's consultations on the ITL budget.

187. Also at its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>69</sup> proposed by the Chair.

<sup>66</sup> Adopted as document FCCC/SBI/2011/L.5.

<sup>67</sup> FCCC/SBI/2011/INF.3.

<sup>68</sup> FCCC/SBI/2011/INF.5.

<sup>69</sup> Adopted as document FCCC/SBI.2011/L.21.

## 2. Conclusions

188. The SBI considered the proposed programme budget for the biennium 2012–2013 and the budget for the ITL for the biennium 2012–2013.<sup>70</sup>

189. It decided to recommend that the COP approve, at its seventeenth session, a core programme budget of EUR 48,511,181 for the biennium 2012–2013.

190. The SBI authorized the Executive Secretary to notify Parties of their contributions for 2012, based on the budget amount mentioned in paragraph 189 above, after taking into account the special annual contribution from the Host Government of EUR 766,938 and a drawing of EUR 1,000,000 annually from the unspent balances or contributions (carry-over) from previous financial periods.

191. The SBI requested the Executive Secretary to provide a report on planned efficiency gains for the biennium 2012–2013 for its consideration at its thirty-fifth session.

192. The SBI recognized the possible need for additional resources to cover the costs of activities resulting from decisions that may be taken by the COP at its seventeenth session, and urged Parties to make voluntary contributions as necessary for the timely implementation of these activities. The SBI recommended that the COP authorize the Executive Secretary to implement decisions that may be taken at COP 17 for which provisions are not made under the approved budget by using voluntary contributions and resources available under the core budget.

193. The SBI took note of the presentation by the secretariat on the details of the budget for the ITL, and requested the Executive Secretary to continue to improve transparency for the items reported in the ITL programme budget proposal by further clarifying expenditures related to contracts and consultants and to further disaggregate these costs in subsequent budget proposals.

194. The SBI also authorized the Executive Secretary to notify concerned Parties of their annual fee for 2012 for the connection of their national registry to, and use of, the ITL and for the related activities of the ITL administrator.

195. The SBI requested the ITL administrator to continue investigating and implementing further efficiencies with a view to reducing the cost of the ITL in the biennium 2014–2015.

196. The SBI decided to recommend a draft decision<sup>71</sup> on the programme budget for the biennium 2012–2013 for adoption by the COP at its seventeenth session, and a draft decision<sup>72</sup> on the programme budget for the biennium 2012–2013 as it applies to the Kyoto Protocol and the budget for the ITL for adoption by the CMP at its seventh session.

## C. Implementation of the Headquarters Agreement

(Agenda item 18(c))

### 1. Proceedings

197. The SBI considered this sub-item at its 2<sup>nd</sup> and 4<sup>th</sup> meetings. Statements were made by a representative of the Host Government and the Executive Secretary.

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<sup>70</sup> FCCC/SBI/2011/2 and Add.1–3.

<sup>71</sup> FCCC/SBI/2011/L.21/Add.1, pages 1–12. For the final text, see document FCCC/SBI/2011/7/Add.1.

<sup>72</sup> FCCC/SBI/2011/L.21/Add.1, pages 13–20. For the final text, see document FCCC/SBI/2011/7/Add.1.

198. At the 2<sup>nd</sup> meeting, the Chair proposed drafting conclusions on this sub-item, with the assistance of the secretariat and in consultation with interested Parties. At its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>73</sup> proposed by the Chair.

## 2. Conclusions

199. The SBI took note of the information provided by the representative of the Host Government of the secretariat that the completion of the new conference facilities in Bonn, Germany, has been further delayed due to circumstances beyond the control of the German Government. The completion of the conference facilities is now expected for the first half of 2013. The SBI appreciated the efforts and investments made by the Host Government and city in response to its request<sup>74</sup> to seek practical interim solutions to accommodate the growing number of participants and to address relevant logistical arrangements. It requested the Host Government to redouble its efforts in providing sufficient and adequate meeting space.

200. The SBI was informed by the representative of the Host Government of delays in the completion of the new premises for the secretariat in Bonn, Germany: completion of the first stage having shifted from the end of 2011 to the middle of 2012, and the second stage, which will include an additional building to provide the secretariat with a modern, productive, and environmentally sound working environment, to be completed in 2016.

201. The SBI took note of the statement by the Executive Secretary, in which she expressed her satisfaction with many aspects of the implementation of the Headquarters Agreement, but which also noted her areas of concern. In particular, the SBI was informed by the Executive Secretary of the options explored by the secretariat to address the lack of permanent conference facilities in Bonn, Germany. The SBI welcomed in this context the additional conference hall provided by the German Government. This second plenary allowed the thirty-fourth sessions of the subsidiary bodies to be held in a satisfactory meeting space. The SBI also noted the difficulties faced by the secretariat due to delays in the provision of office facilities, which include operating from different locations.

202. The SBI invited the Host Government and the Executive Secretary to report to it at its thirty-fifth session on further progress made on these and other aspects of the implementation of the Headquarters Agreement.

## D. Privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol

(Agenda item 18(d))

### 1. Proceedings

203. The SBI considered this sub-item at its 2<sup>nd</sup> and 4<sup>th</sup> meetings. A statement was made by a representative of one Party.

204. At its 2<sup>nd</sup> meeting, the SBI agreed to consider this sub-item in a contact group chaired by Mr. Kunihito Shimada (Japan). At the 4<sup>th</sup> meeting, Mr. Shimada reported on the contact group's consultations.

205. Also at its 4<sup>th</sup> meeting, the SBI considered and adopted conclusions<sup>75</sup> proposed by the Chair.

<sup>73</sup> Adopted as document FCCC/SBI/2011/L.13.

<sup>74</sup> FCCC/SBI/2010/10, paragraph 156.

<sup>75</sup> Adopted as document FCCC/SBI/2011/L.7.

## 2. Conclusions

206. The SBI took note of the views of Parties on this issue.

207. The SBI also noted the progress made in developing the draft treaty arrangements contained in annex V.

208. The SBI agreed to continue its consideration of this issue at its thirty-sixth session, on the basis of the text contained in annex V, with a view to concluding these arrangements as soon as possible.

## XIX. Other matters

(Agenda item 19)

209. No other matters were raised.

## XX. Report on the session

(Agenda item 20)

210. At its 4<sup>th</sup> meeting, the SBI considered the draft report on its thirty-fourth session (FCCC/SBI/2011/L.15). At the same meeting, on a proposal by the Chair, the SBI authorized the Rapporteur to complete the report on the session, with the assistance of the secretariat and under the guidance of the Chair.

## XXI. Closure of the session

211. At the 4<sup>th</sup> meeting, the Executive Secretary provided a preliminary evaluation of the administrative and budgetary implications of conclusions adopted during the session. This follows decision 16/CP.9, paragraph 20, which requests the Executive Secretary to provide an indication of the administrative and budgetary implications of decisions<sup>76</sup> if these cannot be met from existing resources within the core budget.

212. The Executive Secretary informed Parties that most of the current and mandated work under the SBI had been anticipated and already covered in the programme budget for 2010–2011 or the proposal for 2012–2013. New activities that would require additional resources included:

(a) Under agenda item 6, an estimated EUR 150,000 to organize a workshop and continue the development and promotion of CC:iNet;

(b) Under agenda item 8, EUR 120,000 for the organization of an expert meeting;

(c) Under agenda item 9, EUR 120,000 for the organization of an expert meeting;

(d) Under agenda item 10, EUR 100,000 for the organization of a joint SBSTA/SBI workshop.

213. The Executive Secretary also informed Parties that the cost implications of a number of proposals under agenda item 17, “Arrangements for intergovernmental meetings”, to

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<sup>76</sup> While decision 16/CP.9 refers to “decisions”, it also has implications for conclusions of the subsidiary bodies.



enhance observer organization participation in the UNFCCC process will need to be analysed carefully after the session.

214. Also at the 4<sup>th</sup> meeting, closing statements were made by representatives of 11 Parties, including statements on behalf of the European Union and its member States, the Group of 77 and China, the Umbrella Group, the EIG, the LDCs, the African Group, SICA and AOSIS.

215. In addition, six statements were made on behalf of business and industry NGOs, local government and municipal authorities, women and gender NGOs and youth NGOs, and by representatives of environmental NGOs. The Chair thanked civil society for their valuable contribution to the process.

216. Before closing the session, the Chair thanked delegates and the chairs of contact groups for their contributions. He also thanked the interpreters and security for their support.

## Annex I

### **Terms of reference for the review of the implementation of the amended New Delhi work programme on Article 6 of the Convention**

#### **I. Mandate**

1. The Conference of the Parties (COP), by decision 9/CP.13, decided to undertake a review of the implementation of the amended New Delhi work programme on Article 6 of the Convention in 2012.
2. The COP, by decision 7/CP.16, requested the Subsidiary Body for Implementation (SBI) to develop, at its thirty-fourth session, terms of reference for the review of the implementation of the amended New Delhi work programme, with a view to launching the review at its thirty-sixth session.

#### **II. Objectives**

3. The objective of the review is to evaluate the implementation of the amended New Delhi work programme by:
  - (a) Assessing the essential needs for, potential gaps in and barriers to the implementation of the amended New Delhi work programme;
  - (b) Identifying lessons learned and good practices with a view to their dissemination, promotion, replication and introduction, as appropriate;
  - (c) Assessing the functionality and accessibility of the information network clearing house CC:iNet;
  - (d) Identifying recommendations for further steps to improve and enhance the implementation of Article 6 of the Convention.
4. In reviewing the implementation of the amended New Delhi work programme and developing recommendations for a successor work programme on Article 6 of the Convention, the following aspects, inter alia, should be kept in mind:
  - (a) Strengthening the bottom-up approach and the active participation of women, youth, the media and other relevant stakeholders in the climate change process;
  - (b) Incorporating gender perspectives in Article 6 related activities;
  - (c) Identifying ways to improve the evaluation of national plans and activities on Article 6;
  - (d) Identifying ways to enhance the guidelines for reporting on Article 6 activities through national communications;
  - (e) Strengthening adaptation issues in education and communication campaigns in line with the international cooperation requested by Article 6 of the Convention, while continuing the activities on mitigation;
  - (f) Enhancing efforts to elaborate national strategies and action plans on Article 6 of the Convention;

(g) Fostering the participation of civil society groups in decision-making on climate change at the national level and their attendance at intergovernmental meetings, including sessions of the COP, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the subsidiary bodies;

(h) Promoting subregional, regional and international cooperation in the implementation of Article 6 and the related efforts of intergovernmental and non-governmental organizations;

(i) Supporting formal education in schools and institutions at all levels, non-formal and informal education on climate change and the development of educational and public-awareness materials according to national circumstances and cultural contexts.

### III. Information sources

5. Information to be used in the review of the implementation of the amended New Delhi work programme should be drawn from, inter alia:

(a) Reports of regional, subregional and national workshops on the implementation of Article 6 of the Convention;

(b) Submissions from Parties;

(c) National communications and other relevant national reports;

(d) Information on the implementation of the programme shared by Parties and relevant organizations through CC:iNet;

(e) A users' survey on the functionality, accessibility and content of CC:iNet;

(f) Reports and submissions from the Global Environment Facility and its implementing agencies, United Nations organizations, and relevant intergovernmental and non-governmental organizations, as well as relevant stakeholders;

(g) The conclusions of SBI 34 agenda item 17, "Arrangements for intergovernmental meetings", ongoing discussions under the SBI relating to the engagement of observer organizations and the report on the in-session workshop to further develop ways to enhance the engagement of observer organizations.<sup>1</sup>

### IV. Expected outcomes

6. Drawing upon the information sources listed in chapter III above, the secretariat will prepare, for consideration by the SBI at its thirty-sixth session:

(a) A document on the implementation of the amended New Delhi work programme;

(b) A report on the full-scale implementation of CC:iNet, including the results of the users' survey;

(c) A miscellaneous document containing submissions from Parties received in response to the invitation by the SBI at its thirty-fourth session;

(d) A document summarizing submissions received from Parties, United Nations organizations and relevant intergovernmental and non-governmental organizations, as well

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<sup>1</sup> FCCC/SBI/2011/INF.7.

as relevant stakeholders, on the subject of possible elements of a successor work programme on Article 6 of the Convention.

7. The SBI, at its thirty-sixth session, will consider the documents listed in paragraph 6 above, and any other information relevant to the completion of the review, with a view to recommending a draft decision for adoption by the COP at its eighteenth session, which should include the identification of further steps to enhance the implementation of Article 6 of the Convention.

## Annex II

[English only]

### Capacity-building under the Convention for developing countries

*[The Conference of the Parties,*

*Recalling* decisions 2/CP.7, 2/CP.10, 4/CP.12, 6/CP.14, 8/CP.15 and 1/CP.16,

*Acknowledging* that capacity-building for developing countries is essential to enable them to participate fully in, and implement effectively their commitments under, the Convention,

*Reaffirming* that decision 2/CP.7 remains effective and should continue to guide the implementation of capacity-building activities in developing countries,

*Noting* that a range of the priority issues identified in the framework for capacity-building in developing countries is being supported by Parties included in Annex II of the Convention, the Global Environment Facility and other multilateral, bilateral and international agencies, [the private sector] and intergovernmental and non-governmental organizations [and in some cases the private sector],

*[Option 1 [Also noting* that gaps still remain [and that financial resources for climate change capacity-building should be scaled up in order to progress qualitatively and quantitatively on the capacity-building implementation] [and the availability of and access to financial and technical resources is still an issue to be addressed, in order to progress qualitatively and quantitatively] on the capacity-building implementation,]]

*[Option 2 [Also acknowledging* that, in addition, there may be specific capacity-building activities that require support to enable developing countries to undertake the enhanced implementation of the Convention,]]

*Acknowledging* that capacity-building is a country-driven and learning-by-doing process that responds to the specific needs and priorities of the countries concerned,

*Having considered* the information in documents prepared by the secretariat in support of the second comprehensive review of the implementation of the framework for capacity-building in developing countries and submissions by Parties on the issue,<sup>1</sup>

1. *Decides* that the scope of needs and priority areas identified in the framework for capacity-building in developing countries, as contained in decision 2/CP.7, and the key factors identified in decision 2/CP.10 and 1/CP.16 are still relevant;
2. *Further decides* that new capacity-building needs and priorities in developing countries emerging from the processes and initiatives launched after the completion of the first comprehensive review as well as from the negotiations under the Ad Hoc Working Group on Long-term Cooperative Action under the Convention will need to be taken into account in the further implementation of the framework for capacity-building in developing countries;
3. *Also decides* that further implementation of the framework for capacity-building in developing countries should be improved at the systemic, institutional and individual levels as appropriate, by:

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<sup>1</sup> FCCC/SBI/2009/MISC.1, FCCC/SBI/2009/MISC.2, FCCC/SBI/2009/MISC.12/Rev.1, FCCC/SBI/2009/4, FCCC/SBI/2009/5, FCCC/SBI/2010/MISC.6, FCCC/CP/2010/5 and Add.1, and FCCC/SBI/2010/20.

(a) Ensuring consultations with stakeholders throughout the entire process of activities, from the design of activities to their implementation and monitoring and evaluation;

(b) Enhancing integration of climate change issues and capacity-building needs into national development strategies, plans and budgets;

(c) Increased country-driven coordination of capacity-building activities;

(d) Strengthened networking and information sharing among developing countries, especially through South-South and triangular cooperation;

(e) [Building on existing skills and capacities [, where available,] [, as appropriate,] related to development [and implementation of capacity-building activities] [and delivery of reporting, including national communications [and inventories]];

(e bis) Developing and/or strengthening skills and capacities related to the implementation of climate change related activities;]

(f) [Strengthening local, national and regional research institutions;]

[4. *Decides* to establish an expert group on capacity-building with the terms of reference contained in the annex to this decision;]

[5. *Further decides* that the next and subsequent comprehensive reviews of the framework for capacity-building in developing countries will be undertaken using simple[, practical and cost-effective] performance indicators [prepared by the SBI] [developed by the expert group referred to in paragraph 7 above;]

[6. *Requests* the secretariat to improve the process for regularly gathering and disseminating information on capacity-building activities in developing countries, recognizing the usefulness of information on capacity-building deriving from the compilation and synthesis of national communications, annual submissions by Parties and other documents relevant to this effort, in collaboration with the Global Environment Facility and its agencies and bilateral and multilateral agencies, as appropriate;]

7. *Invites* Parties to enhance reporting on best practices related to capacity-building in their national communications, submissions and other relevant documents, with a view to furthering learning and broadening the impact of capacity-building activities;

8. [*Requests*] [*Reiterates* the request to] the Global Environment Facility, as an operating entity of the financial mechanism, to [increase] [continue to provide financial] [its] support to capacity-building activities in developing countries in accordance with decisions 2/CP.7 and 4/CP.9;

9. *Urges* Parties included in Annex II to the Convention and other Parties that are in a position to do so, multilateral, bilateral and international agencies and the private sector to continue providing financial resources to support capacity-building action in developing countries;

10. *Invites* relevant United Nations agencies and intergovernmental organizations to continue providing support for capacity-building efforts in developing countries, emphasizing and stressing the need for full involvement of developing countries in the conception and development of such activities;

11. *Requests* the Subsidiary Body of Implementation, at its fortieth session, to initiate a third comprehensive review of the implementation of the framework for capacity-building in developing countries, with a view to completing the review at the twenty-first session of the Conference of the Parties.]

## Annex III

[English only]

### Capacity-building under the Kyoto Protocol for developing countries

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

*Recalling* decisions 6/CMP.4 and 7/CMP.5,

*Acknowledging* that capacity-building for developing countries is essential to enable them to participate in the implementation of the Kyoto Protocol,

*Noting* that a range of the priority areas identified in decisions 29/CMP.1 and 2/CP.7 are being addressed by Parties, multilateral and bilateral agencies [and in some cases the private sector] [and the private sector], especially building capacity to develop and implement clean development mechanism project activities,

*[Option 1 Also noting* the [importance of the private sector] [role [that may be] [to be] played by the private sector] [additional role that may be played by the private sector] in building capacity to develop and implement clean development mechanism project activities,]

*[Option 2 [Also noting* the role that the private sector [may] [continues to] play in building capacity of developing countries [especially] when developing and implementing clean development mechanism project activities]]

*Acknowledging* the work undertaken in the context of the Nairobi Framework to catalyse the clean development mechanism in Africa [and the need to move the process further,]

*Also noting* that key needs remain to be addressed to enable developing countries, in particular the least developed countries, African countries and small island developing States, to effectively participate in the clean development mechanism,

*Having considered* the information in documents prepared by the secretariat in support of the second comprehensive review of the implementation of the framework for capacity-building in developing countries,<sup>1</sup>

1. *Decides* that the scope of capacity-building needs, as contained in the framework for capacity-building in developing countries,<sup>2</sup> the key factors identified in decision 2/CP.10 and the priority areas for capacity-building relating to the participation of developing countries in the clean development mechanism contained in decision 29/CMP.1 are still relevant;
2. *Encourages* Parties to further improve the implementation of capacity-building activities relating to the implementation of the Kyoto Protocol and to report on the effectiveness and sustainability of related capacity-building programmes;
3. *Invites* Parties that are in a position to do so, multilateral, bilateral and international agencies and the private sector to continue to provide technical and financial resources in a coordinated manner to support capacity-building activities in developing countries as it

<sup>1</sup> FCCC/SBI/2009/MISC.1, FCCC/SBI/2009/MISC.2, FCCC/SBI/2009/MISC.12/Rev.1, FCCC/SBI/2009/4, FCCC/SBI/2009/5, FCCC/SBI/2010/MISC.6, FCCC/KP/CMP/2010/10 and FCCC/SBI/2010/20.

<sup>2</sup> Decision 2/CP.7.

relates to the implementation of the Kyoto Protocol, addressing the following challenges, inter alia:

- (a) Geographical distribution of clean development mechanism project activities;
- (b) Lack of technical expertise to estimate changes in carbon stock in soil;
- (c) The need to train and retain experts to plan and implement project activities;

4. *Invites* Parties included in Annex II of the Convention in a position to do so to provide capacity-building support for the planning and implementation of clean development mechanism project activities at national and regional levels, as appropriate;

5. *Decides* that further implementation of the framework for capacity-building in developing countries should be improved at the systemic, institutional and individual level, as appropriate, by:

- (a) Ensuring consultations with stakeholders throughout the entire process, from the design of clean development mechanism project activities to their implementation;
- (b) Enhancing integration of capacity-building needs relating to the participation in the Kyoto Protocol into national development strategies and plans;
- (c) Increased country-driven coordination of capacity-building activities;
- (d) Strengthened networking and information sharing among developing countries, especially through South-South and triangular cooperation;

6. *Encourages* cooperative efforts between developing country Parties and developed country Parties to conceptualise and implement capacity-building activities relating to the participation in the clean development mechanism;

7. *Encourages* relevant intergovernmental and non-governmental organizations, in particular the United Nations Development Programme, the United Nations Environment Programme, the World Bank Group, the African Development Bank, the United Nations Economic Commission for Africa, the United Nations Conference on Trade and Development, the United Nations Institute for Training and Research and the UNFCCC secretariat, to continue enhancing and coordinating their capacity-building activities under the Nairobi Framework including support towards building skills;

8. *Decides* to initiate a third comprehensive review of the implementation of the framework for capacity-building in developing countries at the fortieth session of the Subsidiary Body for Implementation, with a view to completing it at the eleventh session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol;

9. *Requests* the Subsidiary Body for Implementation to develop terms of reference for the third comprehensive review at its thirty-eighth session.]



## Annex IV

### [Co-chair's proposed text

### Draft decision XX/CMP.7

### Appeals mechanism

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

*Recalling* decisions 2/CMP.5, paragraph 42, and 3/CMP.6, paragraph 18,

*Recalling also* decisions 2/CMP.1 and 3/CMP.1,

*Cognizant* of its decisions 4/CMP.1, 5/CMP.1, 6/CMP.1, 7/CMP.1, 1/CMP.2, 2/CMP.3 and 2/CMP.5,

*Recognizing* the importance of timely and effective decision-making by the Executive Board of the clean development mechanism on issues related to project activities,

*Emphasizing* the importance of consistency and correctness in the application of the modalities and procedures of the clean development mechanism,

*Wishing* to provide for an independent, impartial, fair, equitable, transparent and efficient mechanism to enable review of the decisions of the Executive Board of the clean development mechanism,

1. *Approves and adopts* the procedures and mechanisms relating to appeals against decisions of the Executive Board of the clean development mechanism, as contained in the appendix to this decision;
2. *Agrees* that appeals may be brought before the [Appeals Body] [enforcement branch of the Compliance Committee] at the earliest six calendar months following the adoption of this decision;
3. *Agrees also* that appeals may be brought before the [Appeals Body] [enforcement branch of the Compliance Committee] only with regard to decisions of the Executive Board concluded following the adoption of this decision;
4. *Requests* the Subsidiary Body for Implementation to consider the experience gained with the appeals mechanism with a view to proposing recommendations for modifications or adjustments, if necessary, for consideration by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its tenth session;
- [5. *Requests also* the enforcement branch of the Compliance Committee to consider the provisions of decision 27/CMP.1 with a view to proposing to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its eighth session any amendments necessary to accommodate the mandate of the enforcement branch set out in the appendix to this decision;]

## Appendix

### **Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism**

#### **PART I: THE APPEALS BODY**

##### **I. Establishment and powers**

###### *Option 1 - Roster-based ad hoc panels<sup>1</sup>*

1. An appeals body is hereby established that considers appeals against decisions of the Executive Board of the clean development mechanism (CDM) regarding the [approval,] rejection or alteration of requests for the registration of project activities and the issuance of certified emission reductions (CERs).

###### *Option 2 - Enforcement branch of the Compliance Committee<sup>2</sup>*

1. The enforcement branch of the Compliance Committee (“enforcement branch”), established through decision 27/CMP.1, is hereby designated to consider appeals against decisions of the Executive Board of the Clean Development Mechanism (CDM) regarding the [approval,] rejection or alteration of requests for the registration of project activities and the issuance of certified emission reductions (CERs).

2. The enforcement branch shall report annually to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) on its work.

3. Subject to the provisions of this decision, the enforcement branch shall amend, as necessary, procedures governing appeals, for approval by the CMP at its eighth session. The enforcement branch shall also develop its operational modalities on matters relating to the organization of its work, including procedures for the protection of proprietary or confidential information.

###### *Option 3 - Standing body*

1. An appeals body is hereby established that considers appeals against decisions of the Executive Board of the clean development mechanism (CDM) regarding the [approval,] rejection or alteration of requests for the registration of project activities and the issuance of certified emission reductions (CERs).

2. The appeals body shall report annually to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) on its deliberations.<sup>3</sup>

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<sup>1</sup> The model based on an ad hoc panel system might require a set of detailed rules of procedure and a code of conduct to be developed and adopted by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) before the panels begin to hear appeals unless the roster has limited institutional features and is delegated such an authority. See paragraphs 43–44 and 140 of the technical paper FCCC/TP/2011/3 (hereinafter referred to as TP).

<sup>2</sup> Some of the considerations related to possible delegation of the appeals mandate to the Compliance Committee are outlined in paragraphs 100–103 of the TP.

<sup>3</sup> See also paragraph 98 of the TP.

3. Subject to the provisions of this decision, the appeals body shall establish the procedure governing appeals, for consideration by the CMP at its eighth session. The appeals body shall also develop its operational modalities on matters relating to the organization of its work, including procedures for the protection of proprietary or confidential information.<sup>4</sup>

## II. Membership<sup>5</sup>

4. The CMP shall elect [10] [12] [30][50] members to the appeals body [as follows: [X] member[s] from each of the five United Nations regional groups, [X] member[s] from Parties included in Annex I to the Convention, [X] member[s] from Parties not included in Annex I to the Convention and [X] member[s] from small island developing States].

5. Members shall be elected for a period of [two][four] years<sup>6</sup> [and shall be eligible to serve a maximum of [two][X] consecutive terms]. In order to ensure continuity, half of the members shall be elected initially for a term of [X] years and the remaining members shall be elected for the full term of office. Members of the Appeals Body shall remain in office until their successors are elected.

6. Each constituency referred to in paragraph 4 above shall endeavour to conduct a rigorous selection process in order to ensure that the nominees meet the criteria set out in paragraph 8 below.

7. In making nominations, Parties are invited to recall decision 36/CP.7 and give active consideration to the nomination of women.

8. To be eligible for election as a member, a person shall:

- (a) Be of high standing and moral character;
- (b) Possess at least 10 years of relevant experience in international law, administrative law [or in the field of the CDM];
- (c) Be available at all times and at short notice to hear appeals[; ]
- [(d) Be unaffiliated with any government].

9. A member of the appeals body shall not be a member of the Executive Board, a member or employee of its support structure, designated operational entity or designated national authority, and shall not have served on the Executive Board or in its support structure [for at least 7 years] prior to his or her appointment to the Appeals Body. Members of the appeals body shall not be eligible to serve on the Executive Board of the CDM or in its support structure within for a minimum of [1] year[s] following the completion of their service on the appeal body.

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<sup>4</sup> Parties may choose either to delegate the development of detailed rules of procedure and operational modalities to a standing appeals body (including the option of the enforcement branch of the Compliance Committee) or to provide such detailed rules and procedures in the decision itself (see TP, paragraphs 43–44 and 90–92). In the latter case, some of the provisions in the Executive Board recommendations (i.e. chapters V, VII, VIII, IX and XII of annex II to document FCCC/CMP/2010/10) could be used to further develop the detailed rules.

<sup>5</sup> This chapter would only be relevant for a newly created body, such as a standing body or a roster. Unless Parties decide otherwise, the relevant provisions of decision 27/CMP.1 would apply to the composition and membership of the enforcement branch of the Compliance Committee, should it be designated to hear appeals.

<sup>6</sup> Parties are also invited to examine considerations set out in paragraphs 76–78 of the TP and consider whether a longer term of office (e.g. 5 or 7 years) might be desirable.

10. A member of the appeals body may resign by notifying the CMP through the Executive Secretary. The resignation shall take effect 90 calendar days from the date of notification.

11. The appeals body may suspend a member in the event of incapacity or misconduct, including breach of the provisions related to conflict of interest as set out in chapter III below, breach of provisions related to confidentiality of information as set out in chapter IV below or a failure to attend two consecutive meetings without proper justification, pending consideration of the matter by the CMP.

12. A member of the appeals body may only be removed by the CMP for reasons outlined in paragraph 11 above.

13. In the event that a member becomes unable to serve on an appeal for which he or she was originally selected, another member shall be selected to replace him or her in accordance with the procedure set out in paragraph 21 below.

14. Members of the appeals body shall be remunerated for their time spent on consideration of appeals in the amount of [XXX].<sup>7</sup>

### **III. Impartiality and independence<sup>8</sup>**

15. A member of the appeals body shall serve in his or her personal capacity and shall enjoy full independence.

16. A member of the appeals body shall swear an oath that he or she shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of proceedings before the appeals body.

17. Should any direct or indirect conflict of interest arise, the member concerned shall immediately recuse himself or herself from the appeal in question.

### **IV. Internal management<sup>9</sup>**

18. Decisions, other than in the context of individual appeals, shall be made by the full membership of the appeals body. For such decisions, X members must be present to constitute a quorum. Decision shall be taken by consensus, whenever possible. If all efforts at reaching consensus have been exhausted and no agreement has been reached, decisions

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<sup>7</sup> Parties may wish to consider the appropriate amount and how the time should be calculated (e.g. only for the days spent in the panel meeting or an average time per appeal). Parties may also wish to consider whether a retainer fee should be paid to members to facilitate their availability to hear appeals on short notice. Considerations in this regard are set out in paragraphs 85–89 of the TP. The remuneration option is proposed for options 1 and 3. Parties may wish to consider the appropriateness of remuneration of the enforcement branch members in connection with option 2, bearing in mind that currently members of the Compliance Committee are not remunerated for their work related to the implementation of decision 27/CMP.1.

<sup>8</sup> This chapter would only be relevant for a newly created body, such as a standing tribunal or a roster. Unless Parties decide otherwise, the relevant provisions of decision 27/CMP.1 would apply to the composition and membership of the enforcement branch of the Compliance Committee, should it be designated to hear appeals.

<sup>9</sup> This chapter would only be relevant for a newly created body, such as a standing tribunal or a roster. The current procedures relating to the Compliance Committee would apply, unless Parties decide otherwise. Furthermore, paragraphs 20 and 21 would be relevant only to a standing appeals body unless Parties decide to confer such authority to the roster-based system (see also footnote 1 above).

shall be taken by a majority vote of the members present and voting. Members abstaining from voting shall be considered as not voting.

19. The appeals body shall elect its own Chair and Vice-Chair for the term of [x] years.
20. Appeals shall normally be heard by a panel of three members and shall be decided by a majority vote.
21. The members constituting a panel shall be selected by the Chair of the appeals body<sup>10</sup> on the basis of rotation, while taking into account the principles of random selection, unpredictability and opportunity for all members to serve regardless of their national origin.
22. The internal discussions, deliberations and voting on, and drafting of, the decision by a panel during an appeal proceeding shall be confidential.

## V. Collegiality

23. The members shall remain informed of the decisions, modalities and procedures concerning an appeal as well as the relevant modalities and procedures of the CDM.
24. To ensure consistency and coherence in decision-making, and to draw on the individual and collective expertise of the members, the members of the [appeals body][enforcement branch] shall convene at least once a year to discuss matters of policy, practice and procedure relating to appeals and to the modalities and procedures of the CDM generally.<sup>11</sup> [The ad hoc panel responsible for an appeal shall share their reasoning with the other members of the [appeals body][enforcement branch] after finalizing its decision.<sup>12</sup>]

## PART II: GENERAL ISSUES

### VI. Transparency and confidential information

25. The decisions of the [appeals body][enforcement branch] shall be issued in writing and shall state the reasons, facts and rules on which they are based.
26. Subject to the provisions of paragraphs 22 above and 27 below, the decisions of the [appeals body][enforcement branch] with regard to individual appeals shall be communicated to the entities involved in the appeal and to the Executive Board of the CDM, and shall be made publicly available.
27. As a general rule, information obtained by the [appeals body][enforcement branch] marked as proprietary or confidential shall not be disclosed without the written consent of the provider of the information, unless the [appeals body][enforcement branch] determines that, in accordance with the CDM modalities and procedures, such information cannot be claimed proprietary or confidential. Provisions with regard to confidential information contained in decision 3/CMP.1, annex, paragraph 6, shall be applicable to the workings of the [appeals body][enforcement branch] in connection with the consideration of appeals against decisions of the CDM Executive Board].

<sup>10</sup> For a roster-based system, this provision would only be relevant if Parties opt to confer some procedural and operational decision making authority to the full membership of the roster.

<sup>11</sup> See also TP, paragraphs 31–32 and 97.

<sup>12</sup> This provision would not be relevant to option 2 (enforcement branch) as it does not form panels.

## VII. Administrative and financial support

28. The secretariat of the United Nations Framework Convention on Climate Change shall make the administrative arrangements necessary for the functioning of the appeals mechanism.

29. Staff members of the secretariat assigned to assist the [appeals body][enforcement branch] in the carrying out of its functions [related to the implementation of this decision<sup>13</sup>] shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of the proceedings before the [appeals body][enforcement branch].

30. The expenses associated with the appeals mechanism shall be borne out of [X]. The funds for such expenses shall be allocated in a way that ensures the independence and impartiality of the mechanism [and on the basis of a management plan for the mechanism to be developed by the [appeals body][enforcement branch]<sup>14</sup>].

## VIII. Working language<sup>15</sup>

31. The working language of the Appeals Body shall be English.

## PART III. CONSIDERATION OF APPEALS<sup>16</sup>

### IX. Grounds for appeal

32. The [appeals body][enforcement branch] shall be competent to decide on an appeal within the scope of its powers, as set out in paragraph 1 above, on whether the Executive Board:

- (a) Exceeded its jurisdiction or competence;
- (b) Committed an error in procedure, such as to materially affect the decision in the case;
- (c) [Incorrectly] interpreted or applied one or more CDM modalities and procedures [in a way that [is unreasonable] and, if done differently, would have resulted in a materially different outcome];
- (d) [Clearly] erred on a question of fact available to the Executive Board at the time of it reaching its decision, [in a way that [is unreasonable] [and, if done differently, would have resulted in a materially different outcome];
- (e) In reconsidering its decision on remand pursuant to paragraph 34 below, rendered a decision that is inconsistent with the judgement of the [appeals

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<sup>13</sup> Language in square brackets is only relevant to Option 2 (enforcement branch).

<sup>14</sup> Preparation of a management plan option could be requested only from a standing body or possibly a roster with similar features and such delegated authority.

<sup>15</sup> Only applies to options 1 and 3. Provisions of decision 27/CMP.1 would apply to option 2.

<sup>16</sup> This part is based in the recommendations of the Executive Board contained in annex II to its 2010 annual report and the suggestions made by Parties in their written submissions as well as some language proposed by the co-chairs, including, based on the considerations contained in the TP. With several exemptions that are clearly set out in the footnotes, this part is not an alternative option to the Board's recommendations but rather a rewording thereof proposed, should Parties wish to confer development of detailed modalities to the appeals mechanism itself. Please also see footnote 4 above.

body][enforcement branch] [on the same request for registration or issuance or with the previous ruling of the Executive Board with regard to that request].

33. Subject to provisions of this decision, the [appeals body][enforcement branch] shall establish, in a transparent manner, the criteria for admissibility of appeals.

## **X. Decisions and orders**

34.<sup>17</sup>

### *Option A*

With respect to decisions relating to the grounds of review stipulated in paragraph 33 above, the [appeals body][enforcement branch] may affirm a decision of the Executive Board or remand it back to the Executive Board for reconsideration.

### *Option B*

With respect to decisions relating to the grounds of review stipulated in paragraphs (a), (b), and (c) of paragraph 32 above, the [appeals body][enforcement branch] may affirm or reverse a decision of the Executive Board.

With respect to decisions relating to the grounds of review stipulated in paragraphs (d) and (e) of paragraph 32 above, the [appeals body][enforcement branch] may affirm, reverse or remand a decision of the Executive Board.

35. Decisions of the [appeals body][enforcement branch] shall be final and binding on the entities referred to in paragraph 38 below and on the Executive Board.

36. In the interests of fairness and orderly procedure, the [appeals body][enforcement branch] may issue procedural orders as necessary and appropriate to assist the functioning of an appeal proceeding.<sup>18</sup>

## **XI. The record<sup>19</sup>**

37. Any document or oral evidence that was available to the Executive Board in connection with its consideration of the decision being appealed shall constitute the record for the appeal in question. The complete record pertaining to the decision of the Executive Board being appealed shall be made available to the [appeals body][enforcement branch] not later than seven calendar days of the receipt of the appeal by the secretariat.

## **XII. Commencement of an appeal**

38. Any Party, project participant [or DOE] directly involved in [or stakeholder or organization referred to in decision 3/CMP.1, annex, paragraph 40(c), which has submitted comments with regard to] a CDM project activity or a proposed CDM project activity with respect to which the Executive Board has [registered or] made a rejection or alteration

<sup>17</sup> Option A is based on paragraphs 47 of the EB recommendations. option B is a proposal of co-chairs taking into account the considerations set out in paragraphs 111–116 of the TP.

<sup>18</sup> This is the proposal of the co-chairs taking into account the considerations set out in the TP paragraphs 119–121. It is proposed for the consideration by Parties as an alternative to the proposal contained in paragraphs 80 of the EB text.

<sup>19</sup> The text in this section attempts to summarize that of section VII of the EB recommendations. See also TP, paragraphs 146–147.

decision relating to the registration of such a project activity or the issuance of CERs (“petitioners”) may file, individually or jointly, a petition for appeal against such a decision.

39. Multiple appeals can be filed against the same decision, so long as no single petitioner is a signatory to more than one appeal.

40. A petition for appeal shall be filed no later than [45][60] calendar days after the decision of the Executive Board has been made publicly available.

### **XIII. Time limits**

41. As a general rule, the appeals proceedings shall not exceed 90 calendar days from the date a petition is received by the [appeals body][enforcement branch] to the date it issues its final decision.

42. The Executive Board shall reach a decision reconsidered on remand in accordance with the provisions of paragraph 34 above at its first meeting, which will take place at least after 21 calendar days following the receipt of the remand.

### **XIV. Filing fee**

43. Taking into account the costs of the appeals process and the need to deter frivolous appeals, the filing of an appeal shall be subject to a reasonable and not prohibitively expensive fee.]



## Annex V

### Draft treaty arrangements developed by the contact group

1. Individuals serving on constituted bodies and other entities [established under the Kyoto Protocol] [established under the United Nations Framework Convention on Climate Change and its related legal instruments] listed in [annex] [appendix] [x] shall be accorded such [privileges and] immunities as are necessary for the independent exercise of their official functions. They shall, while exercising their official functions, including the time spent on journeys in connection with their official functions, be accorded:

(a) [Immunity from personal arrest or detention;

(b) [Exemption from inspection of personal baggage, unless there are serious grounds for believing that the baggage contains articles not for personal use or articles the import and export of which is prohibited by law or controlled by the quarantine regulations of the Party concerned; inspection in such a case shall be conducted in the presence of the individual concerned;]

(b bis) [The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys;]

(c) Immunity from legal process of every kind in respect of words spoken or written and acts done by them in the course of the performance of their official functions. This immunity from legal process shall continue to be accorded to the individuals referred to in this paragraph notwithstanding that they have ceased to exercise their official functions;

(d) Inviolability for all papers and documents;

(e) [For the purpose of their communication with the constituted bodies and other entities listed in [annex] [appendix] [x] and with the secretariat, the right to use codes and to receive and send papers and documents in whatever form and materials relating to their official functions by courier or in sealed bags or electronic means;]

(f) [Streamlined processing of visa applications for the individuals referred to in this paragraph, when accompanied by a document from the secretariat confirming that they are travelling on the business of the constituted bodies and other entities listed in [annex] [appendix] [x], [shall be dealt with as speedily as possible [and granted free of charge]].]

2. The individuals referred to in paragraph [1] above are those individuals elected, selected or appointed to serve on the constituted bodies and other entities [established under the Kyoto Protocol] [established under the United Nations Framework Convention on Climate Change and its related legal instruments] listed in [appendix] [annex] [x].

3. [Privileges and] immunities are granted to the individuals referred to in paragraph [1] above as are necessary for the independent exercise of their official functions and not for the personal benefit of the individuals themselves. The Executive Secretary of the secretariat shall have the right and the duty to waive the immunity of any individual referred to in paragraph [1] above in any case where, in his or her opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the [operation and implementation of [the Kyoto Protocol] [this agreement]] [operation and implementation of the United Nations Framework Convention on Climate Change and its related legal instruments].

4. [The list contained in [appendix] [annex] [x] may be revised in accordance with the following procedure:<sup>20</sup>

(a) Any Party may propose amendments to [appendix] [annex] [x];

(b) Amendments to [annex] [appendix] [x] shall be adopted at an ordinary session of the [supreme body of the agreement]. The text of any proposed amendment to [annex] [appendix] [x] shall be communicated to the Parties by the secretariat at least six months before the meeting at which it is proposed for adoption. The secretariat shall also communicate the text of any proposed amendment to [annex] [appendix] [x] to the Parties and signatories to the Convention and, for information, to the Depositary;

(c) The Parties shall make every effort to reach agreement on any proposed amendment to [annex] [appendix] [x] by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment to [annex] [appendix] [x] shall as a last resort be adopted by a three-fourths majority vote of the Parties present and voting at the meeting. The adopted amendment to [annex] [appendix] [x] shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance;

(d) An amendment to [annex] [appendix] [x] that has been adopted in accordance with paragraph 4 (b) and (c) above shall enter into force for all Parties to this [agreement] six months after the date of the communication by the Depositary to such Parties of the adoption of the amendment to the [annex] [appendix] [x], except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the amendment to [annex] [appendix] [x]. The amendment to [annex] [appendix] [x] 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;

(e) If the adoption of an amendment to [annex] [appendix] [x] involves an amendment to this [agreement], that amendment to [annex] [appendix] [x] shall not enter into force until such time as the amendment to this [agreement] enters into force;

(f) [Annex ] [Appendix] [x] to this [agreement] shall form an integral part thereof and, unless otherwise expressly provided, a reference to this [agreement] constitutes at the same time a reference to [annex] [appendix] [x].]

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<sup>20</sup> This paragraph shall be revisited in the light of the overall discussions of the amendment procedures.

**[Appendix ] [Annex] [X]**

1. Executive Board of the clean development mechanism.
2. [Compliance Committee.]
3. Joint Implementation Supervisory Committee.
4. [Adaptation Fund Board.]
5. Expert review teams established under Article 8 of this Protocol.
6. [Committees, panels or groups established by the entities listed in 1–4 above.]  
*[And other relevant constituted bodies and entities agreed through the post-2012 process]*

## Annex VI

### Documents before the Subsidiary Body for Implementation at its thirty-fourth session

#### Documents prepared for the session

FCCC/SBI/2011/1/Rev.1	Provisional agenda and annotations. Revised note by the Executive Secretary
FCCC/SBI/2011/2	Proposed programme budget for the biennium 2012–2013. Note by the Executive Secretary
FCCC/SBI/2011/2/Add.1	Proposed programme budget for the biennium 2012–2013. Note by the Executive Secretary. Addendum. Work programme for the secretariat for the biennium 2012–2013
FCCC/SBI/2011/2/Add.2	Proposed programme budget for the biennium 2012–2013. Note by the Executive Secretary. Addendum. Activities to be funded from supplementary sources
FCCC/SBI/2011/2/Add.3	Proposed programme budget for the biennium 2012–2013. Note by the Executive Secretary. Addendum. Trust Fund for the International Transaction Log
FCCC/SBI/2011/3	Synthesis report on views and information on the elements to be included in the work programme on loss and damage. Note by the secretariat
FCCC/SBI/2011/4	Report on the nineteenth meeting of the Least Developed Countries Expert Group. Note by the secretariat
FCCC/SBI/2011/5/Rev.1	Progress report on the work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention. Revised note by the secretariat
FCCC/SBI/2011/5/Add.1	Progress report on the work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention. Note by the secretariat. Addendum. Report on the workshop to exchange views on possible elements to be considered in a future revision of the UNFCCC guidelines for the preparation of national communications from Parties not included in Annex I to the Convention taking into account the difficulties encountered by non-Annex I Parties in the preparation of their most recent national communications

FCCC/SBI/2011/5/Add.2	Progress report on the work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention. Note by the secretariat. Addendum. Common challenges, options and case studies/best practices available to countries and possible means of facilitating the development and long-term sustainability of processes for the preparation of national communications
FCCC/SBI/2011/6	Arrangements for intergovernmental meetings. Note by the Executive Secretary
FCCC/SBI/2011/6/Add.1	Arrangements for intergovernmental meetings. Note by the Executive Secretary. Addendum
FCCC/SBI/2011/INF.1	Compilation and synthesis of fifth national communications. Executive summary. Note by the secretariat
FCCC/SBI/2011/INF.1/Add.1	Compilation and synthesis of fifth national communications. Note by the secretariat. Addendum. Policies, measures, and past and projected future greenhouse gas emission trends of Parties included in Annex I to the Convention
FCCC/SBI/2011/INF.1/Add.2	Compilation and synthesis of fifth national communications. Note by the secretariat. Addendum. Financial resources, technology transfer, vulnerability, adaptation and other issues relating to the implementation of the Convention by Parties included in Annex I to the Convention
FCCC/SBI/2011/INF.2	Compilation and synthesis of supplementary information incorporated in fifth national communications submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol. Note by the secretariat
FCCC/SBI/2011/INF.3	Interim financial statements for the biennium 2010–2011 as at 31 December 2010. Note by the Executive Secretary
FCCC/SBI/2011/INF.4	Information on financial support provided by the Global Environment Facility for the preparation of national communications from Parties not included in Annex I to the Convention. Note by the secretariat
FCCC/SBI/2011/INF.5	Status of contributions as at 15 May 2011. Note by the secretariat
FCCC/SBI/2011/INF.6/Rev.1	Status of submission and review of fifth national communications. Revised note by the secretariat
FCCC/SBI/2011/INF.7	Report on the in-session workshop to further develop ways to enhance the engagement of observer organizations. Note by the Chair of the workshop

FCCC/SBI/2011/MISC.1	Views and information on elements to be included in the work programme on loss and damage. Submissions from Parties and relevant organizations
FCCC/SBI/2011/MISC.2	Views on procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism. Submissions from Parties and relevant organizations
FCCC/SBI/2011/MISC.3	Views on the synthesis report on the National Economic, Environment and Development Study (NEEDS) for climate change project. Submissions from Parties
FCCC/SB/2011/1	Synthesis of information and views on issues that could be addressed at the joint workshop on matters relating to Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol. Note by the secretariat
FCCC/SB/2011/MISC.1	Information and views on issues that could be addressed at the joint workshop on matters relating to Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol. Submissions from Parties and relevant organizations
FCCC/SB/2011/MISC.2	Views on the modalities for the operationalization of the work programme and on a possible forum on response measures. Submissions from Parties and relevant intergovernmental organizations
FCCC/TP/2011/3	Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism. Technical paper

**Other documents before the session**

FCCC/CP/2010/5 and Add.1	Report of the Global Environment Facility to the Conference of the Parties. Note by the secretariat
FCCC/KP/CMP/2010/10	Annual report of the Executive Board of the clean development mechanism to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol
FCCC/KP/CMP/2005/2	Proposal from Saudi Arabia to amend the Kyoto Protocol. Note by the secretariat
FCCC/SBI/2010/20	Synthesis report on the implementation of the framework for capacity-building in developing countries. Note by the secretariat
FCCC/SBI/2010/27	Report of the Subsidiary Body for Implementation on its thirty-third session, held in Cancun from 30

November to 4 December 2010

FCCC/SBI/2010/INF.7	Synthesis report on the National Economic, Environment and Development Study (NEEDS) for Climate Change Project. Note by the secretariat
FCCC/SBI/2010/MISC.6	Activities to implement the framework for capacity-building in developing countries under decision 2/CP.7. Submissions from Parties and relevant organizations
FCCC/SBI/2009/4	Analysis of progress made in, and the effectiveness of, the implementation of the framework for capacity-building in developing countries in support of the second comprehensive review of the capacity-building framework. Note by the secretariat
FCCC/SBI/2009/5	Synthesis of experiences and lessons learned in the use of performance indicators for monitoring and evaluating capacity-building at the national and global levels. Note by the secretariat
FCCC/SBI/2009/MISC.1	Information on experiences and lessons learned in the use of performance indicators for monitoring and evaluating capacity-building at the national and global levels. Submissions from Parties and intergovernmental organizations
FCCC/SBI/2009/MISC.2	Additional or updated information and views relevant to the completion of the second comprehensive review of the capacity-building framework. Submissions by Parties
FCCC/SBI/2009/MISC.12/Rev.1	Submissions from the United Republic of Tanzania on behalf of the Group of 77 and China and from Sweden on behalf of the European Union and its Member States on the completion of the second comprehensive review of the capacity-building framework in developing countries under the Convention and the Kyoto Protocol
FCCC/SBSTA/2010/MISC.9	Update of the Implementation Plan for the Global Observing System for Climate in Support of the UNFCCC. Submission from the secretariat of the Global Climate Observing System
FCCC/SB/2011/INF.1/Rev.1	Compilation of economy-wide emission reduction targets to be implemented by Parties included in Annex I to the Convention. Revised note by the secretariat
FCCC/SB/2007/INF.2	Relationship of various provisions of the Mauritius Strategy to the work of the Convention and its Kyoto Protocol. Note by the secretariat
FCCC/AWGLCA/2011/MISC.6 and Corr.1 and Add.1 and 2	Views on the items relating to a work programme for the development of modalities and guidelines listed in decision 1/CP.16, paragraph 46. Submissions from

Parties

FCCC/AWGLCA/2011/MISC.7 and Views on the items relating to a work programme for  
Add.1 and 2 the development of modalities and guidelines listed in  
decision 1/CP.16, paragraph 66. Submissions from  
Parties

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