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Item X of the provisional agenda

**Draft implementing agreement under the Convention prepared by the
Government of the United States of America for adoption at the fifteenth
session of the Conference of the Parties**

Note by the secretariat

1. Article 17, paragraph 1, of the Convention stipulates that “the Conference of the Parties may, at any ordinary session, adopt protocols to the Convention”. Article 17, paragraph 2, provides that “the text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a session”.
2. The United States of America, by a letter dated 4 June 2009, transmitted the text of a proposed implementing agreement to the secretariat. Consequently, on 6 June 2009, the secretariat will send a note verbale containing this text to National Focal Points for climate change and Permanent Missions to the United Nations, in accordance with the requirements of Article 17, paragraph 2, of the Convention. It is the practice of the secretariat also to communicate proposed legal instruments to the signatories to the Convention and, for information, to the Depositary.
3. The Conference of the Parties is invited to consider this proposal for an implementing agreement at its fifteenth session.

**Communication dated 4 June 2009 from the United States of America
addressed to the secretariat of the
United Nations Framework Convention on Climate Change
presenting a protocol to the Convention**

The United States hereby formally submits the attached proposed implementing agreement to the United Nations Framework Convention on Climate Change. The United States respectfully requests that the Secretariat communicate this text to the Parties to the Convention, including in accordance with Article 17, paragraph 2.

(Signed) Jonathan Pershing
Deputy Special Envoy for Climate Change
United States Department of State

U.S. Submission on Copenhagen Agreed Outcome

Introductory Comments

- The United States supports a Copenhagen agreed outcome that recognizes the magnitude and seriousness of what science demands, reflects both common and differentiated elements, is pragmatic, and recognizes the diversity of countries' circumstances and opportunities so as to invite a variety of approaches and encourage participation.
- The United States is committed to reaching a strong international agreement in Copenhagen based on both the robust targets and ambitious actions that will be embodied in U.S. domestic law and on the premise that the agreement will reflect the important national actions of all countries with significant emissions profiles to contain their respective emissions.
- Attached is a notional agreed outcome that reflects a structural approach and includes content where appropriate at this stage:
 - It takes the form of an "implementing agreement" under the Framework Convention, in order to allow for legally binding approaches and to reflect the Bali Action Plan's mandate to further the implementation of the Convention.
 - Relevant provisions in the Convention are identified with respect to the corresponding implementing provisions.
 - We address only the Convention outcome, not its relationship, if any, to the next step under the Kyoto Protocol.
- The United States will be submitting additional proposals as the negotiations progress.
- It should also be noted that several U.S. proposals could co-exist with the proposals of other countries.

Copenhagen Decision Adopting the Implementing Agreement

The Conference of the Parties,

Seeking to further implement the Convention, in light of evolving science and mindful of evolving economic development and emissions trends,

Recognizing, in light of Article 2 (objective) of the Convention, the importance of identifying one or more reference points in the mid-century timeframe that can guide the efforts of the Parties and the international community and against which aggregate global efforts can be continually assessed,

Considering, in that regard, that [] is/are desirable global indicator(s),

Having a shared vision of [summary that ties together the elements of the agreement],

Hereby adopt the attached implementing agreement.

Copenhagen Implementing Agreement under the Framework Convention on Climate Change

Section 1 – Mitigation

Article 1

Recalling Article 4.1(b) of the Convention, under which all Parties shall “[f]ormulate, implement, publish and regularly update...programmes containing measures to mitigate climate change...,”

1. Parties shall implement their respective nationally appropriate mitigation action(s) reflected in Appendix 1.
2. In addition, Parties shall formulate and submit low-carbon strategies that articulate an emissions pathway to 2050, as specified in Article 2 below.
3. Mitigation action is subject to measurement, reporting, and verification, as reflected in Appendix 2.

Article 2

Recalling Article 4.1(b) of the Convention and recognizing that the levels of ambition expected of Parties will necessarily evolve over time as their respective national circumstances and respective capabilities change:

1. With respect to developed country Parties:

- a. For each such Party, Appendix 1 includes quantitative emissions reductions/removals in the 2020/[] timeframe, in conformity with domestic law.
 - b. Each such Party shall formulate and submit a low-carbon strategy for long-term net emissions reductions of at least [] by 2050.
2. Recognizing that the circumstances of countries naturally evolve over time, Paragraph 1 above shall apply, when Appendix 1 is next updated, to other Parties in accordance with objective criteria of economic development.
3. With respect to developing country Parties whose national circumstances reflect greater responsibility or capability:
 - a. For each such Party, Appendix 1 includes nationally appropriate mitigation actions in the 2020/[] timeframe that are quantified (e.g., reduction from business-as-usual) and are consistent with the levels of ambition needed to contribute to meeting the objective of the Convention.
 - b. Each such Party shall formulate and submit a low-carbon strategy for long-term net emissions reductions by 2050, consistent with the levels of ambition needed to contribute to meeting the objective of the Convention.
 - c. Appendix 1 shall include date(s) by which the Party will commit to the type of action referred to in paragraph 1(a) above.
4. Other developing country Parties should implement nationally appropriate mitigation actions and develop low-carbon strategies, consistent with their capacity.

5. Recalling Article 4.1(a) and Article 12.1 of the Convention, developing country Parties, except the least developed country Parties, shall provide the inventories referred to in Article 12.1 on an annual basis.
6. The Conference of the Parties shall establish the terms under which developing country Parties may elect to offer emissions/removals credits under the Agreement (e.g., sectoral crediting, project-based crediting).
7. The development of low-carbon strategies and the implementation of mitigation actions of developing country Parties will, as appropriate, be supported by financing, technology, and capacity-building, as set forth in Section 4 and Appendix 3.
8. This Agreement does not affect the ability of Parties to establish emissions trading linkages between or among themselves.

Article 3 – REDD-plus

1. Recalling Article 4.1(b) of the Convention, as part of their mitigation actions under Articles 1 and 2 above, Parties may elect to participate in “REDD-plus.” REDD-plus refers to actions that reduce emissions by sources or increase removals by sinks in the land use sector in developing countries. The purpose of REDD-plus is to assist developing countries in achieving sustainable development and contributing to the objective in Article 2 of the Convention.
2. The Conference of the Parties shall develop [or Appendix 5 contains, if possible to complete] a framework for REDD-plus that, taking into account Article 2(5) above, includes the elements set forth in Appendix 5.

Section 2 – Adaptation

Article 4

1. Recognizing the need for greater efforts to adapt to climate change:
 - a. the Parties agree to further enhance the implementation of their common obligations under Article 4.1(e) of the Convention; and
 - b. the Parties adopt the robust adaptation framework set forth in Appendix 4, which includes an overarching policy strategy designed to stimulate actions to support domestic adaptation.
2. The objectives of the framework set forth in Appendix 4 are:
 - a. to catalyze greater attention to adaptation at all levels and to help Parties build a robust approach in their respective efforts;
 - b. to galvanize national and international support for adaptation priorities in a range of sectors; and
 - c. to promote climate-resilient development in a manner that is practical, informed by the best science, environmentally sound, and economically efficient, and that promotes on-the-ground results.
3. Developing country adaptation actions will be supported by financing, technology, and capacity-building, as set forth in Section 4 and Appendix 3.

Section 3 – Technology

[provisions on national actions to promote the development, deployment, and diffusion of environmentally sound technologies, including actions to promote favorable legal and policy frameworks]

[provisions on cooperative action to promote the development, deployment, and diffusion of environmentally sound technologies]

[provisions to promote greater public and private sector investments in technology research, development, and deployment]

Section 4 - Financing

With respect to funding, the U.S. is keenly aware of the need for a dramatic increase in the flow of resources available to developing countries to catalyze both mitigation and adaptation actions at a scale that will be necessary to address the climate challenge. Resources will need to flow from a wide variety of sources, including, for example, public sources in developed and developing countries, private investment, and – in the case of mitigation – the carbon market. The private sector is expected to be a much larger source of funding than the public sector, making it critical that policies in both developed and developing countries promote the flow of such funding. The text below suggests certain funding-related elements to be included but leaves to future negotiation, taking into account mitigation efforts and other related issues, the questions of whether there is a need for a new funding-related mechanism(s) and, if so, where such mechanism(s) would be referenced.

[provision reaffirming Annex II Parties' obligations under Article 4.3 and 4.4 of the Convention]

[provision regarding assigning a new function to either the existing or another operating entity, namely to provide technical assistance for building developing countries' capacity to "ready" themselves for accessing larger pools of domestic and international financing by e.g., creating low-carbon development strategies and establishing national systems for measurement, reporting, and verification]

[provisions to establish a means to, inter alia, draw on public/private sector expertise; recommend steps intended to mobilize domestic and international financing from a variety of domestic, bilateral, regional, and multilateral sources, including carbon markets; consider ways of linking qualifying actions with support; recommend how to improve the effectiveness and efficiency of the Parties' aggregated efforts to mobilize investment; and address concerns of competition, targeting and overlap of such efforts]

[provisions to enable transparency and appropriate participation of the Parties]

Section 5 – Other Provisions, Including Final Clauses

Article 6

In accordance with Article 7 of the Convention, the Conference of the Parties shall keep under review the implementation and progressive development of this Agreement.

Article 7

The functions of the Secretariat under the Convention shall include those related to this Agreement.

Article 8

[provisions regarding amendment of the Agreement, including its Appendices.]

Article 9

[provisions regarding signature and ratification/acceptable/approval/accession]

Article 10

[provisions regarding entry into force that are neither over-inclusive (in terms of number of Parties) nor under-inclusive (in terms of the types of Parties whose participation is necessary for the Agreement to enter into force)]

Appendix 1 – Mitigation

[to be filled in per Section 1]

ALPHABETICAL LIST OF UNFCCC PARTIES

Appendix 2 – Measurement, Reporting, and Verification

[provisions on MRV of mitigation actions generally]

[provisions on MRV of mitigation actions that are externally funded]

[provisions on MRV of financial, technological, and capacity-building support]

[provisions on MRV of various aspects of enabling environments in recipient country Parties to promote external financial, technological, and capacity-building support]

Appendix 3 – Financing

[to be filled in]

Appendix 4 - Adaptation Framework

Recognizing that climate change poses a profound threat to sustainable development, that poor developing countries are particularly vulnerable to climate change and already suffering adverse impacts, the Parties agree on the need for an overarching policy framework that sets forth common goals and areas of action and identifies necessary resources for enabling actions.

General Provisions

The objectives of this Adaptation Framework are:

- to catalyze greater attention to adaptation at all levels and to promote coherence among the range of institutions and actors involved in the effort to adapt to climate change.
- to help Parties, in particular the most vulnerable, build a robust approach in their respective efforts;
- to galvanize national and international support for adaptation priorities in a range of sectors; and
- to promote climate resilient development in a manner that is practical, informed by the best science, is effective and efficient, and promotes on-the-ground results.

Key aspects of the approach to adaptation include:

- affirming the importance of adapting to the impacts of climate change, which is a challenge for all countries, especially for those particularly vulnerable to climate change, including the least developed countries, small island developing states and African countries prone to drought, desertification, and floods;

- reaffirming the relevant provisions of Article 4 of the Convention and decisions 5/CP.7 and 1/CP.10 and the Nairobi Work Programme;
- recognizing that adaptation will involve the independent efforts of a broad range of institutions and actors at the international, national and sub-national levels, including, inter alia, international technical agencies, governments, communities and non-governmental organizations;
- recognizing that adaptation is an integral part of development;
- recognizing that the alleviation of poverty is an essential factor in addressing the impacts of climate change;
- recognizing that adaptation occurs at local, regional, and national levels and is an inherent part of development planning and implementation;
- recalling existing undertakings concerning development responsibilities, including the Monterrey Consensus on financing for development and the Paris Declaration on Aid Effectiveness;
- noting that there are major differences among the different regions and States in terms of environmental, economic and social conditions and levels of development, which will lead to different judgments on priorities in addressing problems related to adaptation to climate change;
- acknowledging the need to involve major groups in national, regional and international activities to address adaptation to climate change;
- recognizing that adaptation is the process of building resilience to climate change, including reducing vulnerability and responding to impacts;
- recognizing that the Convention can serve as a catalyst for actions on adaptation and the value of taking advantage of the work of existing organizations and institutions already involved in addressing climate-related risks and opportunities;

- recognizing the link between adaptation and mitigation, in that enhanced action on mitigation will reduce the need for adaptation; and
- recognizing the value of promoting ecosystem-based adaptation strategies and approaches.

Implementation of Adaptation and Enabling Activities

Adaptation Actions

Parties should promote adaptation to climate change by:

- setting as their common goal sustained and effective action to address adaptation to the impacts of climate change;
- taking immediate adaptation actions, wherever possible, using existing knowledge, resources, plans and processes;
- integrating adaptation concerns into national development programs and priorities;
- developing, reviewing, and reporting on national action programs on adaptation within [X] years on the basis of national priorities and strategies; and
- cooperating to build capacities and mobilize resources for the development and implementation of such programs, in particular for the least developed countries.

Adaptation Planning

Parties should promote adaptation planning by:

- identifying major vulnerabilities to climate change;

- implementing planning that is multi-sectoral, includes prioritization of adaptation actions, gives priority to the most vulnerable, and makes use of the best available scientific information and analytical tools;
- integrating adaptation into development planning processes, strategies, and tools at multiple levels and across sectors, developing national adaptation plans as appropriate, and reviewing and reporting on these activities;
- undertaking assessment of impacts, vulnerability and adaptation (including costs and benefits), as well as of those areas that are expected to suffer the most severe impacts;
- promoting involvement, coordination and communication across a range of institutions, agencies, private sector, and civil society;
- enhancing or developing the needed information and knowledge base (both biophysical and socioeconomic), including improving scientific research, data systems and data collection, to support adaptation and catalyze adaptation investments. This includes enhancing observations and data required to inform assessment and planning for adaptation and provide inputs for approaches such as parameterized insurance; and
- integrating knowledge, experiences and lessons learned from existing activities, including those carried out at the community level as well as activities from ongoing initiatives such as the Nairobi Work Programme into adaptation planning.

Building Resilience and Creating Enabling Environments

Parties should build resilience and create enabling environments by:

- identifying major vulnerabilities to climate change;
- creating and enforcing legal and regulatory conditions that facilitate adaptation, including disaster resilience (for example, building codes, land

use planning and regulation, risk sharing tools, and strengthening policy coherence among sectors);

- elaborating best practices that can guide immediate actions with an eye to building long-term resilience to extreme events and disasters, including through implementation of the Hyogo Framework for Action;
- undertaking activities to improve risk management and risk reduction through strategies that link development, climate adaptation and disaster risk reduction.
- encouraging pilot projects related to micro-insurance and risk pooling
- reducing perverse incentives that encourage mal-adaptation;
- educating stakeholders at all levels about adaptation options and the benefits of reducing vulnerability to climate-related risks;
- building resilience to climate variability and change into economic development activities and institutions; and
- using meteorological, Earth observations and socio-economic information to best coordinate disaster planning and response.

Finance and Technology

Parties should:

- promote the full range of available management tools and financing options in implementing local, national or regional program of action, including innovative managerial and financial techniques;
- provide financial support for the most vulnerable Parties and populations to build resilience and adapt to climate change, in particular the least developed countries and small island states; and

- promote access to appropriate technologies, knowledge and expertise to address adaptation, in particular for least developed countries, including by creating enabling environments for the successful adoption of such technologies.

Institutional Arrangements

The Conference of the Parties should consider whether there is a need for additional institutional arrangements, noting that any new arrangements should be consistent with:

- the need for effectiveness, efficiency, and transparency;
- cooperation, where appropriate, on a regional basis to coordinate efforts;
- making use of existing national platforms, such as those for the Hyogo Framework;
- flexibility in addressing adaptation and encourage a learning-by-doing approach; and
- encouragement of international organizations and institutions to support (through their programs on, inter alia, financial cooperation, capacity-building and institution-strengthening mechanisms) the integration of adaptation into development plans, programs, and priorities.

Appendix 5 – REDD Plus

The REDD-plus framework shall:

- a. use the most recent IPCC guidelines as a basis for estimating and reporting greenhouse gas emissions and removals from the land-use sector;
- b. respect Parties' respective goals for sustainable development;
- c. while having as its ultimate goal comprehensive accounting of all sources and sinks from land use, provide the flexibility for Parties to implement a staged approach beginning with those categories appropriate to national circumstances and capacities, with incentives for including additional land use categories commensurate with increased capacity, technologies, and methodologies;
- d. allow for the evolution of national REDD-plus action plans, including: (1) self-financed actions; (2) actions eligible for capacity building, technical assistance and financial support; and (3) actions that result in emissions reductions or removals with sufficient integrity to become eligible for market-based approaches;
- e. provide for reference levels (taking into account historic data and other relevant factors) that adjust over time and are guided by a long-term pathway that results in a sustainable level of standing carbon stock within a reasonable time period;
- f. be consistent with overall approaches to measurement, reporting, and verification under this Agreement, recognizing the need for higher levels of MRV for market-based eligibility;

- g. provide for further consideration of the economic, environmental, and social impacts of REDD-plus, including with respect to promoting biodiversity, the interests of relevant local and indigenous communities, and other benefits and risks of REDD-plus; and
- h. encourage all Parties to find appropriate ways to relieve the pressure on forests and land that results in greenhouse gas emissions.
