



## Framework Convention on Climate Change

Distr.: General  
21 September 2011

English only

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### Conference of the Parties

Seventeenth session

Durban, 28 November to 9 December 2011

Item 11 of the provisional agenda

**Accelerated access to critical mitigation and adaptation technologies and related intellectual property rights**

Item 12 of the provisional agenda

**Equitable access to sustainable development**

Item 13 of the provisional agenda

**Unilateral trade measures**

### **Proposals by India for inclusion of additional agenda items in the provisional agenda of the seventeenth session of the Conference of the Parties**

#### **Note by the secretariat**

A request has been received from India to include three items on the provisional agenda for the seventeenth session of the Conference of the Parties (COP). In accordance with rule 12 of the draft rules of procedure being applied, and in agreement with the President of the COP at its sixteenth session, these items have been included on the provisional agenda of COP 17 as items 11, 12 and 13. The communication from India, together with explanatory notes, is attached and reproduced in the annex in the language in which it was received and without formal editing.

## Annex

### **Letter dated 26 May 2011 from India addressed to the Executive Secretary of the secretariat of the United Nations Framework Convention on Climate Change on inclusion of additional agenda items in the provisional agenda of COP-17**

#### **Proposals by the Government of India for inclusion of additional agenda items in the provisional agenda of COP-17**

The Government of India is pleased to propose that the following additional agenda items be included in the provisional agenda of the Seventeenth (17<sup>th</sup>) Conference of Parties (COP 17). This proposal is made in accordance with rule 10 of the draft rules of procedure being applied by the parties to the United Nations Framework Convention on Climate Change. It is further requested that the provisional agenda including the proposed additional agenda items be circulated to parties before the opening of the session of the CoP 17 in accordance with the relevant draft rules of procedure being applied.

#### Proposal:

1. An additional agenda item 7.(c) (i) be introduced under item '7.(c) 'Development and transfer of technologies' as follows:-

7.(c) (i) 'Accelerated access to critical mitigation and adaptation technologies and related intellectual property rights'

2. An additional agenda item 7.(h) be introduced under item '7.Review of implementation of commitments and other provisions of the Convention' as follows:-

7.(h) 'Equitable access to sustainable development'

2. An additional agenda item 7.(i) be introduced under item '7.Review of implementation of commitments and other provisions of the Convention' as follows:-

7.(i) 'Unilateral trade measures'

The serial/item numbers for the additional agenda items as specified above are based on the understanding of the Government of India of the structure of the agenda as adopted by parties at COP 16. Government of India welcomes suggestions on placement of the item numbers for the respective additional agenda items in any other form as may be necessary and appropriate.

Explanatory notes in respect of each additional agenda item as proposed are enclosed.

Government of India looks forward to discussing the additional agenda items as above with Parties to the Convention at its seventeenth session.

**Explanatory note on proposed additional agenda item ‘7.(c) (i) ‘Accelerated access to critical mitigation and adaptation technologies and related intellectual property rights’**

At Cancun, Parties to UNFCCC agreed to set up a Technology Mechanism and Networks of Climate Technology Centres with a view to promote cooperation amongst Parties for development and transfer of technologies. While the Technology Mechanism will help build capacity for deployment of existing technologies and dissemination of environmentally sound technologies, there is a need to augment this arrangement in form of removal of constraints at the global level on the development and availability of climate friendly technologies. An effective and efficient global regime for accelerated access to intellectual property rights (IPRs) of critical climate friendly technologies is essential for the global efforts for development, deployment, dissemination and transfer of such technologies. In the absence of such an arrangement, the objective of advancing the nationally appropriate mitigation and adaptation actions at the scale and speed warranted by the Convention cannot be met effectively and adequately. Such a regime should promote access to intellectual property rights (IPRs) as global public good while rewarding the innovator in a manner consistent with the international law and enhancing the capacity of developing countries to take effective mitigation and adaptation actions at the national level. Conference of Parties should urgently decide on addressing the issue of treating and delivering climate technologies and their IPRs as public good in the interest of the global goal of early stabilization of climate and advancing developing country efforts aimed at social and economic development and poverty eradication.

**Explanatory note on proposed additional agenda item  
'7.(h) Equitable access to sustainable development'**

At Cancun, Parties agreed to a global goal for climate stabilization with a view to hold the increase in global average temperature below 2 degree C above pre-industrial levels and decided that urgent actions be taken to meet this long term goal consistent with science and on the basis of equity. Parties also decided to work towards identifying a time frame for global peaking of green house gas emissions based on the best available scientific knowledge and equitable access to sustainable development. The decisions at Cancun imply that the global goal of climate stabilization in terms of limiting the temperature rise to 2 degrees Celsius above pre-industrial levels should be preceded by a paradigm for equitable access to sustainable development. The achievement of the global goal must not compromise the sustainable development imperatives of developing countries and must fully take into account the overriding priority of social and economic development and poverty eradication in such countries. Keeping in mind the objective of identifying the suitable timeframe for reducing the global emissions on the basis of equitable access to sustainable development, the principle of equity must be defined so as to recognize that the global atmospheric resource is the common property of all mankind and each human being has equal entitlement to use of this resource.

**Explanatory note on proposed additional agenda item ‘7.(i) Unilateral trade measures’**

At Cancun, Parties agreed to promote a supportive and open international economic system. Parties decided, inter-alia, that measures taken to combat climate change including unilateral ones should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral Trade Measures (UTMs) include tariff, non-tariff, and other fiscal and non-fiscal border trade measures that may be taken by developed country Parties, against goods and services from developing country Parties. Recourse to UTMs on any grounds related to climate change, including protection and stabilization of climate, emissions leakage and/or cost of environment compliance would be tantamount to passing mitigation burden onto developing countries, and would clearly contravene the fundamental principles and provisions of equity, common but differentiated responsibility and respective capabilities, and the principle enshrined in Article 3 of the Convention. Parties should expressly prohibit use of unilateral trade measures on such grounds, as such UTMs will have negative environmental, social and economic consequences for developing countries and will compromise the principles and provisions of the Convention.

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