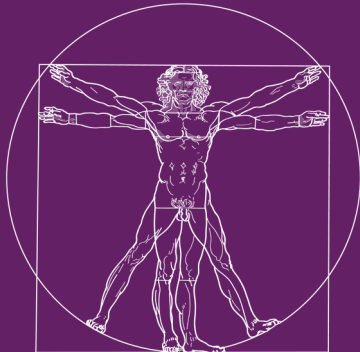


# POCKET GUIDE TO THE UNFCCC

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Designed by DamageControl

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## FOREWORD

For over a decade, the European Capacity Building Initiative (ecbi) has adopted a two-pronged strategy to create a more level playing field for developing countries in the UN Framework Convention on Climate Change (UNFCCC): training for new negotiators; and opportunities for senior negotiators from developing countries and Europe to interact, understand each other's positions, and build mutual trust.

The first part of the strategy focuses on providing training and support to new developing country negotiators, particularly from least developed countries. The climate change negotiations are often technical and complex, and difficult for new negotiators to fully grasp even over a period of two or three years. We hold regional training workshops to bring them up to speed on the negotiations. We also organise workshops before the annual Conference of the Parties (COPs) to the UNFCCC, covering topics specific to that COP. To ensure continuity in our capacity building efforts, we offer a few negotiators, particularly women, bursaries to attend the negotiations and represent their country and region/grouping. Finally, we help negotiators build their analytical capacity through our publications, by teaming them up with global experts to author policy briefs and background papers.

This strategy has proven effective over time. "New" negotiators that trained in our early regional and pre-COP workshops have risen not only to become senior negotiators in the process, but also leaders of regional groups and of UNFCCC bodies and committees, and ministers and envoys of their countries. These individuals are still part of our growing alumni, now capacity builders themselves, aiding our efforts to train and mentor the next generation of negotiators. Their

insights from being “new” negotiators themselves have helped us improve our training programmes.

The second ecbi strategy relies on bringing senior negotiators from developing countries and from Europe together, at the annual Oxford Fellowship and Seminar and the Bonn Seminar. These meetings provide an informal space for negotiators to try to understand the concerns that drive their national positions and come up with compromises. They have played a **vital role** in resolving some difficult issues in the negotiations.

Following the adoption of the Paris Agreement in 2015, ecbi produced Guides to the Agreement in English and in French. These proved popular with both new and senior negotiators. We therefore decided to develop a series of thematic guides, to provide negotiators with a brief history of the negotiations on the topic; a ready reference to the key decisions that have already been adopted; and a brief analysis of the outstanding issues from a developing country perspective. These Guides are mainly web-based and updated regularly. Although we have printed copies of the English version of the Guides due to popular demand (**write to us** if you would like copies), the online versions have the added advantage of hyperlinks to access referred material quickly.

As the threat of climate change grows rather than diminishes, developing countries will need capable negotiators to defend their threatened populations. The Pocket Guides are a small contribution to the armoury of information that they will need to be successful. We hope they will prove useful, and that we will continue to receive your feedback.

**Anju Sharma**

Publications and Policy Analysis Unit, ecbi

## GLOSSARY

AOSIS	Alliance of Small Island States
CBDR-RC	Common but differentiated responsibilities and respective capabilities
CDM	Clean Development Mechanism
COP	Conference of the Parties
CTCN	Climate Technology Centre and Network
EIT	Economy in transition
GCF	Green Climate Fund
GEF	Global Environment Facility
GHG	Greenhouse gas
ICAO	International Civil Aviation Organisation
IMO	International Maritime Organisation
IPCC	Intergovernmental Panel on Climate Change
LDC	Least Developed Country
OECD	Organisation for Economic Co-operation and Development
PCCB	Paris Committee on Capacity Building
SBI	Subsidiary Body for Implementation
SBSTA	Subsidiary Body for Scientific and Technological Advice
SED	Structured Expert Dialogue
TEC	Technology Executive Committee
UNCCD	UN Convention to Combat Desertification
UNFCCC	UN Framework Convention on Climate Change
UNGA	UN General Assembly
WMO	World Meteorological Organization





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## INTRODUCTION

The world's first climate change treaty, the [United Nations Framework Convention on Climate Change \(UNFCCC\)](#), was adopted in New York on 9 May 1992. It was opened for signature at the Rio Earth Summit in June of that year, and entered into force on 21 March 1994. It now enjoys near universal membership, with 197 Parties at the time of writing.

The UNFCCC provides the foundation for the international response to climate change. It includes an ultimate objective and principles to guide action, while establishing core institutional arrangements and procedures to enable implementation of commitments and continued negotiations into the future. Importantly, the UNFCCC differentiates between Parties in terms of their rights and obligations.

The UNFCCC should be understood within its historical context. It was negotiated at a time when the divide between developed and developing countries (although never precise) was much sharper than it is today. The Cold War had just ended, with Eastern European states and members of the former Soviet Union still reeling from the economic and political shock. Global environmental issues were just emerging onto the international agenda. The discovery of the

hole in the stratospheric ozone layer had drawn attention to the planetary-scale dangers of unintended human interference with the atmosphere. The adoption of the [Montreal Protocol on Substances that Deplete the Ozone Layer](#) in 1987 provided an important legal and political backdrop to the negotiations on the UNFCCC. On some elements, the UNFCCC followed precedents set by the Montreal Protocol, for others, Parties deliberately took a different path.

The issue of climate change was first taken up by the UN General Assembly (UNGA), acting on a proposal from Malta, in October 1988. Through its Resolution 43/53, the UNGA recognised climate change as “*a common concern of mankind...*”. Later that same year, the Intergovernmental Panel on Climate Change (IPCC) met for the first time. By 1990, it had produced its [First Assessment Report](#). The scientific warnings within that report helped prompt the UNGA to adopt Resolution 45/212 in December of that year, launching negotiations on what became the UNFCCC. Time was tight, as the UNGA mandate called for the treaty under negotiation to be ready for signature at the forthcoming Earth Summit in Rio de Janeiro, Brazil, in June 1992.

Given the strong consensus now underpinning the UNFCCC, it is easy to forget that its negotiation was far from easy. In fact, the initial deadline for its adoption was missed, and a resumed negotiating session had to be hastily convened. Many of the political controversies that complicated the negotiations in the 1990s are still in evidence today, notably differentiation between country obligations, finance, the special situation of different groups of Parties, and reluctance of certain major powers to join the consensus.

As its name suggests, the UNFCCC is a framework treaty. Its drafters knew that, by itself, the UNFCCC would not be sufficient to solve the climate change problem, but would need to be further developed and strengthened over time as political will increased and scientific knowledge evolved. To a large extent, this is what has happened. The 1997 [Kyoto Protocol](#) and then the 2015 [Paris Agreement](#) have both built on, and strengthened, the UNFCCC, together with hundreds of decisions of the Conference of the Parties (COP) aimed at implementing and boosting the UNFCCC's provisions. These include landmark packages of decisions, such as the 2001 [Marrakesh Accords](#) (adopted at COP7) and the 2010 [Cancun Agreements](#) (adopted at COP16), both of which launched important new work programmes and established new institutional arrangements, including on climate finance.

The climate change process has not, however, always run smoothly. Most notably, the 2009 Copenhagen Climate Conference (COP15), which was supposed to agree on the next phase of the climate change response post-2012, ended in disarray. However, although its political outcome, the [Copenhagen Accord](#), could not be adopted, it provided the basis for a deal on the [Cancun Agreements](#) the following year.

With the adoption of the Paris Agreement Work Programme at the Katowice Climate Conference (COP24) in 2018, the Paris Agreement is now, in effect, the principal treaty governing international efforts to combat climate change. As the foundation of the climate change regime, however, the UNFCCC retains strong contemporary relevance, especially in terms of pre-2020 ambition and implementation. The Paris Agreement makes explicit reference to the objective and principles of the Convention and, in many places, to existing

commitments under the UNFCCC to which Parties must adhere and, in some cases, further develop. For those countries that are not Parties to the Paris Agreement, longstanding commitments under the UNFCCC will continue to apply.

This Guide seeks to summarise and explain the main provisions of the UNFCCC's 26 Articles. It aims to look both forwards and back, outlining the origins of key clauses and drawing out those elements of current significance. This should allow for a better understanding of the existing rules, institutions, and procedures under the current climate change regime.

## INTRODUCTORY ARTICLES

### ► PREAMBLE

The UNFCCC's lengthy preamble of 23 sentences sets out the context to the UNFCCC. It reflects political thinking about climate change at the time of treaty's adoption, with much of it retaining relevance today.

Following common practice, the preamble recalls earlier relevant political declarations and legal documents, including the ozone treaties in paragraph (§)7 and §11-§14, and acknowledges the important role of science (§15, §16). It features many concepts and principles that are subsequently elaborated or reflected in Article 3 (principles) and in the UNFCCC's substantive provisions. As is often the case in preambles, it includes provisions that some Parties would have preferred to see in the main operative text, notably its principles, but which could not command consensus.

The preamble starts by acknowledging climate change and its adverse effects as “*a common concern of humankind*” (§1), echoing prior UNGA resolutions on the topic. It establishes that human activities are leading to a rise in greenhouse gas (GHG) emissions with adverse effects (§2), while recognising the role of sinks and the prevalence of uncertainties (§4, §5).

Much of the preamble reflects principles that were established or emerging elsewhere in international environmental law, most notably in the 1992 [Rio Declaration](#)<sup>1</sup> adopted at the Earth Summit (where the UNFCCC was signed).<sup>2</sup> The preamble thus invokes the principles of sovereignty (§9), including over natural resources but with

responsibility to avoid cross-border damage (§8), common but differentiated responsibilities (§6), the need for environmental legislation to reflect national development contexts (§10), and intergenerational equity (§23).

Importantly, the preamble notes – in factual terms – that *“the largest share of historical and current global emissions... has originated in developed countries”*, that the per capita emissions of developing countries *“are still relatively low”*, and that *“the share”* of developing country emissions *“will grow to meet their social and development needs”* (§3). Although no link is drawn to the differentiation of commitments, this factual statement provides justification for the differentiation model used in the UNFCCC, the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC) and the required leadership of developed countries, as set out in Articles 3.1 (principles), and 4.2(a) and (b) (specific commitments).

Paragraph 18 similarly points to *“the need for developed countries to take immediate action...with due consideration of their relative contributions to the enhancement of the greenhouse effect”*. The preamble places considerable emphasis on the needs and concerns of developing countries, especially over their future development. It recognises, for example, that the *“energy consumption”* of developing countries will *“need to grow” “to progress” “towards sustainable social and economic development”* (§22), while affirming the *“legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty”* (§21). The preamble also includes the concept that action to address climate change can have co-benefits for development and other environmental issues (§17, §22).



The preamble introduces the specific concerns of particular groups of Parties as regards climate change. It recognises the particular vulnerability of some countries to the adverse effects of climate change, referring to small islands and countries that are low-lying, those “*with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification*” and “*developing countries with fragile mountainous ecosystems*” (§19).

The preamble also recognises the “*special difficulties*” of countries, especially developing countries, that are dependent on fossil fuels “*as a consequence of action taken*” to limit GHG emissions (§20). This language is reflected and further elaborated later in the UNFCCC, notably in Article 4.8.

## ► DEFINITIONS (ARTICLE 1)

The UNFCCC includes nine definitions, most of them basic scientific terms relating to climate change. These definitions are largely straightforward and uncontested, although some terms that were considered during the negotiations, such as “net emissions” proved too difficult or politically controversial to define, and were therefore omitted.

Importantly, the UNFCCC defines “*climate change*” in human terms, that is, as changes “*attributed directly or indirectly to human activity*” that are “*in addition to natural climate variability*”. GHGs are defined broadly, as any gases – natural and anthropogenic (human made) – that absorb and re-emit infrared radiation. Elsewhere in the UNFCCC (but not in the definitions), the text often specifies that provisions apply only to GHGs “*not controlled by the Montreal Protocol*”, in order to avoid overlap with the ozone-depleting substances covered by the 1987 Montreal Protocol that also have global

warming properties. “*Adverse effects of climate change*” are defined so as to cover both the natural environment and human systems (socioeconomic, health and welfare are specifically mentioned). Other definitions cover “*climate system*”, along with “*emissions*”, “*reservoir*”, “*sink*” and “*source*”, with these latter four terms defined broadly, to cover both GHGs and their precursors.<sup>3</sup> Outside of scientific definitions, Article 1 defines “*Regional economic integration organization*”. This definition accommodates the European Union (EU), whose specific political and economic configuration means that it has competence to become a party to the Convention in its own right.

The UNFCCC’s definitions are carried over to both the Kyoto Protocol and the Paris Agreement, with those legal agreements adding further terms of their own.

## ► OBJECTIVE (ARTICLE 2)

The UNFCCC establishes an “*ultimate objective*” for both itself and “*any related legal instruments*” (such as the Kyoto Protocol and the Paris Agreement, both of which refer to it). This objective is to achieve “*stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system*”. Anthropogenic refers to human-induced. The key point here is that the “*ultimate objective*” is defined in terms of atmospheric GHG concentrations, rather than emissions, temperature or any other metric. The term “*dangerous*” is, of course, rather vague and open to interpretation. Scientific knowledge was not sufficiently advanced in the early 1990s to pin down the climate impacts associated with different levels of atmospheric GHG concentrations, or what “*dangerous*” interference might

actually mean in practice.

The second sentence of Article 2 provides some guidance as to the meaning of “*dangerous interference*” in the context of the Convention. It refers to allowing “*ecosystems to adapt naturally*”, ensuring “*that food production is not threatened*” and enabling “*economic development to proceed in a sustainable manner*”.

Ultimately, defining “dangerous interference” is a political, not a scientific, question. However, over the past 25 years, scientific understanding of the climate impacts that might be associated with different levels of temperature rise, and how these might correspond to atmospheric GHG concentrations, has advanced considerably. The analytical work of the IPCC, especially through its periodic assessment reports, has been very important in this regard.<sup>4</sup> Improved scientific understanding of climate change and its impacts over the years (see Box 1) helped forge consensus on the temperature limits and emission goals specified in the Paris Agreement, which together have now added numerical precision to the UNFCCC’s “*ultimate objective*”. In defining its aims, the Paris Agreement makes specific reference to the UNFCCC’s “*objective*”, and also reiterates the need to ensure that “*food production*” is not threatened (see the *Pocket Guide to the Paris Agreement*).

### ► PRINCIPLES (ARTICLE 3)

In five paragraphs, the UNFCCC establishes a set of principles that it states “*shall*” guide Parties “*in their actions*” to implement the Convention and achieve its objective. The principles were also carried over to the Kyoto Protocol and the Paris Agreement. Some principles reaffirm those already

**Box 1: The ultimate objective of the UNFCCC**

Climate change negotiators have long sought to add further definition to the UNFCCC's "*ultimate objective*". The EU was the first to call for a 2°C warming limit during the Kyoto Protocol negotiations, with the Alliance of Small Island States also urging a maximum sea level rise of 20 cm. In the end, however, the Kyoto Protocol simply applied the UNFCCC's objective, without elaboration.

Discussions took on new impetus in 2007, with adoption of the [Bali Action Plan](#) at COP13. This launched a new process to agree on the next phase of climate action, which would include "*a shared vision for long-term cooperative action, including a long-term global goal for emission reductions*".

These talks on a shared vision, which involved input from the IPCC and other scientific bodies, eventually led to agreement on a long-term global goal to "*hold the increase in global average temperature below 2°C above preindustrial levels*", as part of the Cancun Agreements adopted at COP16 in 2010. More vulnerable Parties, however, were concerned that even 2°C warming was too dangerous for them, and called for a lower limit of 1.5°C. In response, delegates decided to "*periodically review the adequacy of the long-term global goal*", including in relation to a 1.5°C limit. The first review was set to start in 2013 and conclude in 2015.

The 2013-2015 review, as it became known, was conducted through a series of "structured expert dialogues" (SEDs), which brought together scientists and Parties for discussions around two themes: the adequacy of the long-term global goal; and overall progress towards meeting it. The final report on the 2013-2015 review was considered at the subsidiary body sessions before the 2015 Paris Climate Conference (COP21). Among other messages, the report noted that "*Parties may wish to take a precautionary route by aiming for limiting global warming as far below 2°C as possible*". The outcome of the 2013-2015 review was an important driver leading to consensus on the Paris Agreement's aims to limit warming to 2°C, and pursue efforts towards 1.5°C.

The scope and timing of the next periodic review is under consideration by the subsidiary bodies. It will take account of the Talanoa Dialogue and Global Stocktake under the Paris Agreement.

established in international law or introduced through the 1992 Rio Declaration that was negotiated in parallel with the Convention, while also putting forward language and concepts new to the climate change context. Although their precise meaning and interpretation has been contested, overall, these principles represent a broad international consensus over how climate change should be tackled.

It is worth noting that the US sought to limit the potential legal implications of Article 3. The Article's chapeau (introduction) refers to the principles in terms of guidance, as non-exclusive (through the term "*inter alia*", which means among others), and as applying only to UNFCCC Parties (rather than states more broadly). The asterisk alongside the title to Article 1 (definitions), which specifies that article titles are included solely to assist the reader, is also intended to downplay the significance of Article 3's title, which represents the only occurrence of the term "principles" in the UNFCCC's operative text.

Paragraph 1 establishes the fundamental concept, already included in the preamble, that Parties "*should protect the climate system for the benefit of present and future generations...*". This should be done "*on the basis of equity*" and in accordance with Parties' "*common but differentiated responsibilities and respective capabilities*". This principle of equity, and CBDR-RC, are fundamental tenets of the international response to climate change.<sup>5</sup> Based on equity and CBDR-RC, the paragraph goes on to state that "*the developed country Parties should take the lead in combating climate change and the adverse effects thereof*". This leadership principle underpins the Convention's approach to differentiation, as discussed below.

Paragraph 2 highlights the "*specific needs and special*

*circumstances*” of two sets of Parties: developing countries in general, “*especially those that are particularly vulnerable to the adverse effects of climate change*”; and Parties (“*especially developing country Parties*”) that “*would have to bear a disproportionate or abnormal burden under the Convention*”. The needs of these groups of Parties are then further defined in Article 4.8, 4.9, and 4.10.

Paragraph 3 sets out a slightly different version of the so-called “precautionary principle” included as Principle 15 of the 1992 Rio Declaration. It calls for precaution in addressing climate change, so that lack of full scientific certainty should not be a reason for postponing action “*where there are threats of serious or irreversible damage*”. This should be done “*taking into account*” cost-effectiveness and ensuring “*global benefits at the lowest possible cost*” (how to include cost-effectiveness was the main point of contention when negotiating this clause). The paragraph goes on to support a “*comprehensive*” approach in addressing climate change, covering all sources, sinks, sectors, and adaptation, and acknowledges that efforts to address climate change may be “*carried out cooperatively*”, an implicit endorsement of market-based mechanisms.

Paragraph 4 establishes that “*Parties have a right to, and should, promote sustainable development*”. This paragraph was hotly debated during negotiations on the UNFCCC, with some developed countries wary of enshrining a right to sustainable development, and some developing countries nervous that the concept of sustainable development might constrain their development aspirations. This formulation represents a compromise through use of the word “*promote*”, and qualifying language noting that climate actions should be appropriately integrated with national development

programmes, and that economic development “*is essential*” to addressing climate change. The importance of development to enabling Parties to address climate change is reiterated in §5, which follows Rio Declaration Principle 12 in endorsing a “*supportive and open international economic system that would lead to sustainable economic growth and development*”. Measures to combat climate change should not constitute “*arbitrary*” or “*unjustifiable discrimination, or a disguised restriction on international trade*”, reaffirming long-held rules of the General Agreement on Tariffs and Trade (GATT) that underpins the World Trade Organization (WTO).

## MAIN SUBSTANTIVE ELEMENTS AND COMMITMENTS

The Convention's commitments are mostly set out in Article 4, with some provisions further elaborated elsewhere in the treaty. General commitments for all Parties are set out in Article 4.1 (and fleshed out in Articles 5, 6, and 12). Specific commitments applicable only to Annex I Parties, along with review provisions for these, are included in Article 4.2, while obligations in terms of financial and technological support for developing countries are set out in Articles 4.3, 4.4, and 4.5 (with relevant institutional arrangements addressed in Articles 11 and 21). The remainder of Article 4 addresses the special situations of different groups of Parties. This section first considers the overarching model used by the UNFCCC for differentiating between the commitments of Parties, before turning to each element of Article 4 in turn.

### ► DIFFERENTIATION

The UNFCCC differentiates between the obligations of Parties using two principal categories:

- “*Developed country Parties and other Parties included in Annex I*”<sup>6</sup> (hence Annex I Parties); and
- Developing countries.



All Parties have general commitments under the UNFCCC to take action to address climate change and report on their activities, but Annex I Parties have specific commitments, and face more stringent reporting requirements.

The list in Annex I was drafted to include those countries that were, when the UNFCCC was adopted in 1992, either members of the Organisation for Economic Cooperation and Development (OECD),<sup>7</sup> or considered to be “*undergoing the process of transition to a market economy*”, that is, the most economically developed members of the former Soviet Union and associated Central and Eastern European countries. The latter countries, known in short as “*economies in transition*” (EITs), are designated by an asterisk against their names in Annex I.

The OECD members of Annex I (not the EITs) are also listed in a second annex to the Convention,<sup>8</sup> and are therefore known as “*Parties included in Annex II*”, or Annex II Parties. These are singled out for obligations regarding financial assistance and technology transfer to assist developing countries.

This approach to country classification won out during the UNFCCC negotiations over other possible methods (for instance, using GDP, historical emissions or emissions per capita), largely because it was considered simple and relatively unambiguous.<sup>9</sup> In particular, it avoided politically difficult judgements over whether a country was considered developed or not. This approach was not, however, without controversy, notably in the case of Turkey (*see Box 2*).

The other main category of Parties referred to in the UNFCCC, developing countries, are not listed, with the term “*developing countries*” defined neither in the Convention, nor

**BOX 2: Turkey's dispute over its status under the UNFCCC**

As an OECD member in 1992, Turkey was included in the list of countries inscribed in Annexes I and II of the UNFCCC. However, it always protested its inclusion in those annexes, on the grounds of its earlier stage of development relative to other Annex I Parties, and its lower historical and (at the time) per capita GHG emissions. Turkey refused to sign or ratify the UNFCCC because of this dispute over its status. Azerbaijan and Pakistan submitted a formal proposal on behalf of Turkey to delete its name from both annexes in 1997, but this was not accepted.

Eventually, in 2001, agreement was reached to remove Turkey from Annex II, and to recognise its special circumstances as an Annex I Party (decision 26/CP.7). As a result, Turkey acceded to the UNFCCC and, in 2009, to the Kyoto Protocol (note that, because it was a non-Party to the UNFCCC when the Kyoto Protocol was adopted, Turkey does not have an emissions target under that treaty; unlike Belarus, it has not sought to assume one).

For Turkey, however, the problem remains that, as an Annex I Party, it is ineligible for climate finance. On adoption of the Paris Agreement, Turkey therefore sought assurances that its special circumstances would be taken into account, including in accessing financial and technological support. However, discussions on this concluded at COP23 in 2017, without agreement to allow Turkey to draw on the Green Climate Fund or the Climate Technology Centre and Network.

In response, Turkey submitted a formal proposal to COP24 in 2018 to delete its name from Annex I. Not only did this fail to command consensus, but the item had to be removed from the formal agenda and addressed informally, as part of a political deal to avoid a wider 'agenda fight' over multiple proposals relating to the special circumstances of different groups of countries. Turkey has not yet become a Party to the Paris Agreement, and the dispute over its status continues.

elsewhere in the international system. In practice, for UNFCCC purposes, the term developing countries has therefore been interpreted as all Parties not included in Annex I (or “non-Annex I Parties”). Although the UNFCCC itself refers almost exclusively to developing countries, subsequent decisions have tended to use the terms developing countries and non-Annex I Parties interchangeably.

In addition to Annex I Parties (with the sub-categories of EITs and Annex II Parties) and developing countries, the Convention also recognises least developed countries (LDCs) as a separate category under Article 4 (commitments) and Article 12 (reporting). There is no definition of LDCs in the UNFCCC itself, but the official [UN listing](#) applies.<sup>10</sup> In this way, LDCs constitute a unique group under the UNFCCC, as they are both named in the treaty and, since 2000, have operated as a negotiating coalition.

This approach to differentiation has faced some criticism over the years, mostly on the grounds of anomalies<sup>11</sup> and inflexibility. Several scholars have made the point that the world is now very different to how it was in the early 1990s, both in terms of economic development and distribution of emissions. There is, however, no provision in the UNFCCC for “graduation” of a country to Annex I as it develops economically, or as its emissions grow, or according to any other criteria, such as OECD membership.

In fact, the alleged “firewall” between Annex I and non-Annex I is not as rigid as often assumed. The UNFCCC includes a time-bound provision for revising the annexes under Article 4.2(f), as well as general provisions for amending annexes under Articles 15 and 16. Furthermore, Article 4.2(g) provides for non-Annex I Parties to voluntarily assume the

specific commitments of Annex I Parties under Article 4.2(a) and (b), through a simple declaration. Annex I has now been amended three times (in 1997, 2009, and 2011), at the request of the non-Annex I Parties concerned, with several making prior declarations under Article 4.2(g).<sup>12</sup> All these amendments, however, were politically straightforward, to update country names or to add new members or associates of the EU. In contrast, more politically contentious attempts by Kazakhstan to join Annex I were not successful. Kazakhstan eventually made a declaration under Article 4.2(g) that it would voluntarily “be bound” by the commitments of Annex I Parties in Article 4.2(a) and (b), after its proposal to amend Annex I to inscribe its name failed to gain sufficient support.<sup>13</sup> After years of negotiation, Annex II was also amended in 2001 to remove Turkey (*see Box 2*). With these amendments since 1992, Annex I currently includes 43 Parties and Annex II 24 Parties.

The Annex-based differentiation structure under the UNFCCC was carried over to the Kyoto Protocol. This was clear from the very start of negotiations on the Kyoto Protocol, whose mandate ([decision 1/CP.1](#)) explicitly stated that no new commitments would be negotiated for non-Annex I Parties. There were attempts during the Kyoto Protocol negotiations to introduce alternative methods of differentiation, along with provisions for developing countries to voluntarily assume mitigation targets, but these were rejected.<sup>14</sup> The Kyoto Protocol thus differentiates its commitments using the same categories of Annex I, Annex II, EIT, and non-Annex I (or developing country) Parties, while its Annex B almost exactly<sup>15</sup> reproduces the list of countries in Annex I, with their emission targets inscribed alongside.

The Paris Agreement has taken a different approach, jettisoning the Annex I list and instead referring exclusively to developed and developing countries (see *the Pocket Guide to the Paris Agreement*).

## ► GENERAL COMMITMENTS FOR ALL PARTIES (ARTICLE 4.1)

Article 4.1 of the Convention sets out general commitments for all Parties. Although the language used is legally binding (“Parties ...shall”), Parties may implement these commitments “*taking into account their common but differentiated responsibilities, and their specific national and regional development priorities, objectives and circumstances*”. This provides considerable latitude for Parties themselves to determine their level of implementation of their general commitments.

For developing countries, the Convention also recognises that the extent to which they implement their commitments will depend on the provision of financial and technological assistance by developed countries; and, furthermore, “*will take fully into account that ... development and poverty eradication are the first and overriding priorities*” of developing countries (Article 4.7).

In many ways, Article 4.1 defines the scope of the Convention, pointing to the obligations of Parties covering both mitigation and adaptation, and both GHG sinks and emission sources. The general commitments set out in Article 4.1 (with many fleshed out by related provisions elsewhere in the Convention) have provided the basis for extensive work programmes, such as those on adaptation, capacity building,

technology development and transfer, and education, training and public awareness.

Central to Article 4.1 are commitments related to reporting, notably the preparation and communication of national emission inventories (Article 4.1 (a)) and of information related to the UNFCCC's implementation (Article 4.1 (j)). These reporting requirements are further elaborated in Article 12. Also at the heart of Article 4.1, is the call on Parties to “*formulate, implement, publish and regularly update*” programmes for climate change mitigation and adaptation (Article 4.1 (b)).

Article 4.1(c) sets out the commitment of all Parties to “*promote and cooperate in the development, application and diffusion, including transfer*” of climate-friendly technologies “*in all relevant sectors*”. This commitment should be seen in the context of Articles 4.3 and 4.5, which set out the obligations of Annex II Parties with regards to technology transfer assistance to developing countries.

The important role of GHG sinks and reservoirs is established in Article 4.1(d), with Parties committed to promoting their “*sustainable management... conservation and enhancement*” (with biomass, forests, and oceans highlighted). This paragraph sets the context for the multi-faceted work undertaken under the Convention on the land-use and forestry sector, including the development of methodological and reporting guidelines, the process for reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries (REDD+), and most recently the [Koronivia work programme on agriculture](#).

Although adaptation features throughout Article 4.1, it is addressed specifically in Article 4.1(e), with Parties asked to plan for adaptation to climate change impacts in various vulnerable sectors (such as agriculture). Africa is referred to here in the context of drought and desertification, echoing the full title of the [UN Convention to Combat Desertification \(UNCCD\)](#),<sup>16</sup> whose negotiation was launched at the Rio Earth Summit. The UNFCCC has several workstreams in place relating to adaptation, including the [Nairobi Work Programme](#), the Cancun Adaptation Framework and the LDC Work Programme. These have been expanded upon under the Paris Agreement, which includes a new global goal on adaptation. Provisions on adaptation were also further developed under the Kyoto Protocol, which established that “*a share of the proceeds*” of activities under the [Clean Development Mechanism \(CDM\)](#) would assist developing countries in “*meeting the costs of adaptation*” (see the [Pocket Guide to Adaptation](#)).

Article 4.1(f) calls on Parties to “*take climate change considerations into account*” in all relevant policies, and to minimise “*adverse effects*” on the economy, health or environment arising from mitigation or adaptation projects. Article 4.1(g) and (h) address research, data and information, calling for widespread cooperation and exchange to improve understanding of climate change and reduce uncertainties, not just in terms of the science, but also technological, socioeconomic, and legal aspects (the “*economic and social consequences of various response strategies*” are emphasised). Article 5 (research and systematic observation) builds on Party commitments in this broad field.

Article 4.1(i) commits Parties to “*promote and cooperate*” in “*education, training and public awareness*” relating to climate change, and advocates “*the widest participation*” in this process, including by non-governmental organisations. Article 6 (education, training and public awareness) builds on this commitment.

Some sectors are conspicuously absent from the UNFCCC. Emissions from international aviation and maritime transport (sometimes known as “bunker fuels”), for instance, are not explicitly mentioned, despite their significant and growing contribution to climate change. However, the UNFCCC’s general references to the energy and transport sectors in Article 4.1, as well as the open-ended mandates given to the COP and Subsidiary Body for Scientific and Technological Advice (SBSTA) (*see below*), have enabled the climate change Parties to consider these issues. Parties are required to report on bunker fuels as part of their emission inventories, although these emissions are reported separately and are not counted as part of the specific mitigation commitments of Annex I Parties under either the UNFCCC or Kyoto Protocol. The Kyoto Protocol established that aviation and maritime emissions should be addressed by the [International Civil Aviation Organization \(ICAO\)](#) and the [International Maritime Organization \(IMO\)](#), respectively. Although progress has been slow, both bodies have recently taken more decisive action to limit emissions in their spheres.<sup>17</sup> Both ICAO and IMO regularly report to the SBSTA, although some oil-exporting Parties have, at times, contested their right to do so.

Another contemporary issue that is not addressed in the UNFCCC is loss and damage, essentially because the concept had not entered into the climate change debate when



the UNFCCC was adopted. However, relevant clauses can be found in provisions on adaptation and special needs and circumstances of developing countries. (*For more information on loss and damage, see the Pocket Guide to Loss and Damage*).

## ► SPECIFIC COMMITMENTS FOR ANNEX I PARTIES (ARTICLE 4.2)

Article 4.2 makes up the core of the Convention's mitigation commitments, to which "*Parties included in Annex I commit themselves specifically*". The establishment of specific commitments exclusively for Annex I Parties reflects the principle of CBDR-RC and operationalises the requirement, as set out in Article 3.1, that these countries should "*take the lead in combating climate change and the adverse effects thereof*". There are three key elements to these specific commitments:

- Firstly, a legally-binding ("*shall*") requirement to adopt national mitigation policies and measures (covering both sources and sinks) that "*will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention...*" (Article 4.2(a)). This fundamental, legally binding commitment, which goes beyond the general requirement on all Parties to address emissions in Article 4.1, retains its relevance today.
- Secondly, a commitment, again legally-binding ("*shall*"), to periodically communicate detailed information on these policies and measures, and on resulting emission projections, within a set timetable (Article 4.2(b)) and using common methodologies to be adopted by the COP (Article 4.2(c)). This information is to be reviewed by the COP.

- Thirdly, a specific, quantitative mitigation commitment set out in Article 4.2(a) and (b). Essentially, Annex I Parties are required to “*aim*” to return their GHG emissions to their 1990<sup>18</sup> levels by 2000, and can do so individually or jointly (as a group). Despite its convoluted and ambiguous legal language and structure,<sup>19</sup> there is broad consensus over this interpretation of Article 4.2(a) and (b). There is also broad consensus that the commitment, couched in terms of an “*aim*”, constitutes a “soft” or “quasi” emissions target, not a legally-binding one.<sup>20</sup> Although the year 2000 has passed, the requirement to return emissions to 1990 levels (and by implication, keep them below those levels) arguably still stands.

It is worth noting that the Annex I Parties did collectively meet the quasi-target, with their 2000 emissions more than 6% below 1990 levels. This, however, masked great differences in the emission trends of individual countries. In brief, large declines in emissions among the EITs (due to economic collapse in the 1990s) offset increases in the emissions of many (but not all) other Annex I Parties.

The Convention's quasi-target for Annex I Parties was strengthened by the adoption of the 1997 *Kyoto Protocol*, which introduced individual, legally-binding emissions targets for those countries, based on common metrics (such as coverage and timeframes) and amounting to “*at least*” a 5% reduction from 1990 levels over the period 2008-2012. The Kyoto Protocol was extended to a second commitment period for the period up to 2020, with the adoption of the *Doha Amendment* in 2012. However, the US never ratified the Kyoto Protocol and several large Annex I Party emitters declined to join the Doha Amendment, which has not yet entered into force.

The approach to mitigation commitments embarked on a different direction under the 2010 [Cancun Agreements](#), which confirmed the political understanding outlined in the 2009 Copenhagen Accord. This new direction involved voluntary national pledges, without common metrics, and also extending to developing countries. All Annex I Parties declared quantitative economy-wide emission reduction targets, while 57 developing countries, plus the African Group, pledged [nationally-appropriate mitigation actions](#) (NAMAs), with or without quantitative emissions or policy targets. This new, more bottom-up approach to mitigation commitments now underpins the Paris Agreement and its nationally determined contributions (NDCs - *see the Pocket Guide to NDCs*).

## **JOINT IMPLEMENTATION AND COOPERATIVE APPROACHES**

Article 4.2 does not go into detail as to how the mitigation commitments of Annex I Parties should be implemented. It does, however, require these Parties to “*coordinate*” policy instruments (but only “*as appropriate*”, and without mentioning examples, such as environmental taxation or emissions trading). It also calls on Annex I Parties (“*shall*”) to “*identify and periodically review*” policies that might be encouraging higher emissions “*than would otherwise occur*”, an oblique reference to the need to phase out subsidies favouring fossil fuels and other high-carbon activities.

Article 4.2 includes veiled references to market mechanisms, which, at the time, were largely unknown as policy instruments and treated with considerable suspicion amongst most Parties. Article 4.2(a) states that Annex I “*Parties may implement ... policies and measures jointly with*

*other Parties*” and, in Article 4.2(d), required the COP to take decisions regarding such “*joint implementation*” at its first session. These two clauses, together with the endorsement of cooperative approaches in Article 3.3 (principles), provided the basis for the eventual emergence of market mechanisms, notably under the Kyoto Protocol. Before the Kyoto Protocol, the development of market mechanisms was limited to a “pilot phase” of “*activities implemented jointly*” (AIJ) that explicitly excluded the generation of emission credits. The pilot phase (now expired) was nevertheless ground-breaking in building up experience with emission reducing projects involving a host and sponsor country, for example, designing reporting rules to ensure environmental and financial additionality. Over 150 projects were implemented, mostly with EITs as host countries. Many AIJ guidelines were subsequently incorporated into rules for the CDM and joint implementation under the Kyoto Protocol, and are now under consideration as part of negotiations on new mechanisms under the Paris Agreement.

## **REVIEW CLAUSES**

The drafters of the UNFCCC knew that its commitments would not be sufficient to prevent dangerous interference with the climate system. A handful of review clauses were therefore inserted into the Convention, to ensure that its commitments would be reviewed and strengthened over time. In addition to a broad mandate to the COP to keep implementation under review (Article 7.2), Article 4.2 sets out two specific processes and deadlines for reviewing and potentially strengthening the Convention’s commitments:

- Article 4.2(d) called on the COP, at its first session, to “*review the adequacy of subparagraphs (a) and (b)*” (that is, the specific commitments for Annex I Parties) and “*take appropriate action*”. The review was to be carried out “*in the light of the best available scientific information*”, as well as other relevant assessments and information, including technical, social, and economic. This review clause led directly to the adoption of the Berlin Mandate at COP1 in 1995 ([decision 1/CP.1](#)), which launched negotiations on what became the Kyoto Protocol. Article 4.2(d) states that a second review should take place by 31 December 1998, “*and thereafter at regular intervals... until the objective of the Convention is met*”. No further formal review has ever taken place, however, because of disagreement over its scope. Developing countries called for the review to cover adequacy of implementation of Article 4.2(a) and (b), whereas developed countries wanted to focus on the gap between the commitments themselves, and the Convention’s objective. An item on “second review of the adequacy of Article 4.2(a) and (b) of the Convention” has therefore been held “in abeyance” on the provisional agenda of successive COPs ever since 1998. Informal consultations by successive COP presidents have been unable to resolve the impasse.
- Article 4.2(f) called on the COP to review “*available information with a view to taking decisions*” on possible amendments to the lists of Parties in Annexes I and II, not later than the end of 1998. The Article specifies that decisions will only be taken “*with the approval of the Party concerned*”. This provision was used in 1997 to add several European countries to Annex I (see above). It was

also invoked by Turkey in 1998, eventually leading to the deletion of its name from Annex II in 2001 (*decision 26/CP.7*).

Aside from the Kyoto Protocol, the launch of new negotiating rounds aimed at strengthening the Convention has not, in fact, invoked formal review clauses. Neither the 2007 *Bali Action Plan* (leading to the political understanding of the *Copenhagen Accord*, later confirmed in the 2010 *Cancun Agreements*) nor the 2011 *Durban Platform* (which launched negotiations on the Paris Agreement) referred to specific clauses in the Convention. The global stocktake under the Paris Agreement has now taken over as the main review mechanism under the climate change regime, together with the review of the long-term global goal (*see Box 1*).

## ► CLIMATE FINANCE AND TECHNOLOGY TRANSFER (ARTICLES 4.3, 4.4, 4.5)

The UNFCCC sets out legally binding obligations for Annex II Parties to provide financial and technological assistance to developing countries to help them meet their commitments under the treaty. In practice, given the absence of any agreed definition of a developing country, it is non-Annex I Parties who are deemed eligible for this assistance.

### CLIMATE FINANCE

The UNFCCC's provisions on financial assistance reflect the outcome of politically-charged negotiations, which took place against the background of broader debates in the early 1990s over how to fund action on the suite of global environmental problems emerging onto the international stage.<sup>21</sup> Developing countries called for additional funding without impacting

on existing development aid budgets, whilst donor countries were concerned that their new financial obligations should be carefully delimited.

Various new terms and concepts emerged to try to reconcile these concerns, including “*new and additional*” and “*incremental costs*”. These concepts were eventually incorporated not only into the UNFCCC, but also throughout environmental instruments adopted in the early 1990s, including the 1990 London Amendment under the Montreal Protocol that established its Multilateral Fund, Agenda 21 adopted at the Earth Summit, the Convention on Biological Diversity and, very importantly, the instrument establishing the Global Environment Facility (GEF).

UNFCCC Article 4.3 distinguishes between two categories of assistance for developing countries, that is, to help them implement their reporting obligations, and their general commitments set out in Article 4.1.

With regard to reporting obligations, Annex II Parties “*shall provide new and additional financial resources to meet the agreed full costs*” incurred by developing countries in reporting under the Convention. The term “*new and additional*” reflects the concern among developing countries that climate finance should not be diverted from existing development aid. These costs must be “*agreed*”, in practice by the financial mechanism operated by the GEF and now also the [Green Climate Fund](#) (GCF) (see Article 11 below). It is clear, however, that Annex II Parties will cover the “full” costs.

With regard to other commitments, Annex II Parties “*shall also provide... financial resources, including for the transfer of technology... to meet the agreed full incremental costs*” of implementing measures under Article 4.1. Such costs must

be “*agreed*” between the developing country and the financial mechanism. This wording reflects a compromise between developing countries, who wanted a commitment on the part of Annex II Parties to fund “*full*” incremental costs, and donor countries concerned about signing a “blank cheque” who preferred “*agreed*” incremental costs. In the end, the text uses both terms. Projects must therefore be “*agreed*” by the financial mechanism, before “full incremental” funding is forthcoming.

The term “*incremental costs*” is of considerable significance. In the context of climate change, incremental costs are those incurred in implementing a more expensive low-carbon option (for instance, electricity generation using renewable energy) compared with a cheaper, higher-carbon one (for instance, a coal-fired power plant). The concept of incremental costs emerged onto the policy arena in the early 1990s in response to the concerns of donor countries that, as part of their obligations under environmental treaties such as the UNFCCC, they should only fund the extra costs leading to benefits for the global environment (in this case, avoided GHG emissions), rather than broader national development objectives (providing electricity). In practice, the application of the concept of incremental costs to projects proposed for funding has been contested and open to interpretation.<sup>22</sup> Article 4.3 also emphasises the need for the “*adequacy and predictability*” of funding, along with “*appropriate burden sharing*” among the developed countries in climate finance. Concerns of developing countries that funding has been neither adequate nor predictable have dogged the climate change process throughout its history.

Under Article 4.4, a third category of funding is introduced, that is, for adaptation to the adverse effects of climate change.



Here, the wording is different. Annex II Parties are only required to “assist” “*in meeting costs of adaptation*”, and only for those developing countries “*that are particularly vulnerable to the adverse effects of climate change*”. This commitment, championed during negotiations on the UNFCCC by the Alliance of Small Island States (AOSIS) is noticeably weaker than the one in Article 4.3 – no reference to new and additional, full, incremental, or even “the” costs. This reflects the focus during the Convention negotiations on mitigation, along with the reluctance of donor countries to commit to unknown and potentially very large sums.

The UNFCCC’s provisions on climate finance have been significantly elaborated over the past two decades, in particular with the establishment of the GCF as part of the 2010 Cancun Agreements. For more on institutional arrangements for climate finance, see Article 21 below.

## **TECHNOLOGY TRANSFER**

Article 4.5 focusses on the transfer of technology, requiring Annex II Parties “*to take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties*” particularly developing countries to “*enable them to implement*” the UNFCCC. An important point here is that technological assistance is directed not just at developing countries, but to all “*other*” Parties, with less technologically advanced EITs in mind. Furthermore, unlike the paragraphs on climate finance, Article 4.5 explicitly suggests that other organisations and Parties (not just Annex II Parties) could also assist in facilitating technology transfer. The need to support

the “*endogenous capacities and technologies*” of developing countries is also mentioned.

Together with Article 4.1(c) and Article 4.3, Article 4.5 has underpinned the development of an extensive institutional infrastructure and set of decisions aimed at supporting climate-friendly technology transfer under the UNFCCC, centred around the **Technology Mechanism** established under the 2010 Cancun Agreements. The Technology Mechanism includes the **Technology Executive Committee (TEC)** and the **Climate Technology Centre and Network (CTCN)**, which works with national designated entities to deliver technical support to developing countries.

### **SPECIFIC NEEDS, CONCERNS AND SITUATIONS OF GROUPS OF PARTIES (ARTICLES 4.6, 4.8, 4.9, 4.10)**

The UNFCCC recognises the specific needs and situations of several groups of Parties.

Under Article 4.6, Annex I Party EITs are granted “*a certain degree of flexibility*” in the implementation of their commitments, including the option of selecting an emissions baseline other than 1990. Several EITs have therefore chosen a baseline in the late 1980s, before the precipitous emission declines that they suffered as a result of economic collapse. This flexibility in baseline selection is mirrored in the Kyoto Protocol, with alternative baselines selected by EITs under Article 4.6 also applying under that treaty.

Article 4.9 targets LDCs, requiring Parties to “*take full account*” of their “*specific needs and special situations*” “*with regard to funding and transfer of technology*”. A work programme on LDCs was established in 2001, with a major focus on the preparation and implementation of national

adaptation programmes of action (NAPAs). A special LDC Fund was also set up to help fund NAPAs, together with an LDC Expert Group to provide technical support and advice.

Article 4.8 states that the “*specific needs and concerns*” of developing countries “*arising from the adverse effects of climate change and/or the impact of the implementation of response measures*” should be given “*full consideration*”, “*especially*” for nine broad groups of countries (sub-paragraphs (a) to (i)). These include small islands countries, and countries with: low-lying coastal areas; arid and semi-arid areas, forested areas and areas liable to forest decay; areas prone to natural disasters; areas liable to drought and desertification; areas of high urban atmospheric pollution; areas with fragile ecosystems, including mountainous ones; economies highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products; and land-locked and transit countries. The COP is specifically invited to “*take actions, as appropriate*” in this respect. This paragraph features the only remaining mention of a proposal by AOSIS to introduce an “insurance” mechanism into the UNFCCC, with a reference to possible “*...actions related to funding, insurance and the transfer of technology...*”.

Article 4.10 focuses on countries, particularly but not restricted to developing ones, that are economically vulnerable to climate mitigation measures, notably those dependent on fossil fuels. It uses similar language to Article 4.8(h) to characterise this group of countries, but also mentions those that are dependent on “*the use of fossil fuels*” and would have “*serious difficulties in switching to alternatives*”. It calls for their situation to be taken into consideration in the implementation

of the Convention.

These provisions, especially Article 4.8 that focuses on developing countries and mentions possible funding, have historically been invoked by oil-exporting developing countries to argue for financial assistance – even compensation – to address possible economic impacts arising from low-carbon policies (such as loss of export earnings). Parties identified in Article 4.8 and 4.9 are specifically mentioned in the Kyoto Protocol, in the context of the need for action to minimise “*the adverse effects of climate change and/or the impacts of response measures*”. This has been a long-standing, controversial area in the negotiations. A work programme on this issue was adopted at COP17 in 2011, and a [forum for response measures](#) is now in place. The broader issue of special needs and circumstances of particular groups of developing country Parties continues to resonate strongly in the climate change negotiations, including in the context of the Paris Agreement.

## ► RESEARCH AND SYSTEMATIC OBSERVATION (ARTICLE 5) AND EDUCATION, TRAINING AND PUBLIC AWARENESS (ARTICLE 6)

Article 5 (research and systematic observation) builds on Article 4.1(g) to require all Parties to support international and intergovernmental efforts relating to scientific research, including capacity building for developing countries. Scientific research and systematic observation is kept under annual review by the SBSTA. Intergovernmental bodies such as the [Intergovernmental Panel on Climate Change \(IPCC\)](#) and the [World Meteorological Organisation \(WMO\)](#) frequently report under this agenda item.

Article 6 (education, training and public awareness) elaborates on Article 4.1(i). It calls on all Parties to “*promote and facilitate*”, at the national level, public awareness programmes on climate change, along with public access to information, participation in “*developing adequate responses*” and specialised training. Similar efforts are encouraged at the international level, with a focus on the development and exchange of educational material, and the strengthening of national institutions, especially in developing countries. The commitments on education, training, and public awareness have led to dedicated work programmes, principally the eight-year 2012 *Doha Work Programme*, now known as “Action on Climate Empowerment” (ACE). The ACE programme has now been integrated into the Paris Agreement, with common national focal points to be identified by Parties.

The references to capacity-building and institutional strengthening in these articles helped launch capacity building initiatives under the Convention, including the frameworks on capacity building in developing countries and EITs agreed under the 2001 *Marrakesh Accords*. Capacity building has since been boosted by the establishment of the *Paris Committee on Capacity Building* (PCCB).

## ► REPORTING AND REVIEW (ARTICLE 12)

Article 12 sets out in detail the reporting obligations of Parties, building on the general commitments set out in Article 4.1. Article 12 requires all Parties to communicate, to the COP, an inventory of emissions by sources and removals by sinks; and “*a general description of steps taken or envisaged*” to implement the Convention, along with any other relevant information.

The inventory is to be calculated on the basis of common methodologies to be adopted by the COP.

Annex I Parties have more comprehensive requirements. In their communication, they must also include “*a detailed description*” of policies and measures aimed at meeting their specific commitments under Article 4.2(a) and (b), as well as an estimate of the effects of these policies and measures (initially over the period to 2000). Annex II Parties must also include “*details of measures taken*” under Articles 4.3, 4.4, and 4.5, that is, in relation to finance and technology transfer to developing countries. Developing countries may voluntarily propose “*projects for financing*” including, where possible, an estimate of incremental costs.

The UNFCCC also sets out a differentiated timetable for the submission of information by Annex I Parties and developing countries. Annex I Parties had to submit their first national communication within six months of becoming a Party, and (in accordance with a subsequent COP decision) then submit annual emissions inventories. For developing countries, the deadline for the submission of their initial national communication was within three years, either of becoming a Party, or of the availability of financial assistance. The Convention allows LDCs to submit at their discretion.

These basic reporting requirements have been extensively elaborated by COP decisions over the years. The COP has adopted and periodically revised methodologies for compiling emission inventories (based on the technical work of the IPCC), along with reporting guidelines for national communications. Different reporting guidelines have been developed and updated for Annex I and non-Annex I Parties, in line with their differentiated commitments under the

Convention. Annex I Parties are subject to stronger and more detailed reporting requirements under the Kyoto Protocol.

The 2010 Cancun Agreements marked the start of a new phase, introducing biennial reporting (BR) for Annex I Parties, and biennial update reports (BUR) for non-Annex I Parties. The single reporting guidelines and timeframes for all Parties adopted as part of the Paris Agreement rulebook represent yet another new phase. These will supersede all other reports and guidelines by 2024.

The Convention specifies that the information submitted under Article 12 should be considered by the Subsidiary Body for Implementation (SBI), “*to assess the overall aggregated effect*” of climate action by Parties and to assist the COP in its review functions. This mandate underpins the extensive infrastructure in place for the expert review of national communications and emission inventories, which has been heavily differentiated between Annex I and non-Annex I Parties. The transparency guidelines recently adopted under the Paris Agreement Work Programme will introduce a new approach.

## INSTITUTIONAL ARRANGEMENTS AND PROCEDURES

### ► CONFERENCE OF THE PARTIES AND SUBSIDIARY BODIES (ARTICLES 7, 9, 10)

Like other international environmental treaties, the UNFCCC establishes a “*supreme body*”, the Conference of the Parties (COP), with the central mandate to “*keep under regular review the implementation of the Convention and any related legal instruments ...*” and make “*the decisions necessary to promote the effective implementation of the Convention*” (Article 7.2, chapeau). Article 7 then sets out 13 broad tasks for the COP, including to “*periodically examine the obligations of the Parties and the institutional arrangements under the Convention*” (Article 7.2(a)), and to assess “*the extent to which progress*” towards the Convention’s objective “*is being achieved*” (Article 7.2(e)). Overall, the COP’s mandate is open-ended; it may generally “*exercise such other functions as are required for the achievement of the objective of the Convention*” (Article 7.2(m)).

The COP was supposed to adopt rules of procedure at its first session (Article 7.3). However, this was not possible due to disagreement over the voting majorities to be specified for taking substantive decisions (see Box 3). The **draft rules of procedure**<sup>23</sup> have therefore been applied at each session of the COP over the past two decades, with the exception of draft rule 42 (on voting). For instance, Rule 16 is often invoked to carry over agenda items on which work could not be completed (usually because of political disagreements) to subsequent sessions.



**Box 3: Rules of procedures and voting under the UNFCCC**

Throughout its history, the climate change negotiation process has operated without an agreed voting rule for substantive decisions, with Rule 42 as currently drafted including several bracketed options. A key sticking point was the insistence by oil-exporting developing countries that all decisions should be taken by consensus. The result is that almost all substantive decisions must, by default, indeed be taken by consensus.

However, no formal definition of “consensus” exists, although it is generally understood as different from unanimity, and to mean the absence of any formal objection. In practice, it has been up to the Chairperson to interpret the “sense of the room” and decide if consensus prevails.

At times, the absence of consensus has been clear. At the Copenhagen Climate Conference in 2009, for example, stated objections from six countries meant that the Copenhagen Accord could not be adopted. At COP16 in Cancun, however, the COP President ruled that the Cancun Agreements could be adopted with one country (Bolivia) raising objections, on the grounds that consensus was not the same as unanimity. At COP18 in 2012, the Doha Amendment to the Kyoto Protocol was gavelled through, despite claims by three countries (Russian Federation, Belarus and Ukraine) that their requests for the floor had not been recognised. This led to deadlock at the following session of the SBI, with the Russian Federation insisting on a debate on decision-making procedures. An item on this issue has been included on the COP agenda ever since, but informal consultations have not come to any substantive conclusions.

Separately, in 2011, Mexico and Papua New Guinea put forward a proposal to amend the UNFCCC, to specify voting majorities therein. The proposal remains on the table, but has been held in abeyance. The lack of progress on this fundamental issue reflects the strong positions held by Parties. The result is that decisions continue to be blocked by just a few objections. An example is the debate in the SBSTA in 2018, where four Parties (Kuwait, Russian Federation, Saudi Arabia, and the US) objected to language that would welcome the IPCC Special Report on *Global Warming of 1.5°C*.

Because the rest of the rules of procedure are applied, voting is possible on a number of procedural matters, for instance, on points of

*Continued on next page*

**Box 3 (cont'd): Rules of procedures and voting under the UNFCCC**

order and motions to suspend or adjourn meetings. Voting is also possible as a last resort for the adoption of amendments or new annexes to the UNFCCC, as voting majorities in these cases are specified in the UNFCCC itself (Articles 15 and 16). Parties, however, have proved reluctant to push either procedural or substantive issues to a vote, even where this is permitted.

The COP also serves the Kyoto Protocol (where it is known as the COP, serving as the meeting of the Parties to the Kyoto Protocol or CMP) and the Paris Agreement (the COP, serving as the meeting of the Parties to the Paris Agreement or CMA).

The UNFCCC establishes two subsidiary bodies: a Subsidiary Body for Scientific and Technological Advice (SBSTA); and a Subsidiary Body for Implementation (SBI). As its name suggests, the SBSTA's main mandate is to provide "*timely information and advice on scientific and technological matters*" to the COP. The reference to technology, not just science, was included specifically at the request of developing countries.

The SBI's main function is to consider the information submitted by Parties (such as national communications, emission inventories, and other reports), and generally to "*assist the COP ... in the preparation and implementation of its decisions*".

Both subsidiary bodies are open to participation by all Parties, and should comprise expert government representatives. They also serve the Kyoto Protocol and the Paris Agreement. The subsidiary bodies often work together on cross cutting issues, such as technology transfer and the review of the long-term global goal (*see Box 1*).

## ► SECRETARIAT (ARTICLE 8)

The UNFCCC provides for a secretariat to manage the climate change process. The functions outlined in Article 8 are general and largely logistical, including to “*make arrangements*” for sessions of the COP and subsidiary bodies, compile and communicate information, “*ensure the necessary coordination*” with other international bodies, enter into whatever “*administrative and contractual arrangements*” may be needed, and generally to perform whatever functions “*may be determined*” by the COP. In practice, the secretariat performs a highly significant role in the climate change process, providing support and advice to the Chairs of negotiating bodies, engaging in outreach activities, coordinating input from civil society and stakeholders, acting as a source of information and “*institutional memory*”, and strategically managing the negotiations in such a way as to promote a successful outcome. At all times, however, the secretariat must remain impartial in its work. The same secretariat serves the Kyoto Protocol and Paris Agreement.

An interim secretariat was initially set up by the UNGA in 1990 to support the newly-launched negotiations, drawing on UN staff seconded from other departments. The UNFCCC called for COP1 to “*designate a permanent secretariat and make arrangements for its functioning*”. In practice, the main issue to be resolved at COP1 was the location of the secretariat. As well as Germany’s successful bid to host the permanent secretariat in Bonn, offers were also received from Canada (Toronto), Switzerland (Geneva), and Uruguay (Montevideo). The location decision was eventually taken by an “*informal confidential survey*”, in effect, a secret ballot.

## ► FINANCIAL MECHANISM (ARTICLES 11, 21)

The Convention provides for the establishment of a financial mechanism “*for the provision of financial resources on a grant or concessional basis, including for the transfer of technology*”. The financial mechanism is to “*function under the guidance of, and be accountable to, the COP*”. The operation of the financial mechanism is to be “*entrusted to one or more existing entities*”.

The issue of institutional arrangements for delivering climate finance was, unsurprisingly, one of the most controversial issues in the negotiation of the Convention. Developing countries wanted to see the establishment of a new fund, directly under the COP, while donor countries argued that the existing GEF should be deployed.

The GEF was established in 1990, with a three year pilot phase, to help developing countries address environmental problems in four key areas, including climate change. A key issue at stake was governance. Developing countries insisted on equitable, balanced and transparent representation (see Article 11.2), as opposed to the voting system in place under the GEF pilot phase, which mirrored that under the World Bank in favouring donor countries.

In the end, the compromise was to entrust the GEF with the operation of the financial mechanism, but on an “*interim basis*” and subject to its appropriate restructuring, including with “*universal*” membership (Article 21.3). Agenda 21 and the CBD, negotiated in parallel with the UNFCCC, also called for restructuring of the GEF. It is indicative of the reluctance of developing countries to accept the GEF as financial mechanism that this compromise was set out in UNFCCC Article 21 on interim arrangements, with no mention of the GEF by name in Article 11 on the financial mechanism.

Agreement to restructure the GEF, and in particular to introduce a voting system with equal representation of developing countries, was reached in 1994. In 1996, the COP adopted a memorandum of understanding with the GEF, outlining their respective roles and responsibilities. The GEF was subsequently confirmed as “an” (not “the”) operating entity of the financial mechanism at COP4 in 1998. It reports to the COP on an annual basis, and the COP regularly provides guidance to it.

Two specialised funds were set up under the 2001 Marrakesh Accords, the [Special Climate Change Fund](#) and the [LDC Fund](#), both managed by the GEF. A further fund, the [Adaptation Fund](#), was also established in 2001 under the Kyoto Protocol to direct a “*share of the proceeds*” from CDM projects to assist developing countries with the costs of adaptation. It has its own governance arrangements and rules of procedure, involving a dedicated Adaptation Board.

Throughout the climate change negotiations, developing countries have called for a fund directly under the authority of the COP. This was achieved through the 2010 Cancun Agreements (confirming the political understanding in the 2009 Copenhagen Accord) with the establishment of the Green Climate Fund as a second operating entity of the financial mechanism. The GCF, headquartered in Songdo, South Korea, has its own governance arrangements, secretariat and rules of procedure. It aims for equal funding of mitigation and adaptation projects, along with a country-driven approach, involving national designated authorities (NDAs) appointed by developing countries.

A [Standing Committee on Finance](#) was also set up under the 2010 Cancun Agreements to advise the COP on how to

maximise the effectiveness of financial arrangements under the UNFCCC.

All the financial arrangements under the UNFCCC, as well as the Adaptation Fund under the Kyoto Protocol, will now also serve the Paris Agreement.

## ► IMPLEMENTATION AND DISPUTE SETTLEMENT (ARTICLES 13, 14)

Under its Article 13, the UNFCCC provides for the possible establishment of a “*multilateral consultative process... for the resolution of questions*” regarding the Convention’s implementation. The thinking behind this provision was to develop a non-compliance procedure, with broad agreement that it should be non-confrontational and facilitative. Negotiations stalled, however, over the composition of the committee that would oversee the process, and the otherwise complete draft text was shelved at COP4 in 1998 (decision 10/CP.4).

The UNFCCC also provides for traditional dispute settlement, as set out in Article 14, under which any disputes between Parties over the interpretation or application of the Convention should be submitted to the **International Court of Justice (ICJ)**. Similar procedures are common to most international environmental treaties. Under Article 14, the COP has the opportunity to develop its own alternative arbitration procedures, but has not done so. Parties are invited to declare, upon ratification of the UNFCCC, their recognition of the authority of the ICJ, and/or the arbitration procedures to be developed under the COP, for the settlement of any disputes. Only three Parties have made relevant declarations.<sup>25</sup> The provisions of Article 14 were carried over to both the

Kyoto Protocol and the Paris Agreement, but have never been invoked.

### ► AMENDMENTS, NEW ANNEXES, AND PROTOCOLS (ARTICLES 15, 16, 17)

The UNFCCC sets out procedures for the adoption and entry into force of amendments (Article 15), new annexes, and amendments to existing annexes (Article 16). These all require circulation of the proposed text six months before its scheduled adoption. Parties are encouraged to “*make every effort*” to reach consensus, but amendments, or new annexes, can “*as a last resort*” be adopted by a three-fourths majority of Parties present and voting. Amendments to the Convention itself are subject to formal acceptance procedures at the domestic level, and only enter into force once instruments of acceptance have been received from three-fourths of Parties. New annexes and amendments to annexes, however, enter into force automatically, six months after the Depositary (the UN Secretary-General) notifies Parties of their adoption, except for Parties that formally notify their non-acceptance.

The UNFCCC itself has not been amended, although several proposals to do so have been put forwards over the years. At the time of writing, two proposed amendments are currently on the COP’s provisional agenda, but have been held “in abeyance”: from the Russian Federation to amend Article 4.2(f) to allow for continued reviews of the annexes; and from Papua New Guinea and Mexico on decision-making procedures (*see Box 3*). Amendments have, however, been adopted to both Annexes I and II, as discussed under “differentiation” above.

The UNFCCC provides much less guidance for the adoption of protocols (Article 17). It simply says that the text of any proposed protocol must be communicated to Parties at least six months before the session when it is due to be adopted, that only UNFCCC Parties can be Parties to a protocol, and that decisions under any protocol “*shall be taken only by the Parties to the protocol*”. Requirements for its entry into force are left up to the protocol itself. The Convention’s silence on adoption procedures – in particular, not explicitly allowing for a last resort vote – together with the absence of agreed voting rules means that protocols must be adopted by consensus. This was, of course, the case with both the Kyoto Protocol and the Paris Agreement.

#### ► FINAL CLAUSES (ARTICLES 18-26)

The UNFCCC includes final clauses that set out mostly standard procedural arrangements. Article 18 establishes that each Party has the right to one vote – as is the case under the UNGA – but regional economic integration organisations (that is, the EU), cannot have an additional vote, if member states are also voting.

Article 19 entrusts the role of Depositary to the UN Secretary-General, who thereby becomes the “guardian” of the treaty’s authenticity, as well as the authoritative source of information on it. The Depositary, for instance, has the task of receiving, recording, and communicating notifications of ratification and withdrawal from Parties, along with any formal declarations. The Depositary also holds the “*authentic texts*” of the UNFCCC in the UN’s six languages (Article 26), as well as amendments to it.

Article 21 establishes so-called “*interim arrangements*”,



intended to bridge the gap between adoption of the UNFCCC and the first COP. It reflects concerns among many Parties in the early 1990s that work under the newly adopted UNFCCC should get off to a “*prompt start*”, and not simply stall during what might be a lengthy wait for entry into force. These arrangements include a mandate for the interim secretariat to continue its work, as well as for the GEF to operate the financial mechanism. In addition, the “*head of the interim secretariat*” (the Executive Secretary) is asked to “*cooperate closely*” with the IPCC, to ensure that it “*can respond to the need for objective scientific and technical advice*”. The option of consulting “*other relevant scientific bodies*” is also mentioned. This single, rather muted mention of the IPCC in the Convention text, and in this article on interim arrangements rather than Articles 5 (research) or 9 (SBSTA), reflects the disquiet, at that time, of some developing countries who felt excluded from the Panel and did not want to give it official recognition.

Articles 20 to 23 set out standard provisions for the UNFCCC’s signature, its ratification, acceptance, approval, or accession by states,<sup>25</sup> and its subsequent entry into force. Regional economic integration organisations (the EU) may become parties in their own right, but must declare the relevant competencies of the organisation and its member states. The UNFCCC was opened for signature at the Rio Earth Summit in June 1992, with 155 countries signing the treaty at that two-week event. It duly entered into force on 21 March 1994, 90 days after the deposit of 50 instruments of ratification, acceptance, approval or accession.

The UNFCCC does not allow any “*reservations*”; that is, when joining, Parties must accept all parts of the treaty (Article 24). However, on becoming a Party, several countries

have made formal declarations,<sup>26</sup> for instance, regarding the territorial application of their commitments. Several small island states have also made similarly-worded declarations to the effect that becoming a Party to the UNFCCC “*does not constitute a renunciation of any rights under international law concerning state responsibility for the adverse effects of climate change, and that no provisions in the Convention can be interpreted as derogating from the principles of general international law*”.

Article 25 sets out provisions for withdrawal from the UNFCCC. These allow any Party to simply give written notification of withdrawal to the Depositary, which it can do “*at any time after three years*” after the UNFCCC has entered into force for it. The withdrawal takes effect after one year (or at a later date, if specified by the Party concerned). Withdrawal from the Convention will mean automatic withdrawal from any associated protocol. These rather lenient procedures have never been used, paying testimony to the overwhelming support that the UNFCCC enjoys amongst the international community.

However, Canada invoked the equivalent clause in the Kyoto Protocol in December 2011 leading to its withdrawal from that treaty a year later. The US has declared its intent to withdraw from the Paris Agreement, invoking its Article 28.1 on withdrawal, which is similarly worded to UNFCCC Article 25.1. However, the US has not yet been a Party for three years, and therefore can only declare its intent to withdraw on 4 November 2019, with the declaration then taking a year to come into effect. Importantly, as a longstanding UNFCCC Party, the US could have immediately declared its withdrawal from the UNFCCC itself, using the simple procedure outlined

above. This would have meant its automatic withdrawal also from the Paris Agreement. However, the US chose not to take this path, confirming the UNFCCC as the recognised anchor of international action on climate change.

## REFERENCES

1. UN (1992). Report of the United Nations Conference on Environment and Development. Rio de Janeiro, 3-14 June 1992, Annex I, Rio Declaration on Environment and Development. For a discussion, see Viñuales, J. E. (Ed.) (2015). *The Rio declaration on environment and development: a commentary*. Oxford University Press, Oxford.
2. For an analysis of the Rio Earth Summit, see Grubb, M. (1993). *The Earth Summit agreements: A guide and assessment; An analysis of the Rio '92 UN Conference on Environment and Development*. Earthscan and the Energy and Environmental Programme of the Royal Institute of International Affairs, London.
3. The IPCC defines precursors as “Atmospheric compounds that are not greenhouse gases or aerosols, but that have an effect on greenhouse gas or aerosol concentrations by taking part in physical or chemical processes regulating their production or destruction rates”.
4. An important step forwards, for example, was the publication of a figure entitled “reasons for concern” in the IPCC *Third Assessment Report* of 2001 (Figure SPM-2, Working Group II report, Summary for Policymakers). This used a “traffic light” approach to show how five sets of risks (unique and threatened systems; extreme climate events; distribution of impacts; aggregate impacts; large-scale discontinuities (shocks)) would likely worsen with increasing temperature rise. This figure, also known as the “burning embers” diagram, was further developed and updated by the IPCC in subsequent assessment reports, most recently in the Special Report on *Global Warming of 1.5°C*.
5. For a discussion of CBDR-RC, see Rajamani, L. (2000). The principle of common but differentiated responsibility and the balance of commitments under the climate regime. *Review of European Community & International Environmental Law*, 9(2), 120-131.
6. The term “*and other Parties*” (that is, without the qualifier “developed country”) was introduced to cater for the concerns of some poorer Central and Eastern European states who did not consider themselves to be developed. The term “*country*” is omitted to allow for participation by the European Economic Community (as it was then termed), which is included in the Annex I list.
7. The OECD is a political grouping of advanced, free-market economies.
8. A handful of Parties are neither OECD members nor EITs, namely, Cyprus, Malta, Liechtenstein and Monaco.
9. Bodansky, D. (1993). The United Nations Framework Convention on Climate Change: A Commentary. *The Yale Journal of International Law*. Vol. 18, No. 2, pp. 451-558. Summer.

10. UN CDP (2018). *List of Least Developed Countries* (as of December 2018). UN Committee for Development Policy.
11. There are several non-Annex I Parties that do not consider themselves as developing countries (such as the Central Asian states), and/or have joined the OECD since 1992 (for instance, Chile, Israel, Mexico, and South Korea).
12. Croatia, Liechtenstein, Monaco, and Slovenia were added in 1997, while Czechoslovakia was deleted, and Czech Republic and Slovakia added (decision 4/CP.3). Malta was added in 2009 (decision 3/CP.15) and Cyprus in 2011 (decision 10/CP.17).
13. Depledge (2009). The road less travelled: difficulties in moving between annexes in the climate change regime. *Climate Policy*. Vol. 9, No. 3, pp. 273–287.
14. For the official history of the Kyoto Protocol negotiations, see FCCC (2000). *Tracing the origins of the Kyoto Protocol: An article-by-article textual history*. FCCC/TP/2000/2. 25 November.
15. The exceptions are Belarus and Turkey, which were not Parties to the Convention when the Kyoto Protocol was adopted. Having become a Party to the Convention (in 2000) and to the Kyoto Protocol (in 2005), Belarus formally requested its addition to Annex B, with an emissions target. After considerable negotiation of that target, an amendment to this effect was adopted in 2006 (decision 10/CMP.2), but has not yet entered into force. On Turkey, see Box 2.
16. UN (1994). *UN Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa*.
17. ICAO (2018). *Submission by ICAO on Agenda item 10. Methodological issues under the Convention: emissions from fuel used for international aviation and maritime transport*; and on IMO, see UN Climate Change News (2018). *World Nations Agree to At Least Halve Shipping Emissions by 2050*.
18. Although 1988 was also proposed during the UNFCCC negotiations, the year 1990 quickly commanded broad agreement as the historical baseline for mitigation and reporting commitments. It was the year when negotiations were launched by UNGA, and also when the IPCC published its First Assessment Report, confirming the threat of climate change. A round number, divisible by ten, was also deemed more practicable.
19. For instance, the deadline “by the end of the present decade” (2000) appears in Article 4.2(a), but the baseline “to their 1990 levels” is referenced in Article 4.2(b).
20. Bodansky, D. (1993). *The United Nations Framework Convention on Climate Change: A Commentary*. *The Yale Journal of International Law*. Vol. 18, No. 2, pp. 451–558. Summer; and Yamin, F. & Depledge, J. (2004). *The International Climate Change Regime: A Guide to Rules, Institutions and Procedures*. Cambridge University Press, Cambridge.

21. Bodansky, D. (1993). The United Nations Framework Convention on Climate Change: A Commentary. *The Yale Journal of International Law*. Vol. 18, No. 2, pp. 451-558. Summer.
22. GEF (2007). *Operational guidelines for the application of incremental costs*. GEF/C.31/12. May 14.
23. UNFCCC (1996). *Adoption of the Rules of Procedure*. FCCC/CP/1996/2.
24. The Netherlands has declared its acceptance of both the ICJ and any arbitration annex; the Solomon Islands has accepted procedures to be adopted by the COP; and Cuba has stated that disputes should be addressed through diplomatic channels.
25. Ratification, acceptance, approval or accession represent different legal procedures through which countries can become parties to a treaty, depending on the particular process required under domestic law, and whether a country previously signed the treaty or not. They all have the same legal effect.
26. UN Office for Legal Affairs website.

## ANNEX

### UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

*The Parties to this Convention,*

*Acknowledging* that change in the Earth's climate and its adverse effects are a common concern of humankind,

*Concerned* that human activities have been substantially increasing the atmospheric concentrations of greenhouse gases, that these increases enhance the natural greenhouse effect, and that this will result on average in an additional warming of the Earth's surface and atmosphere and may adversely affect natural ecosystems and humankind,

*Noting* that the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs,

*Aware* of the role and importance in terrestrial and marine ecosystems of sinks and reservoirs of greenhouse gases,

*Noting* that there are many uncertainties in predictions of climate change, particularly with regard to the timing, magnitude and regional patterns thereof,

*Acknowledging* that the global nature of climate change calls for the widest possible cooperation by all countries and their participation in an effective and appropriate international response, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions,

*Recalling* the pertinent provisions of the Declaration of the United Nations Conference on the Human Environment, adopted at Stockholm on 16 June 1972,

*Recalling also* that States have, in accordance with the Charter of the United Nations and the principles of international law, the sovereign right to exploit their own resources pursuant to their own environmental and developmental policies, and the responsibility to ensure that activities within their jurisdiction or control do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction,

*Reaffirming* the principle of sovereignty of States in international cooperation to address climate change,

*Recognizing* that States should enact effective environmental legislation, that environmental standards, management objectives and priorities should reflect the environmental and developmental context to which they apply, and that standards applied by some countries may be inappropriate and of unwarranted economic and social cost to other countries, in particular developing countries,

*Recalling* the provisions of General Assembly resolution 44/228 of 22 December 1989 on the United Nations Conference on Environment and Development, and resolutions 43/53 of 6 December 1988, 44/207 of 22 December 1989, 45/212 of 21 December 1990 and 46/169 of 19 December 1991 on protection of global climate for present and future generations of mankind,

*Recalling also* the provisions of General Assembly resolution 44/206 of 22 December 1989 on the possible adverse effects of sea-level rise on islands and coastal areas, particularly low-lying coastal areas and the pertinent provisions of General Assembly resolution 44/172 of 19 December 1989 on the implementation of the Plan of Action to Combat Desertification,

*Recalling further* the Vienna Convention for the Protection of the Ozone Layer, 1985, and the Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, as adjusted and amended on 29 June 1990,

*Noting* the Ministerial Declaration of the Second World Climate Conference adopted on 7 November 1990,

*Conscious* of the valuable analytical work being conducted by many States on climate change and of the important contributions of the World Meteorological Organization, the United Nations Environment Programme and other organs, organizations and bodies of the United Nations system, as well as other international and intergovernmental bodies, to the exchange of results of scientific research and the coordination of research,

*Recognizing* that steps required to understand and address climate change will be environmentally, socially and economically most effective if they are based on relevant scientific, technical and economic considerations and continually re-evaluated in the light of new findings in these areas,

*Recognizing* that various actions to address climate change can be justified economically in their own right and can also help in solving other environmental problems,

*Recognizing also* the need for developed countries to take immediate action in a flexible manner on the basis of clear priorities, as a first step towards comprehensive response strategies at the global, national and, where agreed,



regional levels that take into account all greenhouse gases, with due consideration of their relative contributions to the enhancement of the greenhouse effect,

*Recognizing further* that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change,

*Recognizing* the special difficulties of those countries, especially developing countries, whose economies are particularly dependent on fossil fuel production, use and exportation, as a consequence of action taken on limiting greenhouse gas emissions,

*Affirming* that responses to climate change should be coordinated with social and economic development in an integrated manner with a view to avoiding adverse impacts on the latter, taking into full account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty,

*Recognizing* that all countries, especially developing countries, need access to resources required to achieve sustainable social and economic development and that, in order for developing countries to progress towards that goal, their energy consumption will need to grow taking into account the possibilities for achieving greater energy efficiency and for controlling greenhouse gas emissions in general, including through the application of new technologies on terms which make such an application economically and socially beneficial,

*Determined* to protect the climate system for present and future generations,

*Have agreed* as follows:

## Article I

### DEFINITIONS\*

For the purposes of this Convention:

1. "Adverse effects of climate change" means changes in the physical environment or biota resulting from climate change which have significant deleterious effects on the composition, resilience or productivity of natural and managed ecosystems or on the operation of socio-economic systems or on human health and welfare.
2. "Climate change" means a change of climate which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.
3. "Climate system" means the totality of the atmosphere, hydrosphere, biosphere and geosphere and their interactions.

4. “Emissions” means the release of greenhouse gases and/or their precursors into the atmosphere over a specified area and period of time.
5. “Greenhouse gases” means those gaseous constituents of the atmosphere, both natural and anthropogenic, that absorb and re-emit infrared radiation.
6. “Regional economic integration organization” means an organization constituted by sovereign States of a given region which has competence in respect of matters governed by this Convention or its protocols and has been duly authorized, in accordance with its internal procedures, to sign, ratify, accept, approve or accede to the instruments concerned.
7. “Reservoir” means a component or components of the climate system where a greenhouse gas or a precursor of a greenhouse gas is stored.
8. “Sink” means any process, activity or mechanism which removes a greenhouse gas, an aerosol or a precursor of a greenhouse gas from the atmosphere.
9. “Source” means any process or activity which releases a greenhouse gas, an aerosol or a precursor of a greenhouse gas into the atmosphere.

## Article 2

### OBJECTIVE

The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.

## Article 3

### PRINCIPLES

In their actions to achieve the objective of the Convention and to implement its provisions, the Parties shall be guided, inter alia, by the following:

1. The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof.
2. The specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, and of those Parties, especially developing country Parties, that would have to bear a disproportionate or abnormal burden under the Convention, should be given full consideration.

3. The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures, taking into account that policies and measures to deal with climate change should be cost-effective so as to ensure global benefits at the lowest possible cost. To achieve this, such policies and measures should take into account different socio-economic contexts, be comprehensive, cover all relevant sources, sinks and reservoirs of greenhouse gases and adaptation, and comprise all economic sectors. Efforts to address climate change may be carried out cooperatively by interested Parties.
4. The Parties have a right to, and should, promote sustainable development. Policies and measures to protect the climate system against human-induced change should be appropriate for the specific conditions of each Party and should be integrated with national development programmes, taking into account that economic development is essential for adopting measures to address climate change.
5. The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change. 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.

## Article 4

### COMMITMENTS

1. All Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances, shall:
  - (a) Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties;
  - (b) Formulate, implement, publish and regularly update national and, where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, and measures to facilitate adequate adaptation to climate change;
  - (c) Promote and cooperate in the development, application and diffusion, including transfer, of technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the

- energy, transport, industry, agriculture, forestry and waste management sectors;
- (d) Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems;
- (e) Cooperate in preparing for adaptation to the impacts of climate change; develop and elaborate appropriate and integrated plans for coastal zone management, water resources and agriculture, and for the protection and rehabilitation of areas, particularly in Africa, affected by drought and desertification, as well as floods;
- (f) Take climate change considerations into account, to the extent feasible, in their relevant social, economic and environmental policies and actions, and employ appropriate methods, for example impact assessments, formulated and determined nationally, with a view to minimizing adverse effects on the economy, on public health and on the quality of the environment, of projects or measures undertaken by them to mitigate or adapt to climate change;
- (g) Promote and cooperate in scientific, technological, technical, socio-economic and other research, systematic observation and development of data archives related to the climate system and intended to further the understanding and to reduce or eliminate the remaining uncertainties regarding the causes, effects, magnitude and timing of climate change and the economic and social consequences of various response strategies;
- (h) Promote and cooperate in the full, open and prompt exchange of relevant scientific, technological, technical, socio-economic and legal information related to the climate system and climate change, and to the economic and social consequences of various response strategies;
- (i) Promote and cooperate in education, training and public awareness related to climate change and encourage the widest participation in this process, including that of non-governmental organizations; and
- (j) Communicate to the Conference of the Parties information related to implementation, in accordance with Article 12.
2. The developed country Parties and other Parties included in Annex I commit themselves specifically as provided for in the following:
- (a) Each of these Parties shall adopt national<sup>1</sup> policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such

modification, and taking into account the differences in these Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph;

(b) In order to promote progress to this end, each of these Parties shall communicate, within six months of the entry into force of the Convention for it and periodically thereafter, and in accordance with Article 12, detailed information on its policies and measures referred to in subparagraph (a) above, as well as on its resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for the period referred to in subparagraph (a), with the aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol. This information will be reviewed by the Conference of the Parties, at its first session and periodically thereafter, in accordance with Article 7;

(c) Calculations of emissions by sources and removals by sinks of greenhouse gases for the purposes of subparagraph (b) above should take into account the best available scientific knowledge, including of the effective capacity of sinks and the respective contributions of such gases to climate change. The Conference of the Parties shall consider and agree on methodologies for these calculations at its first session and review them regularly thereafter;

(d) The Conference of the Parties shall, at its first session, review the adequacy of subparagraphs (a) and (b) above. Such review shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information. Based on this review, the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in subparagraphs (a) and (b) above. The Conference of the Parties, at its first session, shall also take decisions regarding criteria for joint implementation as indicated in subparagraph (a) above. A second review of subparagraphs (a) and (b) shall take place not later than 31 December 1998, and thereafter at regular intervals determined by the Conference of the Parties, until the objective of the Convention is met;

(e) Each of these Parties shall:

(i) coordinate as appropriate with other such Parties, relevant economic and administrative instruments developed to achieve the objective of the Convention; and

(ii) identify and periodically review its own policies and practices which

- encourage activities that lead to greater levels of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol than would otherwise occur;
- (f) available information with a view to taking decisions regarding such amendments to the lists in Annexes I and II as may be appropriate, with the approval of the Party concerned;
- (g) Any Party not included in Annex I may, in its instrument of ratification, acceptance, approval or accession, or at any time thereafter, notify the Depository that it intends to be bound by subparagraphs (a) and (b) above. The Depository shall inform the other signatories and Parties of any such notification.
3. The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.
  4. The developed country Parties and other developed Parties included in Annex II shall also assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects.
  5. The developed country Parties and other developed Parties included in Annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, to enable them to implement the provisions of the Convention. In this process, the developed country Parties shall support the development and enhancement of endogenous capacities and technologies of developing country Parties. Other Parties and organizations in a position to do so may also assist in facilitating the transfer of such technologies.
  6. In the implementation of their commitments under paragraph 2 above, a certain degree of flexibility shall be allowed by the Conference of the Parties to the Parties included in Annex I undergoing the process of transition to a market economy, in order to enhance the ability of these Parties to address climate change, including with regard to the historical level of anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol chosen as a reference.
  7. The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under

- the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.
8. In the implementation of the commitments in this Article, the Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures, especially on:
    - (a) Small island countries;
    - (b) Countries with low-lying coastal areas;
    - (c) Countries with arid and semi-arid areas, forested areas and areas liable to forest decay;
    - (d) Countries with areas prone to natural disasters;
    - (e) Countries with areas liable to drought and desertification;
    - (f) Countries with areas of high urban atmospheric pollution;
    - (g) Countries with areas with fragile ecosystems, including mountainous ecosystems;
    - (h) Countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products; and
    - (i) Landlocked and transit countries.

Further, the Conference of the Parties may take actions, as appropriate, with respect to this paragraph.
  9. The Parties shall take full account of the specific needs and special situations of the least developed countries in their actions with regard to funding and transfer of technology.
  10. The Parties shall, in accordance with Article 10, take into consideration in the implementation of the commitments of the Convention the situation of Parties, particularly developing country Parties, with economies that are vulnerable to the adverse effects of the implementation of measures to respond to climate change. This applies notably to Parties with economies that are highly dependent on income generated from the production, processing and export, and/or consumption of fossil fuels and associated energy-intensive products and/or the use of fossil fuels for which such Parties have serious difficulties in switching to alternatives.

## Article 5

### RESEARCH AND SYSTEMATIC OBSERVATION

In carrying out their commitments under Article 4, paragraph 1 (g), the Parties shall:

- (a) Support and further develop, as appropriate, international and intergovernmental programmes and networks or organizations aimed at defining, conducting, assessing and financing research, data collection

- and systematic observation, taking into account the need to minimize duplication of effort;
- (b) Support international and intergovernmental efforts to strengthen systematic observation and national scientific and technical research capacities and capabilities, particularly in developing countries, and to promote access to, and the exchange of, data and analyses thereof obtained from areas beyond national jurisdiction; and
  - (c) Take into account the particular concerns and needs of developing countries and cooperate in improving their endogenous capacities and capabilities to participate in the efforts referred to in subparagraphs (a) and (b) above.

## Article 6

### EDUCATION, TRAINING AND PUBLIC AWARENESS

In carrying out their commitments under Article 4, paragraph 1 (i), the Parties shall:

- (a) Promote and facilitate at the national and, as appropriate, subregional and regional levels, and in accordance with national laws and regulations, and within their respective capacities:
  - (i) the development and implementation of educational and public awareness programmes on climate change and its effects;
  - (ii) public access to information on climate change and its effects;
  - (iii) public participation in addressing climate change and its effects and developing adequate responses; and
  - (iv) training of scientific, technical and managerial personnel;
- (b) Cooperate in and promote, at the international level, and, where appropriate, using existing bodies:
  - (i) the development and exchange of educational and public awareness material on climate change and its effects; and
  - (ii) the development and implementation of education and training programmes, including the strengthening of national institutions and the exchange or secondment of personnel to train experts in this field, in particular for developing countries.

## Article 7

### CONFERENCE OF THE PARTIES

1. A Conference of the Parties is hereby established.
2. The Conference of the Parties, as the supreme body of this Convention, shall keep under regular review the implementation of the Convention and any related legal instruments that the Conference of the Parties may adopt, and shall make, within its mandate, the decisions necessary to promote the effective implementation of the Convention. To this end, it shall:



- (a) Periodically examine the obligations of the Parties and the institutional arrangements under the Convention, in the light of the objective of the Convention, the experience gained in its implementation and the evolution of scientific and technological knowledge;
  - (b) Promote and facilitate the exchange of information on measures adopted by the Parties to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;
  - (c) Facilitate, at the request of two or more Parties, the coordination of measures adopted by them to address climate change and its effects, taking into account the differing circumstances, responsibilities and capabilities of the Parties and their respective commitments under the Convention;
  - (d) Promote and guide, in accordance with the objective and provisions of the Convention, the development and periodic refinement of comparable methodologies, to be agreed on by the Conference of the Parties, inter alia, for preparing inventories of greenhouse gas emissions by sources and removals by sinks, and for evaluating the effectiveness of measures to limit the emissions and enhance the removals of these gases;
  - (e) Assess, on the basis of all information made available to it in accordance with the provisions of the Convention, the implementation of the Convention by the Parties, the overall effects of the measures taken pursuant to the Convention, in particular environmental, economic and social effects as well as their cumulative impacts and the extent to which progress towards the objective of the Convention is being achieved;
  - (f) Consider and adopt regular reports on the implementation of the Convention and ensure their publication;
  - (g) Make recommendations on any matters necessary for the implementation of the Convention;
  - (h) Seek to mobilize financial resources in accordance with Article 4, paragraphs 3, 4 and 5, and Article 11;
  - (i) Establish such subsidiary bodies as are deemed necessary for the implementation of the Convention;
  - (j) Review reports submitted by its subsidiary bodies and provide guidance to them;
  - (k) Agree upon and adopt, by consensus, rules of procedure and financial rules for itself and for any subsidiary bodies;
  - (l) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies; and
  - (m) Exercise such other functions as are required for the achievement of the objective of the Convention as well as all other functions assigned to it under the Convention.
3. The Conference of the Parties shall, at its first session, adopt its own rules of procedure as well as those of the subsidiary bodies established by the Convention, which shall include decision-making procedures for matters not already covered by decision-making procedures stipulated in the

- Convention. Such procedures may include specified majorities required for the adoption of particular decisions.
4. The first session of the Conference of the Parties shall be convened by the interim secretariat referred to in Article 21 and shall take place not later than one year after the date of entry into force of the Convention. Thereafter, ordinary sessions of the Conference of the Parties shall be held every year unless otherwise decided by the Conference of the Parties.
  5. Extraordinary sessions of the Conference of the Parties shall be held at such other times as may be deemed necessary by the Conference, or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.
  6. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not Party to the Convention, may be represented at sessions of the Conference of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Convention, and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Conference of the Parties.

## Article 8

### SECRETARIAT

1. A secretariat is hereby established.
2. The functions of the secretariat shall be:
  - (a) To make arrangements for sessions of the Conference of the Parties and its bodies established under the Convention and to provide them with services as required;
  - (b) To compile and transmit reports submitted to it;
  - (c) To facilitate assistance to the Parties, particularly developing country Parties, on the compilation and communication of information required in accordance with the of the Convention;
  - (d) To prepare reports on its activities and present them to the Conference of the Parties;
  - (e) To ensure the necessary coordination with the secretariats of other relevant international bodies;
  - (f) To enter, under the overall guidance of the Conference of the Parties, into such administrative and contractual arrangements as may be required for the effective discharge of its functions; and
  - (g) To perform the other secretariat functions specified in the Convention and in any of its protocols and such other functions as may be determined by the Conference of the Parties.

3. The Conference of the Parties, at its first session, shall designate a permanent secretariat and make arrangements for its functioning.

## Article 9

### SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE

1. A subsidiary body for scientific and technological advice is hereby established to provide the Conference of the Parties and, as appropriate, its other subsidiary bodies with timely information and advice on scientific and technological matters relating to the Convention. This body shall be open to participation by all Parties and shall be multidisciplinary. It shall comprise government representatives competent in the relevant field of expertise. It shall report regularly to the Conference of the Parties on all aspects of its work.
2. Under the guidance of the Conference of the Parties, and drawing upon existing competent international bodies, this body shall:
  - (a) Provide assessments of the state of scientific knowledge relating to climate change and its effects;
  - (b) Prepare scientific assessments on the effects of measures taken in the implementation of the Convention;
  - (c) Identify innovative, efficient and state-of-the-art technologies and know-how and advise on the ways and means of promoting development and/or transferring such technologies;
  - (d) Provide advice on scientific programmes, international cooperation in research and development related to climate change, as well as on ways and means of supporting endogenous capacity-building in developing countries; and
  - (e) Respond to scientific, technological and methodological questions that the Conference of the Parties and its subsidiary bodies may put to the body.
3. The functions and terms of reference of this body may be further elaborated by the Conference of the Parties.

## Article 10

### SUBSIDIARY BODY FOR IMPLEMENTATION

1. A subsidiary body for implementation is hereby established to assist the Conference of the Parties in the assessment and review of the effective implementation of the Convention. This body shall be open to participation by all Parties and comprise government representatives who are experts on matters related to climate change. It shall report regularly to the Conference of the Parties on all aspects of its work.
2. Under the guidance of the Conference of the Parties, this body shall:
  - (a) Consider the information communicated in accordance with Article 12, paragraph 1, to assess the overall aggregated effect of the steps taken by the

- Parties in the light of the latest scientific assessments concerning climate change;
- (b) Consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2 (d); and
- (c) Assist the Conference of the Parties, as appropriate, in the preparation and implementation of its decisions.

## Article 11

### FINANCIAL MECHANISM

1. A mechanism for the provision of financial resources on a grant or concessional basis, including for the transfer of technology, is hereby defined. It shall function under the guidance of and be accountable to the Conference of the Parties, which shall decide on its policies, programme priorities and eligibility criteria related to this Convention. Its operation shall be entrusted to one or more existing international entities.
2. The financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance.
3. The Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to the above paragraphs, which shall include the following:
  - (a) Modalities to ensure that the funded projects to address climate change are in conformity with the policies, programme priorities and eligibility criteria established by the Conference of the Parties;
  - (b) Modalities by which a particular funding decision may be reconsidered in light of these policies, programme priorities and eligibility criteria;
  - (c) Provision by the entity or entities of regular reports to the Conference of the Parties on its funding operations, which is consistent with the requirement for accountability set out in paragraph 1 above; and
  - (d) Determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed.
4. The Conference of the Parties shall make arrangements to implement the above-mentioned provisions at its first session, reviewing and taking into account the interim arrangements referred to in Article 21, paragraph 3, and shall decide whether these interim arrangements shall be maintained. Within four years thereafter, the Conference of the Parties shall review the financial mechanism and take appropriate measures.
5. The developed country Parties may also provide and developing country Parties avail themselves of, financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels.

## Article 12

### COMMUNICATION OF INFORMATION RELATED TO IMPLEMENTATION

1. In accordance with Article 4, paragraph 1, each Party shall communicate to the Conference of the Parties, through the secretariat, the following elements of information:
  - (a) A national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, to the extent its capacities permit, using comparable methodologies to be promoted and agreed upon by the Conference of the Parties;
  - (b) A general description of steps taken or envisaged by the Party to implement the Convention; and
  - (c) Any other information that the Party considers relevant to the achievement of the objective of the Convention and suitable for inclusion in its communication, including, if feasible, material relevant for calculations of global emission trends.
2. Each developed country Party and each other Party included in Annex I shall incorporate in its communication the following elements of information:
  - (a) A detailed description of the policies and measures that it has adopted to implement its commitment under Article 4, paragraphs 2 (a) and 2 (b); and
  - (b) A specific estimate of the effects that the policies and measures referred to in subparagraph (a) immediately above will have on anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during the period referred to in Article 4, paragraph 2 (a).
3. In addition, each developed country Party and each other developed Party included in Annex II shall incorporate details of measures taken in accordance with Article 4, paragraphs 3, 4 and 5.
4. Developing country Parties may, on a voluntary basis, propose projects for financing, including specific technologies, materials, equipment, techniques or practices that would be needed to implement such projects, along with, if possible, an estimate of all incremental costs, of the reductions of emissions and increments of removals of greenhouse gases, as well as an estimate of the consequent benefits.
5. Each developed country Party and each other Party included in Annex I shall make its initial communication within six months of the entry into force of the Convention for that Party. Each Party not so listed shall make its initial communication within three years of the entry into force of the Convention for that Party, or of the availability of financial resources in accordance with Article 4, paragraph 3. Parties that are least developed countries may make their initial communication at their discretion. The frequency of subsequent communications by all Parties shall be determined by the Conference of the Parties, taking into account the differentiated timetable set by this paragraph.

6. Information communicated by Parties under this Article shall be transmitted by the secretariat as soon as possible to the Conference of the Parties and to any subsidiary bodies concerned. If necessary, the procedures for the communication of information may be further considered by the Conference of the Parties.
7. From its first session, the Conference of the Parties shall arrange for the provision to developing country Parties of technical and financial support, on request, in compiling and communicating information under this Article, as well as in identifying the technical and financial needs associated with proposed projects and response measures under Article 4. Such support may be provided by other Parties, by competent international organizations and by the secretariat, as appropriate.
8. Any group of Parties may, subject to guidelines adopted by the Conference of the Parties, and to prior notification to the Conference of the Parties, make a joint communication in fulfilment of their obligations under this Article, provided that such a communication includes information on the fulfilment by each of these Parties of its individual obligations under the Convention.
9. Information received by the secretariat that is designated by a Party as confidential, in accordance with criteria to be established by the Conference of the Parties, shall be aggregated by the secretariat to protect its confidentiality before being made available to any of the bodies involved in the communication and review of information.
10. Subject to paragraph 9 above, and without prejudice to the ability of any Party to make public its communication at any time, the secretariat shall make communications by Parties under this Article publicly available at the time they are submitted to the Conference of the Parties.

### Article 13

#### RESOLUTION OF QUESTIONS REGARDING IMPLEMENTATION

The Conference of the Parties shall, at its first session, consider the establishment of a multilateral consultative process, available to Parties on their request, for the resolution of questions regarding the implementation of the Convention.

### Article 14

#### SETTLEMENT OF DISPUTES

1. In the event of a dispute between any two or more Parties concerning the interpretation or application of the Convention, the Parties concerned shall seek a settlement of the dispute through negotiation or any other peaceful means of their own choice.
2. When ratifying, accepting, approving or acceding to the Convention, or at any time thereafter, a Party which is not a regional economic integration

organization may declare in a written instrument submitted to the Depositary that, in respect of any dispute concerning the interpretation or application of the Convention, it recognizes as compulsory ipso facto and without special agreement, in relation to any Party accepting the same obligation:

- (a) Submission of the dispute to the International Court of Justice; and/or
  - (b) Arbitration in accordance with procedures to be adopted by the Conference of the Parties as soon as practicable, in an annex on arbitration.
- A Party which is a regional economic integration organization may make a declaration with like effect in relation to arbitration in accordance with the procedures referred to in subparagraph (b) above.
3. A declaration made under paragraph 2 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.
  4. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the arbitral tribunal, unless the parties to the dispute otherwise agree.
  5. Subject to the operation of paragraph 2 above, if after twelve months following notification by one Party to another that a dispute exists between them, the Parties concerned have not been able to settle their dispute through the means mentioned in paragraph 1 above, the dispute shall be submitted, at the request of any of the parties to the dispute, to conciliation.
  6. A conciliation commission shall be created upon the request of one of the parties to the dispute. The commission shall be composed of an equal number of members appointed by each party concerned and a chairman chosen jointly by the members appointed by each party. The commission shall render a recommendatory award, which the parties shall consider in good faith.
  7. Additional procedures relating to conciliation shall be adopted by the Conference of the Parties, as soon as practicable, in an annex on conciliation.
  8. The provisions of this Article shall apply to any related legal instrument which the Conference of the Parties may adopt, unless the instrument provides otherwise.

## Article 15

### AMENDMENTS TO THE CONVENTION

1. Any Party may propose amendments to the Convention.
2. Amendments to the Convention shall be adopted at an ordinary session of the Conference of the Parties. The text of any proposed amendment to the Convention 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 proposed amendments to the signatories to the Convention and, for information, to the Depositary.

3. The Parties shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment 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 shall be communicated by the secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.
4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least three fourths of the Parties to the Convention.
5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.
6. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

## Article 16

### ADOPTION AND AMENDMENT OF ANNEXES TO THE CONVENTION

1. Annexes to the Convention shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Convention constitutes at the same time a reference to any annexes thereto. Without prejudice to the provisions of Article 14, paragraphs 2 (b) and 7, such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.
2. Annexes to the Convention shall be proposed and adopted in accordance with the procedure set forth in Article 15, paragraphs 2, 3 and 4.
3. An annex that has been adopted in accordance with paragraph 2 above shall enter into force for all Parties to the Convention six months after the date of the communication by the Depositary to such Parties of the adoption of the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex. The annex 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.
4. The proposal, adoption and entry into force of amendments to annexes to the Convention shall be subject to the same procedure as that for the proposal, adoption and entry into force of annexes to the Convention in accordance with paragraphs 2 and 3 above.
5. If the adoption of an annex or an amendment to an annex involves an amendment to the Convention, that annex or amendment to an annex shall



not enter into force until such time as the amendment to the Convention enters into force.

## Article 17

### PROTOCOLS

1. The Conference of the Parties may, at any ordinary session, adopt protocols to the Convention.
2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a session.
3. The requirements for the entry into force of any protocol shall be established by that instrument.
4. Only Parties to the Convention may be Parties to a protocol.
5. Decisions under any protocol shall be taken only by the Parties to the protocol concerned.

## Article 18

### RIGHT TO VOTE

1. Each Party to the Convention shall have one vote, except as provided for in paragraph 2 below.
2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to the Convention. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

## Article 19

### DEPOSITARY

The Secretary-General of the United Nations shall be the Depositary of the Convention and of protocols adopted in accordance with Article 17.

## Article 20

### SIGNATURE

This Convention shall be open for signature by States Members of the United Nations or of any of its specialized agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organizations at Rio de Janeiro, during the United Nations Conference on Environment and Development, and thereafter at United Nations Headquarters in New York from 20 June 1992 to 19 June 1993.

## Article 21

### INTERIM ARRANGEMENTS

1. The secretariat functions referred to in Article 8 will be carried out on an interim basis by the secretariat established by the General Assembly of the United Nations in its resolution 45/212 of 21 December 1990, until the completion of the first session of the Conference of the Parties.
2. The head of the interim secretariat referred to in paragraph 1 above will cooperate closely with the Intergovernmental Panel on Climate Change to ensure that the Panel can respond to the need for objective scientific and technical advice. Other relevant scientific bodies could also be consulted.
3. The Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the international entity entrusted with the operation of the financial mechanism referred to in Article 11 on an interim basis. In this connection, the Global Environment Facility should be appropriately restructured and its membership made universal to enable it to fulfil the requirements of Article 11.

## Article 22

### RATIFICATION, ACCEPTANCE, APPROVAL OR ACCESSION

1. The Convention shall be subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations. It shall be open for accession from the day after the date on which the Convention is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.
2. Any regional economic integration organization which becomes a Party to the Convention without any of its member States being a Party shall be bound by all the obligations under the Convention. In the case of such organizations, one or more of whose member States is a Party to the Convention, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under the Convention. In such cases, the organization and the member States shall not be entitled to exercise rights under the Convention concurrently.
3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by the Convention. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

## Article 23

### ENTRY INTO FORCE

1. The Convention shall enter into force on the ninetieth day after the date of deposit of the fiftieth instrument of ratification, acceptance, approval or accession.
2. For each State or regional economic integration organization that ratifies, accepts or approves the Convention or accedes thereto after the deposit of the fiftieth instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the ninetieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.
3. For the purposes of paragraphs 1 and 2 above, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by States members of the organization.

## Article 24

### RESERVATIONS

No reservations may be made to the Convention.

## Article 25

### WITHDRAWAL

1. At any time after three years from the date on which the Convention has entered into force for a Party, that Party may withdraw from the Convention by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from any protocol to which it is a Party.

## Article 26

### AUTHENTIC TEXTS

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

**IN WITNESS WHEREOF** the undersigned, being duly authorized to that effect, have signed this Convention.

**DONE** at New York this ninth day of May one thousand nine hundred and ninety-two.

<sup>1</sup> Titles of articles are included solely to assist the reader.

<sup>1</sup>This includes policies and measures adopted by regional economic integration organizations.

## ANNEX I

Australia	Liechtenstein <sup>*</sup>
Austria	Lithuania <sup>a</sup>
Belarus <sup>a</sup>	Luxembourg
Belgium	Malta <sup>**</sup>
Bulgaria <sup>a</sup>	Monaco <sup>*</sup>
Canada	Netherlands
Croatia <sup>a*</sup>	New Zealand
Cyprus <sup>***</sup>	Norway
Czech Republic <sup>a*</sup>	Poland <sup>a</sup>
Denmark	Portugal
European Economic Community	Romania <sup>a</sup>
Estonia <sup>a</sup>	Russian Federation <sup>a</sup>
Finland	Slovakia <sup>a*</sup>
France	Slovenia <sup>a*</sup>
Germany	Spain
Greece	Sweden
Hungary <sup>a</sup>	Switzerland
Iceland	Turkey
Ireland	Ukraine <sup>a</sup>
Italy	United Kingdom of Great Britain and Northern Ireland
Japan	United States of America
Latvia <sup>a</sup>	

<sup>a</sup> Countries that are undergoing the process of transition to a market economy.

<sup>\*</sup>*Publisher's note:* Countries added to Annex I by an amendment that entered into force on 13 August 1998, pursuant to decision 4/CP.3 adopted at COP.3.

<sup>\*\*</sup>*Publisher's note:* Country added to Annex I by an amendment that entered into force on 26 October 2010, pursuant to decision 3/CP.15 adopted at COP 15.

<sup>\*\*\*</sup>*Publisher's note:* Country added to Annex I by an amendment that entered into force on 9 January 2013, pursuant to decision 10/CP.17 adopted at COP 17.

## ANNEX II

Australia  
Austria  
Belgium  
Canada  
Denmark  
European Economic Community  
Finland  
France  
Germany  
Greece  
Iceland  
Ireland  
Italy  
Japan  
Luxembourg  
Netherlands  
New Zealand  
Norway  
Portugal  
Spain  
Sweden  
Switzerland  
United Kingdom of Great Britain and Northern Ireland  
United States of America

*Publisher's note:* Turkey was deleted from Annex II by an amendment that entered into force 28 June 2002, pursuant to decision 26/CP.7 adopted at COP.7.



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