

MRV provisions in the LCA Text

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1. INTRODUCTION AND SCOPE

1.1 In this paper (the “Paper”), we are set out our response to the following questions:

- 1.1.1 analyse of the MRV provisions in the LCA text (the “Agreement”) in respect of (i) financial obligations of developed country parties; (ii) mitigation actions by developed parties; (iii) mitigation actions by developing parties. How do they operate?
- 1.1.2 Do the respective levels of MRV for developed and developing country parties reflect the principle of ‘common but differentiated responsibilities’?
- 1.1.3 Are the MRV provisions in respect of developed country parties for finance and mitigation consistent? If not, please suggest ways to make them consistent using the more robust and stricter provisions as a baseline.

1.2 This Paper is based on the following assumptions:

- 1.2.1 We have considered the version of the Agreement dated 9 July as made available by the LRI and all references to the Agreement in our response should be construed as references to this draft of the Agreement. As the negotiations progress and further amendments are made to the Agreement, our suggested drafting may need to be adapted accordingly.
- 1.2.2 We have assumed that the Agreement will constitute a legally binding agreement and as such contain legally binding obligations upon its signatories.
- 1.2.3 The drafting of the Agreement contains numerous references to the Kyoto Protocol. We have therefore assumed that it is the negotiating parties’ intention that the Kyoto Protocol and the institutions created pursuant to the same will continue to exist and have legal force as an instrument of international law even though the obligations it imposes upon its signatories have fall away in 2012 when the commitment period from 2008 – 2012 comes to an end.

2. ANALYSIS OF THE MEASUREMENT, REPORTING AND VERIFICATION (“MRV”) PROVISIONS IN THE LCA TEXT

A. Financial obligations of developed country parties

Overview

2.1 Enhanced action on the provision of financial resources and investments is to be implemented pursuant to the provisions in Chapter III (see paragraph 64 of Chapter I). Chapter III

provides for the creation of a new fund from contributions from a variety of public and private, bilateral and multilateral sources. New and additional financing provided by developed country Parties themselves shall be the primary source of contributions to the fund (see paragraphs 2 and 3 of Chapter III), and international auctioning and cap and trade systems are contemplated as potential sources (see paragraph 7 of Chapter III).

- 2.2 The purpose of the fund is to support activities related to mitigation, including REDD-plus, adaptation, capacity-building and technology development and transfer (see paragraphs 2 and 10 of Chapter III), such funding to be applied equally between measures for mitigation and adaptation (see paragraph 5 of Chapter III), prioritising the urgent needs of those developing countries most affected by climate change, the Least Developed Countries (“LDCs”) and small island developing states.
- 2.3 Developed countries “[commit to the goal of mobilising jointly USD 100 billion dollars in contributions to the fund] / [shall make assessed contributions of 1.5% of the GDP of such countries to the fund]” each year by 2020 to address the needs of developing countries (see paragraph 2 of Chapter III). Moreover, developed countries collectively commit to provide new and additional funding of up to USD 30 billion for the period 2010-2012 (see paragraph 5 of Chapter III).

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- 2.4 From 2013, developed country parties shall provide resources based on “an [assessed] / [indicative] scale of contributions to be adopted and periodically updated by the Conference of the Parties” (“COP”) (see paragraph 6 of Chapter III). The LCA also contemplates in the alternative that all Parties (other than LDCs) would, from 2013, be required to provide resources based on such assessment / indicative scale.
- 2.5 The fund shall be governed by a board nominated by the COP, made up of “[equitable and balanced]/[equal representation] of developed and developing country Parties” (see paragraphs 9 and 10 of Chapter III), and shall be serviced by a secretariat and a trustee (see paragraph 13 of Chapter III).
- 2.6 Developed country Parties shall report “[annually][biennially] [through national communications] information on the finance, technology transfer and capacity-building support provided for actions undertaken by developing countries”, such reporting to be verified through the existing system of in-depth review of national communications from Annex I Parties but in accordance with the further guidelines to be developed by the COP (see paragraph 63 of Chapter I, section D).
- 2.7 The Agreement notes that specific elements of the MRV of support, including institutional arrangements, will be further elaborated as discussions on related issues progress. Further consideration is to be given to the most expedient mechanism for creation of the fund: should (a) a new body be created or (b) existing institutions be strengthened in order to enable them to, amongst other things:
 - 2.7.1 ensure accountability of the financial mechanism;
 - 2.7.2 encourage operating entities and other delivery channels to increase the flow and exchange of information;

- 2.7.3 to avoid duplication of efforts and to harmonise application, measurement and reporting procedures;
 - 2.7.4 assess the needs of international finance (including carbon finance) to support activities to address climate change; and
 - 2.7.5 recommend a balanced allocation of funding and recommend modalities to provide access to, measure, report and verify support provided to developing country parties (see paragraph 15 of Chapter III).
- 2.8 To the extent the option of a new body is pursued, it is to have a transparent system of governance in accordance with Article 11, paragraph 2 of the Convention with an equitable and balanced representation of all Parties.
- 2.9 Further consideration of a mechanism to record nationally appropriate mitigation actions and facilitate provision of recording and support is also required.

B. Mitigation actions by developed country parties

Overview

- 2.10 It is proposed that developed country parties undertake to implement, individually or jointly, the quantified economy-wide emissions targets for 2020 and legally binding nationally appropriate mitigation commitments or actions, “[including][expressed as] quantified economy wide emission reduction objectives [while ensuring comparability of efforts and on the basis of cumulative historical responsibility, [as part of their emission debt]]” (see paragraphs 14-18 of Chapter I, section C).
- 2.11 Such emission reduction objectives must be achieved “[primarily] through domestic efforts and may use market based mechanisms...[in a supplementary manner]” (see paragraph 20 of Chapter I, section C).

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- 2.12 The efforts by developed country Parties to reduce their GHG emissions shall be “comparable in [legal form] [,magnitude][measure] of effort,][and provisions for measuring, reporting and verification [and compliance]” (paragraph 19 of Chapter I, section C). It is further proposed that a technical panel on comparability shall be set up to conduct an “objective, consistent, transparent, thorough and comprehensive assessment of the comparability of efforts among developed country Parties”.
- 2.13 Developed country reductions will be measured, reported and verified in accordance with existing and “any further guidelines to be adopted by the COP”. Accounting of such targets shall take into account:
- 2.13.1 “[the relevant provisions under the Kyoto Protocol] [such as provisions under Articles, 5, 7 and 8 of the Kyoto Protocol]” (see paragraph 22 of Chapter I, Section C); and
 - 2.13.2 the specific needs and concerns of developing country Parties arising from the impact of the implementation enhanced mitigation action by developed country Parties (see paragraph 26 of Chapter I, Section C).

- 2.14 Biennial progress reports on the implementation of developed country Party's enhanced mitigation action shall be submitted, with the information to be included in such reports to be in accordance with the further guidelines referred to above and include at a minimum: (a) national GHG inventories; (b) nature and status of progress towards quantified economy wide emission reduction targets; (c) estimated emission reductions as a result of the mitigation actions; (d) methodologies used and assumptions made in quantifying emissions reductions; (e) information on the provision of financial resources and support to technology transfer and capacity building for developing country Parties; and (f) use of international emissions and offsets (see paragraph 23 of Chapter I, Section C).
- 2.15 Expert review teams shall engage in technical reviews of GHG inventories and in-depth reviews of national communications. Verification measures shall also include periodic consideration of the reported information by subsidiary bodies under the Convention in addition to other procedures in accordance with existing and any further guidelines (see paragraph 24 of Chapter I, Section C).

C. Mitigation actions by developing country parties

Overview

- 2.16 Developing country parties "in the context of sustainable development will undertake nationally appropriate mitigation actions", to the extent enabled and supported by finance, technology and capacity-building as well as "domestically funded mitigation actions in accordance with their respective capacities" (see paragraph 28 of Chapter I, Section C).
- 2.17 To access international technology, finance and capacity-building support, developing country Parties "[may][shall] submit to the mechanism [on a voluntary basis] proposals for nationally appropriate mitigation actions for which they are seeking support, along with an estimate of all related incremental costs, an indication of type of support, an estimate of mitigation benefits and the anticipated time frame for implementation" (see paragraph 31 of Chapter I, Section C). Such proposals "[may][shall] be submitted to the mechanism for technical analysis of the methodologies used to estimate the incremental costs and expected emission reductions in accordance with guidelines to be adopted by the COP" (see paragraph 32 of Chapter I, Section C).
- 2.18 The aim of this mechanism is to facilitate and record "the [matching of][application of] support for proposed nationally appropriate mitigation actions [only] through the [financial and technology mechanisms] and bilateral, regional and other multilateral sources of funding and with capacity-building [through the framework for capacity-building] (see paragraph 33 of Chapter I, Section C).

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- 2.19 A different standard of measurement, reporting and verification is applied depending on the source of funding for the nationally appropriate mitigation actions undertaken by developing country Parties:
- 2.19.1 those enabled and supported by finance, technology and capacity building shall be subject to measurement, reporting and verification at the international level in accordance with guidelines to be adopted by COP;

- 2.19.2 those that are domestically funded will be subject to their domestic measuring, reporting and verification; and
- 2.19.3 those funded by market-based mechanisms, will be subject to the requirements and rules governing participation in the relevant market based mechanisms (see paragraphs 35-37 of Chapter I, Section C).
- 2.20 National communications, based on the above standards, should be submitted by developing country Parties to the COP [every [six][four] years], preparation of which should be supported by finance and capacity-building (see paragraph 38 of Chapter 1, Section C).
- 2.21 In addition, biennially from a date to be specified, developing country Parties should submit as part of their national communications information on:(a) national GHG inventories, status of implementation of mitigation actions and estimated emission reductions or removals achieved from such actions (as per developed country parties); (b) “[information on receipt of finance, technology and capacity building support]”; and (c) “[result of domestic verification of domestically funded autonomous actions]” (see paragraph 39 of Chapter I, Section C). Preparation and submission of such communications by LDC Parties and small island developing States is optional (see paragraph 40 of Chapter I, Section C).
- 2.22 International consultation and analysis shall apply to such national communications based on the following principles:
- 2.22.1 “[the analysis will be undertaken by an independent panel of experts, representing all regions]” (see paragraph 42 of Chapter I, Section C); and
- 2.22.2 “[international consultation of the result of the analysis ... will take place under the auspices of the SBI]” (see paragraph 43 of Chapter I, Section C).
- 3. DO THE RESPECTIVE LEVELS OF MRV FOR DEVELOPED AND DEVELOPING COUNTRY PARTIES REFLECT THE PRINCIPLE OF “COMMON BUT DIFFERENTIATED RESPONSIBILITIES”?**
- 3.1 With respect to finance obligations, we note that there is a proposal that all Parties (other than LDCs) would, from 2013, be required to contribute to the fund based on an assessment / indicative scale. We presume that the methodology used to calculate the contribution of developing countries would reflect the differing “national circumstances and historical responsibilities” of developing countries.
- 3.2 With respect to MRV for mitigation actions, it is proposed that developed and developing countries be held to differing standards:
- 3.2.1 mitigation actions undertaken by developing countries not supported by finance, technology or capacity-building or other market-based mechanisms (i.e. domestically funded actions), will not be subject to the international standards and guidelines to be developed by the COP;
- 3.2.2 while both developed and developing countries will be required to prepare “low-emission development plans [including norms for sustainable production and consumption in all relevant sectors]”, in the case of developing countries such plans will not be a pre-condition for support for nationally appropriate mitigation actions, and such plans will be optional for LDC and small island States’;

- 3.2.3 the international consultation and analysis applied to national communications in the case of developed countries shall be “rigorous, robust and transparent [ensuring transparency and environmental integrity]” and take into account the impact of mitigation measures on developing countries, whereas the overarching principle of such consultation and analysis with respect to developing countries is that of a “facilitative, technical and confidence building process, which respects national sovereignty”; and
- 3.2.4 enabling activities undertaken by developing country Parties in the context of preparation and elaboration of nationally appropriate mitigation actions and related capacity-building shall be funded on an “agreed full-cost” basis.
- 3.3 Both developed and developing countries (other than LDC and small-island States) are required to submit biennial progress reports as described above.
- 4. ARE THE MRV PROVISIONS IN RESPECT OF DEVELOPED COUNTRY PARTIES FOR FINANCE AND MITIGATION CONSISTENT? IF NOT, PLEASE SUGGEST WAYS TO MAKE THEM CONSISTENT USING THE MORE ROBUST AND STRICTER PROVISIONS AS A BASELINE.**
- 4.1 Further development of the MRV provisions with respect to the finance obligations of developed country parties is contemplated by the LCA Text.
- 4.2 Query whether a panel should be set up to conduct an “objective, consistent, transparent, thorough and comprehensive assessment of the comparability of efforts among developed country Parties” with respect to finance obligations, as is proposed with respect to mitigation measures.
- 4.3 For consistency, biennial rather than annual reporting on the finance, technology transfer and capacity-building support provided by developed countries for actions undertaken by developing countries should be required.
- 4.4 Such reporting should include details of the methodologies used and assumptions made in calculating the new and additional support contributed to the fund to support to the mitigation actions undertaken by developing countries.