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## **Brief on the outcome of the 2011 United Nations climate change conference in Durban, South Africa, and considerations for negotiations during 2012 and beyond**

### **Executive summary<sup>1</sup>**

1. Climate change continues to be a global threat to sustainable economic development as the countries of the world converged in Durban, South Africa, for the 2011 United Nations conference on climate change. In preparation for the meeting, African leaders and institutions undertook careful efforts to craft decisions enabling them to speak with one voice in advancing the African Common Position. Underpinning this preparation was a growing recognition that climate change represented an existential threat to African countries and people, while the underlying challenges of food security and poverty remained real.
2. Scientists confirm that the world is on a path to warming of over 6°C, that current pledges risk warming of 2.5 to 5°C and that dangerous warming could be “locked in” as soon as 2017. The International Energy Assessment estimates that by 2017 the building of infrastructure will “lock in” the whole remaining carbon budget for 2°C – making it impossible to build another factory, or power plant or road unless it is carbon neutral.
3. In preparation for the Durban conference, African ministers confirmed that “such temperature increases will have catastrophic impacts worldwide, and particularly for Africa due to its high vulnerability to the impacts of climate change and low adaptive capacity.” African experts participating in the Durban conference presented the challenge to ministers even more starkly:

“Clearly this places the African continent in a very difficult position – on one hand we may be burned by increased warming and on the other hand we may be trapped into no industrial development and growth.

We are caught in between two rocks. We must avoid warming that will destroy our environment, farmers, factories and communities. This means we must peak and curb global emissions very soon, possibly as soon as 2015. At the same time, we need a fair share of the remaining atmospheric space for the emissions as we provide energy, build infrastructure, develop and supply basic services to our people.”

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\* AMCEN/14/1.

<sup>1</sup> The present summary is based on documents presented at the United Nations climate change conference in Durban, the outcomes of the Durban conference and further work required for a successful outcome of the United Nations climate change conference to be held in Doha in November 2012.

4. To lay the foundation for success in Durban, African and other developing countries participated in good faith and offered considerable leadership. Developing countries offered over five gigatonnes (Gt) of emission reductions by 2020, enabled by financing, technology transfer and capacity-building, and have agreed to discuss new requirements such as nationally appropriate mitigation actions, measurement, reporting and verification, biennial update reports and international consultation and analysis.

5. Developed countries, by contrast, have pledged less in terms of mitigation than developing countries – under four Gt by 2020. They could avoid domestic action through carbon markets (around one Gt) and accounting loopholes (around four Gt), which could result in them offering no net contribution from their own economies by 2020. Analysis of the pledged \$30 billion fast-start finance for 2010–2012 demonstrates that less than one tenth is genuinely new and additional, and there remains no financing pledged for 2013.

6. Rather than implement their commitments, developed countries apparently seek to transition out of their legally binding obligations under the Kyoto Protocol to the United Nations Framework Convention on Climate Change, with some having done so already (Canada) or expressing an intention to do so before (Japan, the Russian Federation and others) or after (other parties listed in annex I to the Convention, or “Annex I parties”) a second commitment period, and with annex I parties intending ultimately to replace the Kyoto Protocol altogether with a new mitigation-focused protocol under the Convention. The United States has expressed a preference for a new system of “symmetrical” obligations for developed and developing countries with developing country commitments becoming “non-conditional” on finance, and has recently confirmed that it supports a “flexible” approach that “cannot guarantee that we meet a 2 degree goal”.

7. If adopted, the approach proposed by developed countries risks weakening their commitments, creating new or stronger commitments for developing countries, undermining the principles of equity and common but differentiated responsibilities, and shifting the climate regime away from a science-based architecture towards one that is pledge-based and that could lock in the current dangerously low levels of ambition without adequate and legally binding commitments for developed countries.

8. Such an approach would enable developed countries to annex a major part of the remaining atmospheric space (which their economists have valued in the trillions of dollars) through weak pledges and carbon markets, while risking dangerous levels of warming, catastrophic damage to developing countries and inadequate means of implementation – financing, technology transfer and capacity-building – for developing countries to develop under the two-fold burden of intensifying climate impacts and more costly low-carbon development.

9. For a fairer, more principled and science-based outcome, unprecedented unity is required among developing countries to maintain the Kyoto Protocol as a central pillar of the climate regime and to build around it a stronger architecture founded on the Convention and building on the outcomes of the Durban conference.

10. The Durban conference realized a number of important outcomes under the Convention and its Kyoto Protocol. They include agreement on a second commitment period of the Kyoto Protocol, extension of the Ad Hoc Working Group on Long-Term Cooperative Action (AWG-LCA), operationalization of the Green Climate Fund and the Durban Platform for Enhanced Action to negotiate a new protocol, legal instrument or agreed outcome with legal force under the Convention. In preparing for the United Nations climate change conference to be held in Doha in November 2012, a number of challenges remain in relation to each of the mandated negotiations.

11. Under the Kyoto Protocol negotiations (AWG-KP) Parties in Durban agreed to commence a second commitment period on 1 January 2013. Remaining issues to be addressed include:

(a) Annex I parties’ pledges for emission reductions remain profoundly inadequate in the light of the scale of the emissions gap, their historical responsibilities and respective capabilities and the Convention’s requirement that they undertake “equitable and appropriate” contributions to the objective of the Convention;

(b) The decision does not ensure agreement on an adequate aggregate reduction for annex I parties, but rather seems to support a bottom up approach rather than the multilaterally agreed approach of negotiating aggregate commitments first and then individual contributions to those commitments (a top down or science-based approach);

(c) The decision includes no clear mechanism for the multilateral negotiation of annex I parties’ individual contributions (i.e., their commitments or “quantified emission limitation or

reduction objectives” (QELROs)) to the aggregate amount but instead merely calls on annex I parties to “submit information on their QELROs”;

(d) The decision does not establish a clear multilateral process for the calculation of QELROs, risking that the dangerously inadequate pledges of developed countries will be locked into commitments under the Kyoto Protocol. This in turn will grant them “assigned amounts” of pollution well in excess of what is scientifically or ethically appropriate;

(e) The decision requests the AWG-KP to assess the implications of the carryover of assigned amount units to the second commitment period and to recommend appropriate actions to be taken at the eighth session of the Conference of the Parties serving as the meeting of the Parties. To ensure the integrity of the Kyoto Protocol, all loopholes (not merely carryover units) must be addressed, and offsetting through carbon markets must be limited, to ensure an equitable and adequate contribution by annex I parties;

(f) There is as yet no agreement on an end date for the second commitment period of 2017, reflecting the interests of some large emitters and the inclusion by the Chair of the AWG-LCA, under his own responsibility, of an alternative end date of 2020.

12. Addressing these issues during 2012 will be important in preparing for the Doha conference. Further reflection on the nature and quality of the second commitment period as defined by Durban and its relation to other mitigation negotiations (e.g., negotiations under the AWG-LCA and the Durban Platform) is required to ensure that a science-based and equity-based approach to the negotiation of annex I parties’ mitigation commitments is retained under all tracks going forward, including the Kyoto Protocol.

13. In the negotiations in Durban on the implementation of the Convention under the aegis of the AWG-LCA, the outcome was expressed in one omnibus decision, along with separate decisions relating to the Green Climate Fund, the Technical Executive Committee and national adaptation plans. The outcome as expressed in those decisions included the following elements:

(a) On a shared vision for long-term cooperative action, parties agreed to continue work to identify, for consideration at the Doha conference, a global goal for substantially reducing global emissions by 2050 and a timeframe for the global peaking of greenhouse-gas emissions based on the best available scientific knowledge and equitable access to sustainable development. Among other things, further work is required under shared vision to understand the implications for Africa of a long-term global goal and peaking year, as well as various scenarios for the level of mitigation effort by developed countries on equitable sharing of atmospheric space and sustainable development

(b) In relation to mitigation, parties agreed on outcomes in relation to developed countries on, first, matters relating to paragraphs 36–38 of the Cancun Agreements (clarifying annex I parties’ pledged targets); second, biennial reporting guidelines; and third, modalities and procedures for international assessment and review (IAR). Outcomes were secured in relation to developing countries on, first, matters relating to paragraphs 48–51 of the Cancun Agreements (non-annex I parties’ nationally appropriate mitigation actions and means of implementation); second, biennial update reporting guidelines; third, the registry; and, fourth, modalities and guidelines for international consultation and analysis. Outcomes were also agreed on forests, sectoral approaches, various approaches (market and non-market) and response measures. Further elaboration in these areas must ensure that developing countries are not subjected to burdensome new requirements while developed countries secure commitments that are merely equivalent to or weaker than their existing Kyoto Protocol commitments;

(c) In relation to adaptation, parties recalled the Cancun Adaptation Framework and Committee, established the modalities and composition of the Adaptation Committee and called for elaboration of a three-year work programme. They also established a process to enable least developed countries to implement national adaptation plans. Unfortunately, despite the efforts of African countries a “comprehensive work programme on agriculture in non-annex I parties” under the Adaptation Framework was not established in Durban, despite the recommendation of African Ministers.

(d) In relation to finance, parties operationalized the Green Climate Fund, refined the functioning of the Standing Committee and agreed on a set of workshops to discuss long-term finance. Finance will remain a major priority during 2012, given the absence in Durban of agreement on any specific level of financing for developing countries after 2013, or on levels of public finance for the long-term (e.g. 2020), while also committing developing countries to new negotiations and to new requirements (e.g., those relating to measurement, reporting and verification and international consultation and analysis);

(e) In relation to technology, the parties addressed the Technology Executive Committee, the Climate Technology Centre and Network and linkages between these and the Conference of the Parties. The Centre and Network will be hosted within an existing institution. An annex to the decision has criteria for evaluating and selecting the host institution. The question of intellectual property rights was not addressed despite calls by African ministers regarding the “urgent need to address the issue of technology transfer, including the identification and removal of all barriers preventing access to climate-related technologies and the appropriate treatment of intellectual property rights, including the removal of patents on climate related technologies for non-Annex I Parties”;

(f) In relation to capacity-building, there was no decision to strengthen institutional arrangements for decision-making. Instead the relevant bodies under the Convention are encouraged ‘to continue to elaborate and carry out work on capacity-building in an integrated manner, as appropriate, within their respective mandates’;

(g) On the review, the outcome calls for parties to establish a review expert group. The first review will start in 2013 and will be based on various sources of information, including reports from United Nations bodies.

14. Under the new Durban Platform for Enhanced Action the parties agreed to a decision to start negotiating a protocol or a legal instrument or an agreed outcome with legal force under the Convention. These negotiations are to take place in a new “Ad Hoc Working Group on the Durban Platform for Enhanced Action”, which is to start work in 2012 and finish as early as possible but no later than 2015. The new agreement is supposed to come into effect and be implemented from 2020.

15. Importantly, the parties also agreed to a work plan on enhancing mitigation ambition to identify and to explore options for a range of actions that can close the ambition gap with a view to ensuring the highest possible mitigation efforts by all parties.

16. The mandate, however, explicitly includes few of the protections of the Bali Roadmap, which distinguishes clearly between annex I and non-annex I parties. Rather it calls for “the highest possible mitigation efforts by all Parties”. A clear effort will therefore be required to integrate all elements of the Convention and the Bali Action Plan into the new mandate including, in particular, the principles of equity and common but differentiated responsibilities. Work must be sequenced carefully within the Durban Platform, and with other negotiations under the Convention and the Kyoto Protocol, to ensure there is no further weakening of these other mandates.

17. Building on the outcomes of the Durban conference, success in Doha could deliver ambitious outcomes that advance Africa’s key demands. The Doha outcomes must reflect the urgency of the current situation, including the prospect that average global warming of over 2°C (translating into over 3°C on the African continent) may be locked in as soon as 2017, with catastrophic impacts for Africa.

18. The Doha outcomes must also reflect the politics of the climate negotiations, including the apparent tendency towards weakening developed countries’ commitments, creating new or stronger commitments for developing countries, and shifting the climate regime away from a science-based architecture towards a pledge-based architecture that could lock in the current dangerously low levels of ambition, in turn risking the prospects of run-away climate change and an irreversible and catastrophic threat to human societies and the planet.

19. In summary, for the Doha conference:

(a) There must be agreement on a second and subsequent commitment periods of the Kyoto Protocol, with an ambitious and science-based aggregate commitment for developed country Kyoto parties, multilaterally agreed individual commitments (QELROS), limitations on loopholes and markets, provisional application to avoid a gap in the legally binding regime and an end date of 2017 for the second commitment period;

(b) There must be comparable efforts by developed country non-Kyoto parties (the United States and Canada) under the Convention including ambitious, legally binding, economy-wide emissions reduction commitments;

(c) There must be agreement on long-term sources and scale of finance commencing in 2013 and a process for determining in a predictable and identifiable manner the level of financing necessary for implementation of the Convention;

(d) There must be full and effective operationalization of outcomes and institutions agreed in Cancun, including the Green Climate Fund and Standing Committee, Adaptation Framework and Committee, and the Technology Mechanism, Committee, Centers and Network with dedicated financing, time-bound deliverables and work programmes (no “empty shells”);

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- (e) There must be agreement on a work programme on agriculture under the Adaptation Framework and demonstrable progress on the work programme to establish an international mechanism on loss and damage from climate change for developing countries;
- (f) There must be agreement to a clear sequencing of work under the negotiating bodies, enabling balanced progress in all forums, with an outcome under the Kyoto Protocol, fulfilment of the Bali Action Plan and discussions of ambition under the Durban Platform proceeding step-wise and before negotiations on a new framework under the Durban Platform;
- (g) Any agreed outcome with legal force to be negotiated under the Durban Platform must reflect all principles and provisions of the Convention, including equity and common but differentiated responsibilities and respective capabilities, cover in a balanced manner all elements of the Bali Action Plan.

20. The window to avoid extremely dangerous warming is closing and with it prospects for safeguarding the continent's future. Currently, the international climate change negotiations remain well off track to avert irreversible and catastrophic damage to human societies and the planet. Africa, as a world leader on climate change, can and must continue to demand ambitious outcomes and work seriously with all partners who are interested in preserving and strengthening the global climate architecture that the international community has built over the last two decades. Africa must redouble its efforts both within and outside the negotiations if warming is to be held to levels that are consistent with the continued wellbeing of Africa. The role of African leaders, ministers and of the African group of negotiators has never been more important.

## Annex

# Brief on the outcome of the 2011 United Nations climate change conference in Durban, South Africa, and considerations for negotiations during 2012 and beyond

## I. Introduction

1. Climate change continues to be a global threat to sustainable economic development as the countries of the world converged in Durban, South Africa, for the seventeenth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, the seventh session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol and related meetings of the various subsidiary bodies and ad hoc working group of the Convention and its Kyoto Protocol. This follows efforts to restore the multilateral rule-based system in Cancun, Mexico during COP16, following the near collapse of the system at the 2009 climate change conference in Copenhagen, Denmark.
2. The global effort to address the impact of climate change was realized at COP1, in Berlin, Germany, where Parties to the United Nations Framework Convention on Climate Change (UNFCCC) made a decision to further enhance the reduction of green house gases by developed countries through the Berlin Mandate. Three years later a decision was made in Kyoto, Japan, to fulfil the Berlin Mandate through the adoption of a legally binding instrument, the Kyoto Protocol to the United Nations Framework Convention on Climate Change. The Kyoto Protocol established a commitment period, 2008–2012, aggregate and individual levels for emission reduction targets and market mechanisms to achieve its objective.
3. A series of meetings thereafter, the Kyoto Protocol came into force, and parties took up the matter of its operationalization. At the first session of the Conference of the Parties serving as the meeting of the Parties, in 2005, the parties established the AWG-KP. During the thirteenth session of the Conference of the Parties, in 2007, the parties established the AWG-LCA, with a two-track system under the Bali Roadmap leading to Copenhagen, Denmark, for legally binding amendment to the Kyoto Protocol (under the AWG-KP) and an agreed outcome to implement the Convention (under the AWG-LCA).
4. COP15/CMP5 in Copenhagen could not conclude the work of the Bali mandate and decided to extend it to COP16/CMP6, in Cancun, Mexico. The Cancun Conference helped to restore the multilateral rule-based system and the principles of the Convention, in particular the common but differentiated responsibilities and respective capabilities, through a set of decisions grouped under the title “Cancun Agreement”, for a further set of decisions to be taken at the Durban conference in 2011.
5. The Durban conference was seen as a defining moment for African leaders to chart a course towards outcomes that could curb the growing greenhouse gas emissions to the climate system giving rise to the threat posed by climate change to the African continent, to implement the Convention and the Protocol, and to fully protect the interests and aspirations of all African countries and peoples in the negotiation process while respecting the principles and provisions of the Convention.
6. The parties at the Durban conference adopted a set of decisions designed to achieve the objectives of the Convention and the Protocol, some of which were based on the Cancun outcomes, resulting in a “Durban package”. In the Durban package, the conference agreed on the second commitment period of the Kyoto Protocol, extended the work of the AWG-LCA by one year, operationalized the Green Climate Change Fund and established the Durban Platform for Enhanced Action to Implement the Convention. The Durban Platform simply launches a new process to negotiate a new protocol or other outcome with legal force under the Convention applicable to all parties.
7. The present document briefly summarizes the developments at the Durban conference and provides an initial assessment of the outcomes of the negotiations at the conference under the Kyoto Protocol and the Convention, pointing out areas for further work and items for consideration by African experts and ministers. The report is structured along the lines of the Bali Roadmap that comprises negotiations under the two tracks.

Namely:

(a) The Ad Hoc Working Group on Further commitments by Annex 1 Parties under the Kyoto Protocol (AWG-KP), which was established at COP11/CMP1 and has been negotiating future commitment periods and emission targets for Annex 1 Parties. The AWG-KP was to agree on new targets for a second and subsequent commitment period after 2012, as well as the associated common accounting rules for economy wide emissions reduction targets.

8. The Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA), which has been negotiating on the Bali Action Plan that covers a shared vision, mitigation, adaptation, finance, technology and capacity building with a view to ensuring the “full, effective and sustained implementation of the Convention”. The report also covers issues arising for the newly established Ad hoc Working Group on the Durban Platform for Enhanced Action (AWG-DP) which will advance the work on the Durban Platform.

## II. Context and background of the Durban conference

9. The Durban conference was rightly identified as a major opportunity for developing countries and for Africa in particular to ensure that their interests were fully protected while upholding the principles and provisions of the Framework Convention on Climate Change. In preparation for the conference, African leaders and institutions undertook careful efforts to craft decisions that would allow them to speak with one voice in advancing the African Common Position reflected in the AMCEN Bamako Declaration, Key Messages and African Climate Platform.

10. Underpinning this preparation was a growing recognition that climate change represented an existential threat to African countries and people, while the underlying challenges of food security and poverty levels remained real. African ministers confirmed that projected temperature increases would “have catastrophic impacts worldwide, and particularly for Africa due to its high vulnerability to the impacts of climate change and low adaptive capacity.”

11. Despite a show of good faith by developing countries in the climate negotiations – including acceptance of new obligations such as “nationally appropriate mitigation actions”, “measurement, reporting and verification”, “biannual update reports” and “international consultation and analysis” – concerns were raised before and during the Durban conference about the intentions of some developed countries that could erode the trust between developed and developing countries in emerging negotiation platform. The ministerial background note prepared by the African Ministerial Conference on the Environment for ministers attending the Durban conference said the following:

“(a) Developed countries pledges are under 4Gt of abatement by 2020 – less than developing countries’ – and they could avoid domestic action through carbon markets (around 1Gt) and ‘accounting loopholes’ (around 4Gt), which could result in them offering no net contribution by 2020. Analysis of the pledged \$30 billion fast-start finance for 2010-2012 demonstrates less than one-tenth is genuinely “new and additional” and there remains no finance pledges for 2013.

(b) Rather than achieving their quantified emission limited reduction commitments under the Kyoto Protocol, developed countries now seek to transition out of the Kyoto Protocol either immediately (Canada, Japan, Russia) or after a second commitment period (other Annex I Parties), with intention to replace the Kyoto Protocol altogether with a new mitigation-focused protocol under the Convention. The United States seeks a new system of ‘symmetrical’ obligations for developed and developing countries with developing country commitments becoming ‘non-conditional’ on finance.

(c) If adopted, the approach proposed by developed countries risk weakening their commitments, creating new or stronger commitments for developing countries, undermining the principles of equity and common but differentiated responsibilities, and shifting the climate regime away from a ‘science-based’ towards a ‘pledge-based’ architecture that could lock in the current dangerously low levels of ambition.”

12. African experts participating in the African Group of Negotiators’ Strategy Group presented the challenge even more starkly:

(a) Scientists tell us we are on path to 6°C of warming. The current pledges are dangerously inadequate, and would take us from 2.5 to 5°C of

warming. And we recently heard from the International Energy Assessment (IEA) that by 2017 the building of infrastructure will ‘lock in’ the whole remaining carbon budget for 2°C – making it impossible to build another factory, or power plant or road unless it is carbon neutral.

Clearly this places African continent in a very difficult position – on one hand we may be burned by increased warming and on the other hand we may be trapped into no industrial development and growth.

We are caught in between two rocks. We must avoid warming that will destroy our environment, farming, factories and communities. This means we must peak and curb global emissions very soon, possibly as soon as 2015. At the same time, we need a fair share of the remaining atmospheric space for the emissions as we provide energy, build infrastructure, develop and supply basic services to our people.”

13. The challenge for Africa in Durban was therefore to move the negotiations forward in the light of the current political context and constraints. At the same time, Africa recognized that the ultimate yardstick for success or failure must be whether action within and outside the United Nations process addressed climate change in practice, as that is what is required to protect the African continent and its people.

### III. Outcomes under the Protocol

14. A pivotal point for developing countries in Durban was ensuring that the Kyoto Protocol “did not die on African soil”. Ensuring that developed countries – which are largely responsible for causing climate change – undertook a fair and adequate contribution to solving it remained at the top of the priority list for developing countries and an essential obligation under the Convention and the Protocol.

15. Wealthy annex I parties, however, have so far failed to reduce their levels of emissions. While emissions have fallen in eastern European countries (due to economic collapse) “emissions rose between 1990 and 2008 by 8% in the wealthy developed countries (non-economy in transition), indicating that wealthy developed countries have not fulfilled their commitment to take the lead in modifying long-term trends in anthropogenic emissions.”

16. Concerns have also been raised in Africa about the role and availability of carbon markets:

Africa has not benefited proportionately from the Protocol’s Clean Development Mechanism. Projects in Africa are expected to generate less than 3 per cent of the carbon credits generated by the Mechanism, with the majority accruing to other countries. Moreover, rather than assisting developing countries with clean development, offsets principally assist developed countries to meet emissions reductions in a cost-effective manner. They also shift emissions reductions from developed to developing countries, which increases the burden of reducing emissions to developing countries. At least 40 per cent of Clean Development Mechanism projects have not resulted in real emission reductions owing to flaws in current offsetting mechanisms.

17. The African common position in Durban called for:

- (a) Ambitious aggregate/individual numbers of at least 40 per cent by 2017, with a base year of 1990 and a five-year second commitment period;
- (b) A “real, ratifiable and legally binding” second commitment period including quantified emission limitation and reduction commitments (QELRCs), not a merely “political” one.
- (c) Securing a legally binding amendment to annex B, and make consequential amendments to other provisions.
- (d) Ensuring the environmental integrity of efforts by developed countries and to ensure developing countries and Africa in particular, gets its share of the atmospheric space. Parties must close the “loopholes” that threaten to undermine the Annex 1 commitments, in respect of land use, land-use change and forestry, surplus allowances or “hot air”, and marine and aviation or bunkers.

18. The new market mechanisms were to be conditional upon agreement by annex I parties to ambitious mitigation commitments through a second commitment and subsequent periods under the Kyoto Protocol.

19. While recognizing the pledges made by developed countries, Africa took the position that they could only serve as a “floor” and called for a process under Kyoto Protocol to increase the ambition of



these amounts in order to add up to the aggregate number of at least 40 per cent by 2017, during the course of 2012. Africa also called for two outcomes on the two tracks of negotiations, with the Kyoto Protocol remaining the central pillar of the climate regime while building the rest of the architecture up around it and strengthening the foundation of the Convention.

20. A variety of options for achieving the second commitment period were tabled. The preference for Africa was agreement on ambitious numbers in Durban, the amendment of annex B and agreement on provisional application. This proved impossible. A scenario the continent was willing to consider was the option that sought to capture the current pledges as a “floor” in a decision of the Conference of the Parties serving as the meeting of the Parties, agree for a strict timebound process in 2012 to increase ambition, possibly extend the first commitment period, use the new more ambitious numbers as the basis of quantified emissions limits and reduction commitments to amend annex B, and seek provisional application.

21. The outcome of the Durban negotiations under the Kyoto Protocol is captured in a number of decisions, discussed below, that bear careful consideration.

#### **A. Decision on the outcome of the work of the Ad Hoc Working Group on Further Commitments for annex I parties under the Kyoto Protocol at its sixteenth Session**

22. The preambular text of the decision covers the importance of developing a comprehensive global response to the problem of climate change, ensuring the environmental integrity of the Kyoto Protocol, the role of the Protocol in the mitigation efforts by annex I parties, the importance of ensuring continuity in mitigation action by those parties and the need to begin the second commitment period of the Protocol without delay.

23. The decision recognizes the need to ensure that aggregate emissions of greenhouse gases by annex I parties are reduced by at least 25–40 per cent below 1990 levels by 2020, noting in that regard the relevance of the review referred to in chapter V of decision 1/CP.16, which is to be concluded by 2015.

24. Note is also made on the outcomes of the technical assessment of forest management reference levels referred to in paragraph 5 of decision 2/CMP.6.

25. Parties have agreed that the second commitment period under the Protocol will begin on 1 January 2013 and end either on 31 December 2017 or 31 December 2020. This decision is to be made by the AWG-KP at its seventeenth session.

26. Proposed amendments to annex A (a list of parties with quantified economy-wide emission reduction targets, to be turned into QELROs, as communicated by them) and to annex B (list of gases), including amendments under articles 3 and 4 of the Protocol, are attached as annexes to the decision.

27. The Parties listed in annex 1 to this decision are invited to submit information on their QELROs for the second commitment period under the Kyoto Protocol by 1 May 2012 for consideration by the AWG-KP at its seventeenth session so as to have these QELROs adopted as amendments to annex B of the Kyoto Protocol by the Conference of the Parties serving as the meeting of the Parties at its eighth session.

28. The AWG-KP is requested to assess the implications of the carry-over of assigned amount units to the second commitment period and to recommend appropriate actions to be taken by the Conference of the Parties serving as the meeting of the Parties at its eighth session.

#### **Outcome**

29. Broadly speaking the decision on the Kyoto Protocol does state an agreement to undertake a second commitment period. However, some concerns arise over the nature of that commitment:

(a) Currently, it does not ensure agreement on an aggregate reduction for annex I parties in the range noted in its preamble (25–40 per cent) or any aggregate range. Instead it seems to support a “bottom up” rather than a “science-based” approach despite the approach agreed for the negotiations at the 2008 climate change conference, in Poznan, Poland, and the continued support for such an approach by the members of the African group and other developing countries;

(b) The decision includes no clear mechanism for the multilateral negotiation of annex I parties’ emission reduction commitments – either in aggregate or individually – but rather recognizes the pledges that have been made so far and calls on annex I parties to “submit information on their QELROs”, raising questions as to whether there will be an agreed multilateral process for the

calculation of QELROs. In the light of this, there is a substantial risk that the dangerously inadequate pledges of developed countries will be locked into the Kyoto Protocol;

(c) While the decision does state that a second commitment period will take place commencing 1 January 2013 further analysis is required as to whether it will, in any clear respect, meet all the requirements agreed to in the Kyoto Protocol, the mandate and process for the negotiation of further commitments and the reasonable expectations of developing countries including the African Group.

(d) There is no agreement on the end date for the second commitment period. While the text submitted to parties in the final moments of the negotiations included an end date of 2017, the Chair on his own responsibility responded to demands by some developed countries (notably the European Union) to include the alternative end-date of 2020. This now remains to be resolved during 2012. It is notable that this was the only change permitted to the text during the final plenary meeting and that the Chair apparently saw fit to do it without prior consultation with developing countries.

30. While the Kyoto Protocol did not die on African soil it slipped further into intensive care, with developed countries securing a victory in terms of the approach to negotiations under the Protocol (bottom-up versus science-based), as well as their intention to replace the Protocol with a new agreement at the end of the second commitment period (e.g., through a new mandate and potential alignment of the end dates for both processes in 2020). Further reflection on the nature of the second commitment period as defined in Durban and its relation to other mitigation negotiations (e.g., under the AWG-LCA and the Durban Platform) is required to ensure that a science-based and equity-based approach to the negotiation of annex I parties' mitigation commitments is retained under all tracks going forward, including under the Kyoto Protocol, as demanded by African countries.

## **B. Decision on land use, land-use change and forestry (LULUCF)**

31. The African group position on land use, land-use change and forestry (LULUCF) states that issues relating to land use, land-use change and forestry must be addressed in a manner that ensures the environmental integrity of commitments taken by annex I parties in regard to a second commitment period of the Kyoto Protocol. Some the issues seen as key for a decision included:

(a) Definition of force majeure, emissions from harvested wood products, baseline levels for accounting for forest management and retention of the definitions of forest, afforestation, deforestation, re-vegetation and forest management;

(b) Improvement on existing rules for LULUCF accounting without creating new perverse incentives;

(c) Provision of safeguards for annex I parties that prevent undue exposure to compliance risks (e.g., natural disturbances) while ensuring the integrity of their commitments;

(d) Avoidance of inflation of baselines and potential erosion of demand for the reduction of emissions from deforestation and forest degradation (REDD);

(e) Maintenance of incentives for better forest management in annex I parties;

(f) Avoidance of approaches to LULUCF that are inappropriate in relation to other sectors, including REDD;

(g) Closing loopholes in the land-use sector to ensure effective domestic emission reductions by annex I parties in order to deliver "equitable and appropriate contributions" towards avoiding dangerous interference with the climate system and achieving the objectives of the Convention, as required by Article 4 of the Convention.

### **Outcome**

32. The CMP decision affirms the use of land use, land-use change and forestry activities included under the provisions of the Kyoto Protocol in the second and subsequent commitment periods of the Kyoto Protocol.

33. The anthropogenic greenhouse gas emissions by sources and removals by sinks are to be accounted for in accordance with the principles and definitions referred to in paragraphs 1 and 2 of decision 2/CMP.6 and in accordance with the annex to this decision. The SBSTA is requested to initiate work programmes:

(a) To "explore more comprehensive accounting for anthropogenic emissions by sources and removals by sinks" and to report to the Conference of the Parties serving as the meeting of the Parties at its ninth session;

- (b) Programme to consider and, as appropriate, develop and recommend modalities and procedures for possible additional LULUCF activities under the Clean Development Mechanism;
- (c) To consider and, as appropriate, develop and recommend modalities and procedures for alternative approaches to addressing the risk of non-permanence under the clean development mechanism;
- (d) To initiate a work programme to develop and recommend modalities and procedures for applying the concept of additionality.
34. All the outcomes of the work programmes are to be presented for adoption by the Conference of the Parties serving as the meeting of the Parties at its ninth session.
35. In paragraph 8 of the decision the Intergovernmental Panel on Climate Change is invited to review and update supplementary methodologies for estimating anthropogenic greenhouse gas emissions by sources and removals by sinks resulting from LULUCF activities under paragraphs 3 and 4 of article 3 of the Protocol related to the annex to the decision on the basis of, inter alia, chapter 4 of its Good Practice Guidance for Land Use, Land-Use Change and Forestry.
36. The definitions, modalities, rules and guidelines relating to LULUCF activities under the Kyoto Protocol contained in the annex to this decision are adopted for application in the second commitment period.
37. Based on these decisions, LULUCF will remain a priority during 2013, and further efforts will be required to close loopholes and to ensure an adequate level of emissions reductions by annex I parties in the light of the global goal and other elements agreed at the Durban Conference and previous meetings.

### **C. Decision on emission trading and the project-based mechanisms**

38. On emission trading and project-based mechanisms under the Protocol:
- (a) The Group was of the view that the AWG-KP has a clear and focused legal mandate, as specified in Article 3.9 of the Kyoto Protocol. That mandate was to establish, by amendments to annex B, quantified emissions limitation and reduction commitments by annex I parties for subsequent periods
- (b) More ambitious commitments by annex I parties are critical for Africa, both because of its vulnerability to the impacts of climate change and the urgency of meeting an ambitious global goal of keeping warming well below 1.5°C and to secure the efficacy of carbon markets including the Clean Development Mechanism;
- (c) The Group took the position that “other matters”, including emissions trading and the project-based mechanisms, should be considered only in so far as they are directly relevant to this focus, and then not to divert attention from the mandated focus of the AWG-KP.
- (d) To ensure the integrity of annex I parties’ emissions reduction commitments and to guarantee a fair and sustainable level of domestic emissions reductions in annex I parties it is necessary:
- (i) To ensure that carbon credits from market-based mechanisms yield emissions reductions that are genuinely “additional” to ensure an actual contribution to reducing emissions;
- (ii) To close existing loopholes, including those relating to surplus assigned amount units, land-use rules and marine and aviation transportation;
- (iii) To provide a limit on the extent to which annex I parties can “offset” their emissions reduction commitments by undertaking emissions reductions in developing country parties;
- (e) The Group confirmed that in this context, for the period referred to in article 3, paragraph [1 ter], of the Protocol, the net result of additions to and subtractions from the assigned amount of an annex I party resulting from emissions trading, the project-based mechanisms and other market-based mechanisms should not exceed 10 per cent of the percentage inscribed for that party in annex B to the Protocol of its aggregate anthropogenic carbon dioxide equivalent emissions reduction of the greenhouse gases listed in annex A to the Protocol in 1990, or the base year or period determined in accordance with paragraph 5 above, multiplied by five;
- (f) The process relating to any new market mechanisms should be conditional upon agreement by annex I parties of ambitious economy-wide legally-binding emissions reduction

commitments through a second commitment period under the Protocol and should be guided by the principles of the Convention, including the principles of equity and common but differentiated responsibilities, and the promotion of a supportive and open international economic system;

(g) The Marrakesh Accords should not be reopened.

39. In relation to the Clean Development Mechanism:

(a) The group confirmed that it was an obligation that the Clean Development Mechanism process should maintain the environmental integrity of projects under the flexible mechanisms and develop alternative ways to assess the additionality of projects and methodologies in order to increase the diversification of CDM projects and enhance capacity-building for sustainable development in non-annex I parties;

(b) There was a clear need to explore the role and eligibility of deforestation and forest degradation to the Clean Development Mechanism, and a more effective regional distribution of the CDM projects;

(c) Africa supports a process that enables the use of standardized baselines in order to ensure environmental integrity and the regional distribution of the clean development mechanism. The Executive Board should ensure the development of modalities for the provision of appropriate standardized baselines, as well as modalities for suppressed demand, in order to ensure an equitable volume and value of project-based activities in Africa;

(d) Annex I parties in a position to do so should take reasonable measures to increase the number of project activities, by using certified emission reductions, in least developed countries, African parties and parties with fewer than 10 registered project activities, and developing countries as defined in paragraph 8 and 10 of article 4.

40. In relation to the share of proceeds available to support adaptation activities:

(a) Africa believes that it is necessary to deal with the issue relating to the share of proceeds under the Kyoto Protocol given the uncertainties of the finance negotiation and actions by annex I parties to meet their finance commitments, while engaging actively on other means under the Convention of soliciting funds for adaptation;

(b) The resources of the Adaptation Fund should be improved. It is therefore necessary to extend the share of proceeds to the other mechanisms as well as to those that can be created for or during the second commitment period;

(c) It is important to extend the share of proceeds for the Adaptation Fund to joint implementation and emission trading mechanisms for at least 2 per cent for each project activity or exchange among annex I parties.

41. In relation to gases with high global-warming potential (GWP):

(a) Discount factors could be used to shift Clean Development Mechanism projects from a focus on high-GWP gases (e.g., chlorofluorocarbons) to CO<sub>2</sub> mitigation projects;

(b) There is a clear need for further assessment and studies by the Intergovernmental Panel on Climate Change on broadening gases, categories and GWP versus global temperature change potential.

42. In relation to proposed new market-based mechanisms:

(a) Any proposed new market-based mechanisms should complement the original flexible mechanisms and should not by any means substitute them;

(b) It is necessary to ensure voluntary participation and fair and equitable access for all developing country parties;

(c) The entry into force of any new mechanisms shall follow the determination of the second commitment period of the Protocol and agreement on the increase in the level of ambition of emissions reduction commitments by annex I parties;

(d) Any share of proceeds relating to any new-market mechanisms should not be the major sources of finance in order to enable non-annex I parties to meet the costs of adaptation;

(e) It is important to avoid double accounting, and any new mechanism should be designed to avoid it;

(f) Access to any new market mechanisms for non-annex I parties must be supported by annex I parties through the Protocol and the Convention dispositions.

### **Outcome**

43. The decision on emissions trading and the project-based mechanisms reconfirms that the use of the mechanisms shall be supplemental to domestic action and that domestic action shall thus constitute a significant element of the effort made by each annex I party to meet its quantified emissions limitation and reduction commitments under paragraph 1 of article 3 of the Protocol or any amendment thereto.

44. CMP8 will review, and revise as appropriate, the design of the commitment period reserve for the subsequent commitment period to support the effective operation of emissions trading, taking into account, inter alia, the relevant rules, modalities, guidelines and procedures for measuring, reporting, verification and compliance.

45. The Parties request SBI 36 to consider the design of the commitment period reserve with a view to recommending draft decisions for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its eighth session.

46. Further work in 2012 will be needed on QELROS. As noted, the length of the second commitment period has not been decided, the options being five years (2013–2017) or eight years (until 2020). This is discussed further below.

## **D. Greenhouse gases, sectors and source categories, common metrics to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks, and other methodological issues**

47. The CMP decision on this topic covers the treatment to be provided to greenhouse gases in the second commitment period of the Kyoto Protocol, sectors and source categories, common metrics to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks, and other methodological issues including methodologies for estimating anthropogenic emissions by sources and removals by sinks of greenhouse gases.

## **E. Consideration of information on potential environmental, economic and social consequences, including spillover effects, of tools, policies, measures and methodologies available to annex I parties**

48. Africa supported the establishment of a permanent forum as a means for parties to report and evaluate impacts and consequences of policies and measures of response measures; this would offer a common space where parties may provide information on their specific needs and concerns relating to such consequences and identify ways to minimize the negative consequences of the policies and measures adopted by annex I parties on non-annex I parties.

49. The decision on the subject adopted at Durban (decision 5/CMP.7) simply notes that a framework for the consideration of potential consequences has been established through decisions 15/CMP.1, 27/CMP.1 and 31/CMP.1. Additional work should build on relevant decisions of the Conference of the Parties serving as the meeting of the Parties and work being carried out by other bodies and in other processes under the Convention and the Protocol, with the aim of maintaining an approach that is coherent with other work under the Convention. There is recognition that use can be made of the forum established under the AWG-LCA decision on response measures.

## **IV. Outcomes under the convention**

50. The outcome of the negotiations under the Convention was expressed in one general decision as well as supplementary decisions relating to the Green Climate Fund, Technical Executive Committee, and national adaptation plans. It also included the decision on the Durban Platform (discussed in section IV below). The general decision on the outcome of the AWG-LCA addresses the main elements of the Bali Action Plan including shared vision, mitigation, adaptation, finance, technology and capacity, as well as the planned review.

### **A. A shared vision for long-term cooperative action**

51. In terms of the shared vision the African group supported a global goal of limiting warming to 1.5°C as essential to Africa's future. They recognized the need for a 2050 goal and peaking year based on science and equitable access to sustainable development and atmospheric space. At AMCEN, ministers stated:

“We emphasize that avoiding dangerous interference with the climate system and achieving a global goal of limiting temperature increase to well below 1.5°C will require an integrated approach based on science, equity and the rule of law. Such an approach must include ambitious short, medium and long-term mitigation commitments by annex I parties that reflect their historical responsibilities and is an equitable and appropriate contribution to the global effort to tackle climate change, and the provision of adequate means of implementation – finance, technology and capacity building – to enable non-annex I parties to address mitigation and adaptation...”

52. They also stated:

“We also reaffirm the right to equitable sharing of atmospheric space and resources by non-annex I parties, in particular Africa, taking into account the cumulative historical responsibility and use of such resources by annex I parties and the fact that cumulative emissions in Africa remain extremely low. Africa’s share of global emissions will need to grow to meet its social and economic development needs.”

53. There has been controversy regarding the overall level of ambition and the need for an agreement on “the numbers”. The issues put forth by the African group for inclusion in the shared vision are covered in detail in the African Common Position (including on page 17 of the agreed document entitled African Climate Platform to Durban). They include: having as basis the principles, objective, provisions and the instruments of the Convention; include long-term goal for global greenhouse gases emissions reductions for global emissions relative to historical levels by mid-century, underpinned by ambitious annex I parties’ mid-term targets based on sound science; address all the building blocks of the Bali Action plan, be based on principles including equity, fairness; and recognition of the fact that solving the climate problem will only be possible if it is undertaken in the context of developing countries’ need for development space.

#### **Outcome**

54. On a shared vision, the Parties agreed in Durban:

(a) In the context of the long-term goal and the ultimate objective of the Convention and the Bali Action Plan, to continue to work towards identifying a global goal for substantially reducing global emissions by 2050 and to consider it at its eighteenth session;

(b) To continue to work, in the context of the provisions of paragraph 6 of decision 1/CP.16, towards identifying a time frame for the global peaking of greenhouse gas emissions based on the best available scientific knowledge and equitable access to sustainable development and to consider it at its eighteenth session;

(c) That consideration of a global goal for substantially reducing global emissions by 2050 and the time frame for global peaking of greenhouse gas emissions cannot be undertaken in the abstract and will necessarily involve matters related to the context for such considerations”;

55. Of importance to Africa, the parties request the AWG-LCA to consider the issue of equitable access to sustainable development, as contained in decision 1/CP.16, through a workshop at its next session and to report to the Conference of the Parties as part of its work. This is based on a specific proposal by the African group and is to be noted as an achievement of the group given the importance to the group and to developing countries of the issues surrounding equitable access to atmospheric space and to sustainable development.

56. Among other things, further work is required on the shared vision to understand the implications for Africa of a long-term global goal and peaking year, as well as various scenarios for the level of mitigation effort by developed countries on the equitable sharing of atmospheric space and sustainable development, and to support the first workshop.

### **B. Enhanced action on mitigation**

57. The mitigation-related issues revolve around the level of ambition of the emissions reduction pledges that have so far been pledged and the importance of maintaining the structure of the Convention, which distinguishes between the need for mitigation commitments by annex I parties and supports mitigation actions by developing countries supported and enabled by finance, technology transfer and capacity-building. Other issues include transparency, REDD and new carbon market mechanisms.

**1. Nationally appropriate mitigation commitments or actions by developed country parties****(a) Matters relating to paragraphs 36–38 of the Cancun Agreements**

58. The decision recognizes that deep cuts in global greenhouse gas emissions are required according to science, as documented in the fourth assessment report of the Intergovernmental Panel on Climate Change, with a view to reducing global greenhouse gas emissions so as to hold the increase in global average temperature below 2°C above pre-industrial levels, and that parties should take urgent action to meet this long-term goal, consistent with science and on the basis of equity; also recognizes the need to consider, in the context of the first review of the long-term global goal, as referred to in paragraph 138 of decision 1/CP.16, strengthening the long-term global goal on the basis of the best available scientific knowledge, including in relation to a global average temperature rise of 1.5 °C.

59. It further recognizes there is a gap between what has so far been pledged and what is needed globally. Developed countries are urged to increase their level of ambition and to submit information on their pledges using a common template.

60. Developed country parties are urged to increase the ambition of their economy-wide emission reduction targets, with a view to reducing their aggregate anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol to a level consistent with the ranges documented in the fourth and subsequent assessment reports of the Intergovernmental Panel on Climate Change.

61. Parties decided to continue in 2012 the process of clarifying the developed country parties' quantified economy-wide emission reduction targets contained in document FCCC/SB/2011/INF.1/Rev.1, with the objective of understanding assumptions and conditions related to individual targets. Work will be based on submissions and in-session workshops.

62. Developed country parties are requested to share experiences with the development of low-emission development strategies during the in-session workshops and to submit information related to progress towards formulation of their low-emission development strategies.

**(b) UNFCCC biennial reporting guidelines for developed country parties**

63. Measuring, reporting and verification are intended to support transparency and demonstrate that the pledges and commitments are being fulfilled. In Durban, the major contention regarding measuring, reporting and verification was on common accounting rules, the registry, update of national communications guidelines and biennial update reports by non-annex I parties.

64. By Cancun decision 1/CP.16, Parties decided to enhance reporting in the national communications of annex I parties, and on progress in achieving emissions reductions and on the provision of financial, technology and capacity-building support to parties not included in annex 1 to the Convention (non-annex 1 parties), building on existing reporting and review guidelines, processes and experiences.

65. In Durban parties decided, among other reporting modalities, that developed country parties will use the Convention's biennial reporting guidelines for developed country parties for the preparation of their first biennial reports, taking into account their national circumstances, and submit their first biennial reports to the secretariat by 1 January 2014 and their second and each subsequent biennial report two years after the due date of a full national communication (i.e., in 2016 and 2020).

**(c) Modalities and procedures for international assessment and review**

66. Parties also decided on a process for the international assessment and review of emissions and removals related to developed country parties. The modalities and procedures for international assessment and review adopted are contained in the annex to the decision, with the first round of international assessment and review scheduled to commence two months after the submission of the first round of biennial reports by developed country parties.

67. It was also decided that the review of annual national greenhouse gas inventories will continue on an annual basis and that the international assessment and review will be conducted every two years for the biennial reports, whether independently or in conjunction with a national communication.

68. A work programme was established under the Subsidiary Body for Scientific and Technological Advice, with a view to concluding the revision of the guidelines for the review of biennial reports and national communications, including national inventory reviews to be concluded no later than nineteenth session of the Conference of the Parties.

## 2. Nationally appropriate mitigation actions by developing country parties

### (a) Matters relating to paragraphs 48–51 of the Cancun Agreements

69. Developing country parties' contribution to global mitigation efforts are recognized and there is a reaffirmation that 'social and economic development and poverty eradication are first and overriding priorities of developing country parties, and that a low-emission development strategy is central to sustainable development, and that the share of global emissions originating in developing countries will grow to meet their social and development needs'. Developed countries are to provide support for the preparation and implementation of nationally appropriate mitigation actions. Developing countries have also been requested to submit information on their pledges, to be discussed in workshops.

### (b) Biennial update reporting guidelines for non-annex I parties

70. The Parties decided that developing country Parties, consistent with their capabilities and the level of support provided for reporting, should submit biennial update reports containing updates of national greenhouse gas inventories, including national inventory reports and information on mitigation actions, needs and support received. Guidelines adopted for biennial reports from developing countries respect the diversity of mitigation actions and are flexible to allow Parties not to adhere to a fixed template. The first reports are expected in December 2014. Least developed countries and small island developing States have no timeframe. GEF funding is available, at agreed full cost, as early as 2012, for the preparation of biennial update. Parties are to submit the reports every two years, either as a summary of parts of their national communications in the years when national communications are submitted or as stand-alone update reports. In summary, the outcome under this item went a long way towards achieving the developed countries' goal of establishing parallel commitments between annex I and non-annex I parties for biennial reporting, with additional flexibility given for least developed countries and small island developing States.

### (c) Registry

71. By decision 1/CP.16, paragraphs 53 to 59, Parties decided to set up a registry to record nationally appropriate mitigation actions seeking international support and facilitate the matching of financial, technological and capacity-building support for these actions, and to recognize nationally appropriate mitigation actions of developing country parties in a separate section of the registry.

72. Recognizing that there was a need for support for enabling activities to assist developing country parties in the identification and preparation of nationally appropriate mitigation actions for submission to the registry, as well as a need for support for their implementation, the Conference of the Parties decided that the registry should be developed as a dynamic, web-based platform managed by a dedicated team in the secretariat, with participation being voluntary.

73. Developing country parties are invited to submit to the secretariat the following information on individual nationally appropriate mitigation actions seeking international support:

- (a) A description of the mitigation action and the national implementing entity, including contact information;
- (b) The expected timeframe for the implementation of the mitigation action;
- (c) The estimated full cost of the preparation;
- (d) The estimated full cost and/or incremental cost of the implementation of the mitigation action;
- (e) The amount and type of support (financial, technological and capacity building) required to prepare and/or implement the mitigation action;
- (f) Estimated emissions reductions;
- (g) Other indicators of implementation;
- (h) Other relevant information, including the co-benefits for local sustainable development, if information thereon exists;
- (i) Information on other individual nationally appropriate mitigation actions, to be recorded in a separate section of the registry, for their recognition.

74. Developed country parties, the entity or entities entrusted with the operation of the financial mechanism, including the Global Environment Facility and the Green Climate Fund, multilateral, bilateral and other public donors and private and non-governmental organizations to submit to the



secretariat, information on financial, technological and capacity-building support available and/or provided for the preparation and/or implementation of nationally appropriate mitigation actions of support.

75. The registry will facilitate the matching of actions seeking international support with support available by providing and directing information to parties that submitted information on nationally appropriate mitigation actions seeking support and parties and entities that have submitted information on support available.

76. The decision requests the secretariat to develop a prototype of the registry by the thirty-sixth session of the Subsidiary Body for Implementation in order to present the prototype to parties for their consideration.

**(d) Modalities and guidelines for international consultation and analysis**

77. To increase the transparency of mitigation actions and their effects, Parties adopted the modalities and guidelines for international consultation and analysis as contained in the annex to this decision and decided that the first rounds of international consultation and analysis will be conducted for developing country parties, commencing within six months of the submission of the first round of biennial update reports by developing country parties.

78. The frequency of participation in subsequent rounds of international consultation and analysis by developing country parties will be based on their respective capabilities and national circumstances, and special flexibility for small island developing State and least developed country parties.

79. The Durban decision urges developed country parties and other developed parties included in annex II to the Convention to provide new and additional financial resources at the agreed full cost in accordance with article 4, paragraph 3, of the Convention with a view to supporting any reporting needed for international consultations and analysis.

80. Parties are invited to submit to the secretariat by 5 March 2012 their views on the composition, modalities and procedures of the team of technical experts referred to in paragraph 1 of annex IV to the decision.

81. Substantial further work will be required to support the African group during 2012 in respect of both the new commitments agreed in Durban as well as to strengthen approaches as they apply to developed countries. Further efforts are required to ensure that developing countries are not subjected to burdensome new requirements while developed countries secure commitments that are merely equivalent to or weaker than their existing commitments under the Protocol. Ensuring an appropriate distinction between developed and developing countries, based on the principles of equity and common but differentiated responsibilities, will likely remain a key concern for African and other developing countries.

**(e) Policy approaches and positive incentives on issues relating to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries**

82. The decision marks a step in the progress towards the full REDD mechanism. The LCA decision on options for resultsbased financing for REDD+ goes further than originally envisaged. For the first time it is explicitly stated that “marketbased approaches could be developed to support results based actions”. It also lays out a process to COP 18 for further work on this topic. There is also an implicit linkage between financing and consistency with the safeguards.

83. REDD is a priority for a number of African countries. Further work on REDD, including the implications of market-based approaches, will likely be required. These could, among other things, address the specific issues arising from the application of market-based approaches to REDD and take into consideration the likely effect of market-based approaches under REDD on the adequacy of annex I parties’ mitigation efforts, as well as their contributions to the global goal of limiting warming to 2°C or 1.5°C.

**(f) Cooperative sectoral approaches and sector-specific actions, in order to enhance the implementation of Article 4, paragraph 1(c), of the Convention**

84. Cooperative sectoral approaches were initially intended to implement article 4.1(c), which, in turn, is to ensure the transfer of technologies to developing countries in “all relevant sectors” – a major objective of the developing countries. This item, however, has gradually been transformed into an agenda item of substantial interest to the developed countries, with a narrowing and shifting of focus to address international aviation and maritime transport (an issue that was to be addressed initially

under the Protocol, focusing on the developed countries) and agriculture (with many developed countries seeking a comprehensive agenda in SBSTA, including mitigation and markets).

85. The narrowing of this agenda, and the focus on agriculture here rather than principally in other areas such as adaptation, has arguably been to Africa's disadvantage. Africa's interests in climate change and agriculture focus principally on key issues of concern to the continent including adaptation, loss and damage, the impact of developed countries' climate response measures, public finance for agriculture and ensuring food security, farmers' rights and rural development. As noted, the African Ministerial Conference on the Environment has called for the formal adoption of a work programme on agriculture under adaptation. Unfortunately no such work programme was established in Durban.

86. In Durban, the outcome under sectoral approaches:

(a) Agreed, under the heading "general framework", that parties will continue its consideration of a general framework for cooperative sectoral approaches and sector-specific actions with a view to adopting a decision on this matter at its eighteenth session, as appropriate;

(b) Requested SBSTA to consider agriculture at its next session, with submissions by parties and observer organizations and a compilation by the secretariat;

(c) Agrees to continue its consideration of issues related to addressing emissions from international aviation and maritime transport.

87. In terms of next steps, work will need to continue with a view to adopt a decision on this matter at the eighteenth session of the Conference of the Parties. This should include a strong general framework including concerns and issues of developing countries, as well as a refocusing of efforts on "all relevant technologies" as required by Article 4.1(c). Further efforts are required to establish agriculture as a priority in other issue areas within the negotiations (where negotiated outcomes including adaptation and financing can be agreed), while also participating effectively in the discussions under SBSTA. Discussions of international aviation and maritime transport could provide a useful venue for discussing the implications of certain measures (e.g., the European Union air transport levy) on African and other developing countries.

**(g) Various approaches, including opportunities for using markets, to enhance the cost-effectiveness of, and to promote, mitigation actions, bearing in mind different circumstances of developed and developing countries**

88. The African group, as per the African common position, was of the view that the finalization of this agenda item requires the finalization of ambitious, fair, effective and legally binding outcomes under the Convention and the Protocol that follows the principles of the Convention, in particular the principles of equity, common but differentiated responsibilities and respective capabilities, historic responsibility and environmental integrity, together with the provisions related to annex I parties' obligations to provide support to non-annex I parties.

89. The African group has supported reform of the Clean Development Mechanism under the Protocol, but has approached proposals for new carbon markets under the Convention with some caution on a number of grounds. One is that the creation of carbon markets outside the Protocol could support the intention of some annex I parties to "jump ship" from the Protocol to a new and potentially weaker agreement. Issues are also raised about the aggregate contributions of developed countries to an agreed global goal, in the event that new markets and other loopholes are expanded rather than closed. Issues have also been raised about the likely level of demand for new carbon credits in the event that the level of ambition for annex I emissions reductions is not substantially increased (currently annex I parties' mitigation pledges are considerably lower than those of developing countries, and are largely or totally negated by the existence of a range of accounting loopholes (e.g. land-use accounting, surplus allowances and rules on bunker fuels)). Additional demand for markets can only be created through strengthened annex I party commitments.

90. In the negotiations, the annex I parties have held the position that most of the financial support needed by non-annex I parties could be delivered through the carbon markets. On the other hand most developing countries are dissatisfied with the current Clean Development Mechanism and recognize that carbon markets are not a means of providing new and additional finance for developing countries, but rather a means by which developed countries can cost-effectively achieve their own mitigation commitments by undertaking mitigation actions in developing countries.

## Outcome

91. The decision on various approaches emphasizes that any market mechanism must comply with “standards that deliver real, permanent, additional and verified mitigation outcomes, avoid double counting of effort, and achieve a net decrease and/or avoidance of greenhouse gas emissions.” A work programme is set up in order to come up with a framework for such approaches to be considered at COP18.

92. A new market mechanism is defined to operate under the guidance and authority of the Conference of the Parties, which ‘may assist developed countries to meet part of their mitigation targets or commitments under the Convention’. The decision needs further clarification for markets to understand the engagement of the private sector.

93. Capacity to be built to understand the operation and implications of both market-based and non-market based approaches and their operations, to prepare countries make submissions

### 3. Economic and social consequences of response measures

94. African countries welcomed the decision adopted in Cancun to provide a forum on the impact of the implementation of response measures (decision 1/CP.16, paragraph 93) and supported the development of a work programme on the issue. They were, however of the view that these discussions be held under mitigation, and that their progress should not delay progress on the urgent matter of adaptation.

95. For the Durban conference, they felt that parties should, among other issues, acknowledge the importance of avoiding and minimizing the negative impacts of response measures on social and economic sectors, promoting a just transition of the workforce, the creation of decent work and quality jobs in accordance with nationally defined development priorities and strategies, and contributing to building new capacities for both production and service-related jobs in all sectors and promoting economic growth and sustainable development. Africa sought for the Conference of the Parties to:

(a) Agree to adopt, at the seventeenth session, modalities for the operationalization of a permanent forum, defining its mandate, nature, scope, composition, functions, related support, reporting and evaluation and any other related matters; and

(b) Further decide that annex I parties and annex I parties included in annex II shall strive to implement policies and measures to respond to climate change in such a way as to avoid and minimize negative social and economic consequences for non-annex I parties, taking fully into account article 3 of the Convention, and shall provide them, in accordance with paragraphs 3, 5 and 7 of article 4 of the Convention, new and additional financial resources, including for the transfer of technology and capacity-building, in order to build the resilience of societies and economies negatively affected by their response measures.

See page 38 of the common African position on climate change adopted in Bamako in 2011.

## Outcome

96. The Durban decision adopts a work programme, under the subsidiary bodies, on the impact of the implementation of response measures including the modalities, with the objective of improving the understanding of the impact of the implementation of response measures and establishes a forum on the impact of the implementation of response measures to be convened by the chairs of the subsidiary bodies, to implement the work programme.

### C. Enhanced action on adaptation

97. Adaptation is a key priority for Africa and was a key priority in Durban. In preparation for the Durban conference, the African Ministerial Conference on the Environment reaffirmed:

“... that adaptation is an essential priority for Africa and that there is an urgent need for immediate and adequate support for the implementation of adaptation measures and actions through the provision of grant-based public resources. We acknowledge that there is an urgent and immediate need to avoid further loss and damage arising from the adverse effects of climate change on Africa. In this regard, immediate action should be taken in particular by Annex I Parties to reduce their emissions in line with the information set out in the Fourth Assessment Report of the Intergovernmental Panel on Climate Change and more recent scientific studies in a way that will limit the global average temperature increase to well below 1.5°C.”

98. Adaptation issues affect a wide range of sectors. To protect agriculture, for instance, major efforts are required both to curb warming and to protect African farmers, food security and rural development from rising climate impacts. Research summarized by the African Climate Policy Center confirms that:

(a) Recent scientific analysis shows that from 1980 to 2008, due to rising global temperatures; global maize and wheat production have already decreased by 3.8 per cent and 5.5 per cent, respectively;

(b) Currently, at 0.74°C of warming, African farmers and pastoralists are seeing changes in the timing of rains, in the severity of rains, in the temperatures that they and their crops and animals are exposed to, and in the progressive drying of their soils. Food production is already threatened by the temperature rise of the last century and the committed warming due to greenhouse gas emissions of the last decades;

(c) Scientific studies confirm that the increase in sea surface temperatures due to global warming has been a contributing factor to the Sahel drought of the 1980s and is a factor in the current drought in the Horn of Africa;

(d) Slow onset temperature rise is already having and will continue to have serious consequences for African farmers and pastoralists. By 2050, with 1.5°C of predicted warming, scientists estimate that average production losses in African maize will be 22 per cent. Predicted yield losses in other crops are also significant: sorghum, 17 per cent, millet, 17 per cent, groundnuts, 17 per cent, and cassava, 8 per cent;

(e) Due to current and significant near-term predicted impacts on crop yields, adaptation in agricultural systems is an urgent imperative.

99. At AMCEN, ministers called on developed countries:

“... to urgently scale up support for the implementation of adaptation measures and plans, particularly through the Cancun Adaptation Framework and Nairobi Work Programme, and to support and expedite work to understand, reduce and compensate loss and damage associated with the adverse effects of climate change, including impacts on agriculture.”

100. In recognition of the importance of agriculture to Africa, they further recommended:

“... that a comprehensive work programme on agriculture in non-Annex I Parties be established under the Cancun Adaptation Framework and further recommend that agriculture be addressed as a matter of priority in relation to the mitigation commitments of Annex I Parties.”

101. On all issues of adaptation Africa participated actively in the negotiations to support the further development of the Cancun Adaptation Framework and other outcomes agreed in Cancun, which included:

(a) Inviting parties to strengthen and/or establish regional centres and networks;

(b) Agreeing to establish an adaptation committee to promote enhanced action;

(c) Agreeing to establish a process for least developed countries to formulate and implement national adaptation plans;

(d) Agreeing to establish a work programme to consider approaches to dealing with loss and damage resulting from climate change (e.g., a climate risk insurance facility).

102. In Durban discussions focused, among other things, on the Framework for Adaptation, so as to improve the coherence and effectiveness of adaptation action and negotiate a mechanism on loss and damage arising from climate impacts.

### **Outcome**

103. In Durban, Parties agreed that the Adaptation Framework, with the Adaptation Committee as the overall advisory body to the Conference of the Parties on adaptation, was to be operational by 2012, providing guidance and advice on national adaptation plans. These plans will allow developing countries to assess and reduce their vulnerability to climate change.

104. The vulnerable countries are to receive better protection against loss and damage caused by extreme weather events related to climate change. There will be two series of adaptation workshops and technical papers, the first on assessing the risk of loss and damage associated with the adverse

effects of climate change and current knowledge and the second on a range of approaches to addressing loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow onset events.

105. A process has also been created to enable least developed countries to assess their national adaptation needs and better plan their national adaptation activities. See decision on national adaptation plans. The annex to the decision provides the guidelines on the process.

106. Unfortunately, despite the efforts of African countries, a comprehensive work programme on agriculture in non-annex I parties under the Adaptation Framework was not established in Durban, despite the recommendation of African Ministers.

107. Further work to address adaptation going forward could include, among other things:

- (a) In relation to loss and damage, assessing the risk of loss and damage associated with the adverse effects of climate change and current knowledge on the same;
- (b) Approaches to address loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow onset events;
- (c) The role of the Convention in enhancing the implementation of approaches to addressing loss and damage associated with the adverse effects of climate change;
- (d) Further analysis of projected impacts in all sectors, including agriculture, and efforts to establish a comprehensive work programme on agriculture in non-annex I parties under the Cancun Adaptation Framework;
- (e) Other efforts as identified by African experts and officials.

## **D. Finance**

108. Countries contributions to climate change mitigation and their capacity to deal with them and cope with their consequences vary enormously. The Convention and the Protocol therefore mandate financial and technological transfers from parties with more resources to those less well endowed and more vulnerable.

109. The Convention and the Protocol clearly divide parties into two groups: those that provide resources, who are listed in annex II (developed country parties and other developed parties); and those that receive resources (non-annex I developing countries). Article 4.3 of the Convention covers financial resources for the implementation of general commitments and reporting, Article 4.4 on adaptation costs and Article 4.5 on technology transfer).

110. Receiving adequate financial support is a key condition for developing countries to commit to mitigation actions. In the negotiations, the main questions have been to do with the mobilization of adequate finance and the development of a strong funding institution under the Convention, as the GEF were seen by countries to be weak and not able to mobilize the amount of resources required for effective implementation of the Convention.

111. In Cancun, Parties established a standing committee as an oversight body for the financial mechanism of the Convention and a Transitional Committee was tasked with finalizing the design of the Green Climate Fund that had been foreshadowed in Copenhagen.

112. The Cancun outcome also formalized a collective commitment by developed countries to provide new and additional funding for action on climate change in developing countries both in the short- (\$30 billion) and the longer term (\$100 billion). The Cancun outcome notes "...funds provided to developing countries may come from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources."

113. Despite the Cancun outcome, little support has been forthcoming from developed countries. Research undertaken by the African Climate Policy Center confirms that:

- (a) Based on current information only 45 per cent of the pledged finance approaching 30 billion has been "committed" (e.g. in national budgets), only 33 per cent "allocated" (e.g. to projects or country programmes) and only around 7 per cent has actually been disbursed to developing countries;
- (b) Between \$3.7 billion and \$6.4 billion could be considered "new" (i.e., not pledged or budgeted prior to the Copenhagen conference), less than \$3 billion "additional" (i.e., in excess of donor countries' official development assistance targets of 0.7 per cent of gross national income). Consequently, less than \$3 billion – less than one tenth of the \$30 billion pledged – could be considered to be new and additional;

(c) Around \$8 billion – just over one quarter – of the pledged amount will be spent on adaptation during 2010–2012, demonstrating a great imbalance in allocation between adaptation and mitigation.

114. In the key messages from its Bamako meeting, the African Ministerial Conference on the Environment expressed concern regarding the insufficient transparency and slow disbursement of the financial resources pledged by developed country parties as “fast-start” finance for the period 2010–2012 and the indications that a small proportion of those resources were new and additional. They therefore called for enhanced transparency, a common reporting format and agreement in Durban on the scale of public resources to be provided by annex II parties commencing in 2013, building on short-term finance commitments and reaching a scale adequate to meet the needs of non-annex I parties in 2020 and beyond.

115. AMCEN also stressed the importance of ensuring direct access for all non-annex I parties, equitable allocation through geographical and needs-based criteria, a balance between adaptation and mitigation, and grant-based funding for adaptation activities.

116. On the pledge by developed-country parties to mobilize jointly \$100 billion per year by 2020, they reiterated Africa’s position that those parties should by 2020 provide scaled-up financial support based on an assessed scale of contributions that constitutes at least 1.5 per cent of the gross domestic product of annex I parties, in order to curb climate change and meet the needs of non-annex I parties in tackling climate change and its adverse effects. We emphasize that public finance should be the main source of funding to ensure the sustainability, predictability and adequacy of funding, bearing in mind that private and market finance can play a complementary role.

### **1. Green Climate Fund**

117. In decision 3/CP.17 the Conference of the Parties at Durban operationalized the Green Climate Fund, the result of which could see climate finance becoming more centralized and coherent. The document of the Transitional Committee was adopted along with a cover decision. The Fund has an independent legal personality and the interim secretariat will be managed by UNFCCC and the Global Environment Facility (GEF) in Bonn, Germany. The secretariat will be independent, and several countries will be bidding to host this in the coming months. There is emphasis on national planning processes, capacity building, direct access and private sector engagement.

### **2. Standing Committee**

118. The Parties decided that the standing committee established in Cancun under decision 1/CP.16, paragraph 112, will assist the Conference of the Parties in exercising its functions with respect to the financial mechanism of the Convention in terms of improving coherence and coordination in the delivery of climate change financing, rationalization of the financial mechanism, mobilization of financial resources and measurement, reporting and verification of support provided to developing country parties.

### **3. Long-term finance**

119. While the institutional arrangements for financing for climate change have been strengthened the question of mobilization of funds is still to be resolved. The institutions of the Convention, in other words, remain largely “empty shells”. There was, unfortunately, no commitment to any particular level of financing for 2013, or to a clear level of public support in 2020. Parties instead agreed on a work programme that will contribute to the on-going efforts to scale up the mobilization of climate change finance after 2012; the work programme will analyze options for the mobilization of resources from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources and relevant analytical work on climate-related financing needs of developing countries; the analysis will draw upon relevant reports including that of the High-level Advisory Group on Climate Financing and the report on mobilizing climate finance for the Group of Twenty and the assessment criteria in the reports, and will also take into account lessons learned from fast-start finance.

120. Finance will remain a major priority during 2012, given the failure in Durban to ensure any specific level of financing for developing countries (while also committing developing countries to new negotiations and to new requirements such as those relating to measuring, reporting and verification and international consultation and analysis)). To strengthen the African group’s work on finance, further research could be undertaken on a range of issues, particularly those required to enable active participation in discussions on long-term finance.

## **E. Technology development and transfer**

121. To mitigate and adapt to climate change, Africa will require access to new technologies. African ministers have emphasized the importance of this, confirming that achievement of the objectives of the Convention and the agreed global goal will require the “provision of adequate means of implementation – finance, technology and capacity building – to enable non-Annex I Parties to address mitigation and adaptation.”

122. Cancun outcome established a new Technology Mechanism that is to accelerate the development and transfer of climate technologies (both for mitigation and adaptation activities). It consists of the Technology Executive Committee and the Climate Technology Centre and Network. The role of the Committee is to recommend actions to promote technology transfer and develop technology action plans, while the aim of the Network is to facilitate a network of national, regional, sectoral and international technology networks, organization and initiatives. The Committee replaced the Expert Group on Technology Transfer.

123. A major focus for Africa at the Durban conference was ensuring effective operationalization of the Technology Mechanism, along with means to ensure that technology transfer occurred in practice.

### **Outcome**

124. The Durban outcome addressed the Technology Executive Committee, the Climate Technology Centre and Network (CTCN) and linkages between these and the Conference of the Parties. The CTCN will be hosted within an existing institution. The Annex to the decision has detailed criteria to evaluate and select the hosting institution.

125. The issue of how the mechanism will be funded remains unclear and so is the relationship between the TEC and the CTCN. The question of intellectual property rights has not dealt with and has been a major concern in the discussions on technology transfer. In relation to IPRs African Ministers at AMCEN confirmed:

”We stress the urgent need to address the issue of technology transfer, including the identification and removal of all barriers preventing access to climate-related technologies and the appropriate treatment of intellectual property rights, including the removal of patents on climate related technologies for non-Annex I Parties.”

126. Despite efforts by developing countries at the Durban conference, issues relating to intellectual property rights were not addressed due to opposition by some developed countries. Further work on this issue will be required to reinstate this issue to the agenda of ongoing climate negotiations.

127. To support participation in the Technology Mechanism, African countries may also wish to seek support to undertake technology needs assessments to enable concrete requests for financing and technology transfer to support national adaptation and mitigation efforts, and future participation in discussions relating to technology transfer.

## **F. Capacity-building**

128. The need for capacity-building has been acknowledged as a key issue in addressing climate change. It is a prerequisite to designing, securing funding for, implementing, measuring, reporting and verifying mitigation and adaptation actions, as well as reporting on greenhouse gas emissions.

129. It is commonly agreed that financial resources should be provided by annex II parties and other parties in a position to do so through the Convention’s financial mechanism. Durban was to consider how to enhance the monitoring and review of the effectiveness of capacity building, and elaborate modalities regarding institutional arrangements.

### **Outcome**

130. There is no decision to strengthen institutional arrangements for decision making. Instead the relevant bodies under the Convention are encouraged “to continue to elaborate and carry out work on capacity-building in an integrated manner, as appropriate, within their respective mandates.”

131. Under the AWG-LCA, it was decided that an annual in-session Durban Forum be organized to discuss further enhancement of the monitoring and review of the effectiveness of capacity building. Participants were to include Parties, representatives of the relevant bodies under the Convention, as well as experts and practitioners, with a view to sharing their experiences, exchanging ideas, best practices and lessons learned. The first meeting of the Durban Forum was to take place from 14-25 May 2012.

## G. Review

132. On the review of the adequacy of 2°C goal, it is to be recalled that the Cancun outcome, decision 1/CP.16, set a goal of limiting global average temperature increases to below 2° C above pre-industrial levels, with a provision to review at a subsequent date the adequacy of this goal. The review process reflects concerns that global warming at this level increases the risk of potentially catastrophic adverse effects for African and other vulnerable countries. The review is scheduled to begin in 2013 and be concluded by 2015.

133. The decision on the review of the adequacy of the longterm global goal of limiting global temperature increase to below 2° C, calls for the parties to establish a review expert group. The first review will start in 2013 and will be based on various sources of information including reports from United Nations agencies.

## V. New negotiations under the convention: Durban Platform for Enhanced Action

134. Advancing negotiations under the Convention has been challenging. On the one hand, developing countries are rightly concerned to address issues of equity and common but differentiated responsibility, and to address the historical responsibility of annex I parties in creating the climate problem. They rightly insist these countries must take the lead in combating climate change as required under the Convention.

135. On the other hand, annex I parties also point to rising emissions from some developing countries. The situation is further complicated by annex I parties to the Kyoto Protocol who are not prepared to take any further action without significant action by the United States. Hence the proposition by some countries – particularly many annex I parties -- of a new universal framework that covers the United States and the rapidly industrializing developing countries.

136. In this context, a number of parties to the Convention have sought a mandate for negotiations towards a new legally binding treaty, although for widely divergent reasons. Some developing countries support the continuation of negotiations towards an “agreed outcome” under the Convention without committing to a legally binding instrument until they are satisfied that the content is balanced and fair (“form follows function”). Others, including many vulnerable countries, strongly favor a mandate for a new legally binding outcome in the form of a new protocol to implement the Convention.

137. A clear distinction must be drawn between the objectives of developing countries that sought a new protocol and those of the developed countries. Whereas developing countries seeking a legally binding outcome want it to operate alongside the Kyoto Protocol (a “two protocol” outcome), developed countries seek to phase out the Kyoto Protocol and replace it with a single mitigation-focused instrument binding on all parties (a “single protocol” outcome).

138. As noted in presentations to African ministers, a single instrument of the kind proposed by developed countries would necessarily include weaker commitments for the developed countries if countries such as the United States, Canada, Japan and the Russian Federation are to join, while potentially including stronger “symmetrical” commitments for developing countries, thus downgrading developed country commitments while upgrading developing country commitments.

139. Prior to the Durban Conference, the African Ministerial Conference on the Environment reaffirmed that:

“... the two tracks of negotiations under the Convention must continue as separate tracks and that a balanced outcome is expected at the end of the negotiations in Durban, including a legally binding outcome on the scale of emission reductions to be undertaken by Annex I Parties individually and in aggregate through a second commitment period under the Kyoto Protocol, and a legally binding outcome on the various pillars of the Bali Action Plan in accordance with the Bali Roadmap.”

140. In the runup to the Durban conference the Group of 77 and China stated clearly that their top priority was to secure a second commitment period for annex I parties under the Kyoto Protocol and an agreed outcome under the Bali Action Plan to ensure full implementation of the Convention. Developing countries wanted the Kyoto Protocol to continue as a reflection of annex I parties’ historical responsibility, in parallel to a separate outcome under the AWG-LCA that would cover commitments by the United States, mitigation actions by non-annex I parties, adaptation, and financial



and technological support from annex I parties to non-annex I parties. They went on to insist that there would be no agreement under AWG-LCA unless there was agreement on a second commitment period under the Protocol.

141. The African group of negotiators position was that the two tracks of negotiations under the Convention must continue as separate tracks and that the two main outcomes expected at the end of the negotiations should be a legally binding outcome on the levels of commitment of annex I parties under the Protocol and a legally binding outcome on the various pillars of the Bali Action Plan. The strategy paper prepared by the group went on to further say that the outcome must prevent shifting of burdens, the weakening of developed countries' commitments, the strengthening of non-annex I parties' commitments, efforts to limit the means of implementation, and a tendency to shift to a weaker regime.

142. The outcome should rather preserve and strengthen the architecture of the Kyoto Protocol and the Convention in order to address the fundamental needs of the African continent and all African countries and to make the entire international community safer while reinforcing the principles of equity and common but differentiated responsibilities.

143. The group also called for a compliance mechanism to be established for the evaluation and verification of the fulfillment by annex I parties of their commitments under the Convention, including their financial contributions to adaptation, mitigation, technology transfer and capacity-building for non-annex I parties, to identify insufficiencies between the enabling means provided and needed and address non-compliance with commitments.

144. The rules and procedures of the compliance mechanism shall be established by the Conference of the Parties not later than at its eighteenth session 18th Conference of Parties. The measurement, reporting and verification support to non-annex I parties shall be reviewed under this compliance mechanism.

### **Outcomes**

145. Parties agreed to a decision to start negotiating a protocol or a legal instrument or an agreed outcome with legal force under the Convention. These negotiations are to take place in a new Ad Hoc Working Group on the Durban Platform for Enhanced Action", which is supposed to start work in 2012 and complete it as early as possible but no later than 2015. The new agreement is supposed to come into effect and be implemented from 2020.

146. Importantly, they also agreed to a workplan on enhancing mitigation ambition to identify and to explore options for a range of actions that can close the ambition gap with a view to ensuring the highest possible mitigation efforts by all parties. This is among the most important aspects of the Durban outcome as, in addition to the Kyoto Protocol and LCA negotiations, it remains a key opportunity to increase mitigation ambition before the foreseen 2020 entry into force of an outcome under the Durban Platform.

147. This mandate, however, explicitly includes few of the protections of the Bali Roadmap, which distinguishes clearly between annex I and non-annex I parties. Rather it calls for "the highest possible mitigation efforts by all Parties". A clear effort will therefore be required to integrate all elements of the Convention and the Bali Action Plan into the new mandate including, in particular, the principles of equity and common but differentiated responsibilities.

148. As well as these issues arising within the Durban Platform mandate, the relationship between this new track of negotiations and the existing two tracks of negotiations remains to be confirmed in greater detail.

149. The decision extending the AWG-LCA states that it will terminate this year (i.e. 2012). This would leave new negotiations under the Durban Platform continuing until 2015. The relationship between these negotiations – including the content already agreed under the Bali Action Plan – and the mandate for the new Durban Platform also remains somewhat unclear.

150. In relation to the Kyoto Protocol, it is likely that annex I parties will seek to continue the Kyoto Protocol into a second commitment period (containing weak pledges from some of them) with an end date of 2020 (not 2017), which is the foreseen date of entry into force for the outcome under the Durban Platform. They will then seek to terminate it without any third commitment period, despite requirements in the Kyoto Protocol for "second and subsequent" commitment periods.

## VI. Conclusions

151. Measured against a political yardstick, the Durban conferences yielded some significant successes. There was formal agreement on a second commitment period of the Kyoto Protocol. The Green Climate Fund was operationalized, but with some major questions remaining to be addressed at the level of the Board, and no clear commitment to financing for 2013. Durban also steered the process back towards a multilateral track, although issues remain about ensuring an open and transparent process going forward.

152. On the Durban Platform on Enhanced Action, a question may be raised as to whether it was necessary to have another roadmap in addition to the Bali Action Plan, which had already launched a process to reach an “agreed outcome” on long-term cooperative action on climate change and could have offered the basis for an enhanced climate regime. The Bali Action Plan created a firewall between developed country commitments and developing country actions. In a bid to move away from the Convention’s principles and provisions as reflected in the Bali Action Plan, the United States, among others, insisted on a new process and on terminating the Bali process in 2012.

153. Durban delivered this new process and with it, a major challenge for developing countries to ensure a process going forward based on equity and the other principles and provisions of the Convention. It is notable that the principles of equity and common but differentiated responsibilities feature nowhere in the Durban Platform decision – a major departure from historical practice. While not mentioned in the final decision, the principles and provisions of the Convention have of course not disappeared, as the new outcome is to be negotiated in the framework of the Convention and hence its principles can and must also apply. Their application in practice, however, remains a challenge.

154. From a political perspective the Durban outcomes offered some advances while raising some substantial questions. Evaluated against Africa’s expectations for the conference – as well as what is required as a matter of science to safeguard Africa’s interests – the outcomes fall far short. Despite the best efforts of African countries, including notably the hosts to the Durban Conference, the continent remains on a path for catastrophic warming. As confirmed by the African Negotiators’ Strategy Group in their message to ministers:

(a) Scientists tell us we are on path to 6°C of warming. The current pledges are dangerously inadequate, and would take us to 2.5 to 5°C of warming. And we recently heard from the IEA that by 2017 the building of infrastructure will ‘lock in’ the whole remaining carbon budget for 2°C – in other words, we would not be able to build another factory, or power plant or road unless it is carbon neutral.

(b) Clearly this places us in a very difficult position – on one hand we may be burned by increased warming, on the other hand we may be trapped into no industrial development and growth.”

155. The decisions from Durban have done little to arrest this trajectory, and may indeed have deepened the risk of dangerous levels of warming with the possibility that serious action will now be delayed until after 2020, beyond the date required to secure a peaking of global emissions in order to hold warming to below 2°C, let alone to achieve the goal of 1.5°C required to safeguard Africa.

156. Instead of securing an outcome based on the Kyoto Protocol and the Bali Action Plan, Durban initiated a new round of negotiations outside the Bali Action Plan based on a mandate that includes as yet little content. Africa must therefore redouble its efforts during 2012 and communicate more broadly within Africa and beyond both the dangers associated with the current global pathway and the importance of solidarity in identifying solutions.

157. Among other things, Africa can continue to advance its demands based on science, equity and the rule of law in order to raise the level of ambition under the existing negotiations under the Kyoto Protocol and Convention and as part of the new process under the Convention initiated in Durban. These are necessary to secure Africa’s safety. Of particular importance are discussions on how to increase the ambition of annex I mitigation commitments under the Protocol, on equitable access to sustainable development and the adequacy of annex I commitments under the Bali Action Plan, on the 2015 review established in Cancun, and on the work programme to increase mitigation ambition under the Durban Platform.

158. Africa must redouble its efforts both within and outside the negotiations if warming is to be held to levels that are consistent with the continued well-being of the continent. The role of African ministers and of the African group of negotiators has never been more important.

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