



# **The United Nations Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol**



*A Guide to the  
Climate Change Negotiations*



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*A Guide to the  
Climate Change Negotiations*



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# INTRODUCTION

## *Scope of the Issue*

Climate change is one of the few issues that is inherently global in nature. Because some greenhouse gases (GHGs) are long-lived in the atmosphere, their emissions from sources anywhere on the globe affect atmospheric concentrations everywhere. Also, because the dynamics of the climate system are globally integrated, the potential impacts of climate change can affect all parts of the globe. Finally, human emissions of GHGs occur primarily from the production and use of energy by individuals, businesses and governments, and from land use. Thus, they arise from a host of activities that are essential to modern life and to meeting the hopes of people everywhere for a more prosperous future.

The actions of individual nations cannot determine the composition of the world's atmosphere. It is this characteristic that provided the motivation for collective, 'global' action under the United Nations Framework Convention on Climate Change (UNFCCC). However, global action implies a multiplicity of decision makers. Decisions by intergovernmental organizations, national, regional and local governments, individuals, multinational firms, and local enterprises are all important.

## *Climate change in the political arena*

In the late 1980s, with increasing awareness of international environmental issues, the climate change debate moved from the scientific to the political arena. Concern about the possibility of global warming resulting from anthropogenic emissions of GHGs prompted the governments, working through the World Meteorological Organisation (WMO) and the United Nations Environment Programme (UNEP), to create the Intergovernmental Panel on Climate Change (IPCC) in 1988. The IPCC was conceived with the purpose of preparing a single assessment report on the state of knowledge of climate change to provide advice to governments.

In 1990 the IPCC issued its first *Assessment Report*. This report—in particular the section on the science of climate change, which highlighted the link between anthropogenic GHG emissions and potential global climate change—was highly influential. It catalysed the will of many governments to prepare a convention (or treaty) on climate change. Even before the report was officially released, the UN General Assembly passed a resolution formally launching negotiations on an international agreement on climate change, to be conducted by an Intergovernmental Negotiating Committee (INC). The INC first met in Chantilly, Virginia, USA in February 1991. After 15 months of negotiations government representatives adopted the United Nations Framework Convention on Climate Change (UNFCCC) on 9 May 1992. The UNFCCC was signed by 155 nations at the United Nations Conference on Environment and Development (UNCED) or 'Earth Summit' in Rio de Janeiro in June 1992. The Convention entered into force in 1994 after it had been ratified by 50 governments. Today (2008), the Convention has now been ratified by 191 nations and the European Community. This scale of ratification gives the Convention almost worldwide membership making it one of most universally supported international agreements.

# THE UNFCCC

## Objective

The UNFCCC sets an overall framework for intergovernmental efforts to avoid the risks of human-induced climate change. Its ultimate objective is stated in Article 2:

*'... stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.'*

The definition of 'dangerous' remains to be settled. In spite of attempts to seek scientific guidance on this matter, to date, the IPCC regards this as a political decision. To date, the Parties to the UNFCCC have been unable to make that political decision.

## Principles

In working to achieve the objective of the Convention, governments agreed on guiding principles set out in Article 3. These are summarized below:

- **Equity:** Parties should protect the climate system '... on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities' (Article 3.1). This principle has been used to justify the requirement that industrialized countries should act first to mitigate emissions. Historically developed countries have emitted most of the GHGs which are contributing to the heightened atmospheric concentrations. Developed countries also have greater resources to tackle the issue. Developing countries on the other hand appear to be more vulnerable to the impacts of climate change and have a lower capacity to respond (Article 3.2). However, as a result of rapid economic growth, developing country GHG emissions have increased dramatically. They currently are about equal to developed country GHG emissions, and are projected to significantly exceed developed country emissions in the near future.
- **Precaution:** This principle recognises that although there are many uncertainties associated with climate change, waiting for certainty before taking action could make it impossible to avoid serious climate change impacts. The Precautionary Principle states that "Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures..." (Article 3.3).
- **Sustainable development:** The principles of sustainable development and economic growth are highlighted in Article 3.4 and 3.5. Here we find recognition that development and climate change are intrinsically interlinked. Economic growth and development are essential ingredients of successful policies to tackle this issue. Policies and measures dealing with climate change should be cost-effective, delivering global benefits at the lowest possible cost.

## Parties

Parties to the UNFCCC are those countries that have ratified, accepted, approved, or acceded to, the treaty. The Convention divides countries into three main groupings: Annex I, Annex II and non-Annex I. Each of these groupings has differing commitments. We cover the commitments of UNFCCC Parties in more detail on pages 19 and 18 of this *Guide*.

- **Annex I Parties** include the developed countries that were members of the Organisation for Economic Cooperation and Development (OECD) in 1992 plus countries with economies in transition (EITs).<sup>1</sup> Annex I parties accepted a voluntary commitment to return their emissions of GHGs to 1990 levels by year 2000. Subsequently, the Kyoto Protocol established legally binding GHG emissions targets for the 2008–12 period for Annex I Parties that are recorded in Annex B of the Protocol.<sup>2</sup> The difference between these two lists is that Belarus and Turkey are Annex I countries, but not Annex B countries.
- **Annex II Parties** consist of the OECD members of Annex I. They accepted a commitment to provide financial aid to non-Annex I Parties to meet their agreed incremental costs under the UNFCCC. Annex II Parties also agreed to transfer environmentally-sound technologies to other Parties, particularly non-Annex I Parties, to enable them to reduce their GHG emissions.
- **Non-Annex I Parties** are the more than 150, mostly developing country, Parties that are not listed in Annex I.

## Structure

Note: Much of the UNFCCC structure is shared with the Kyoto Protocol. The aspects of the structure that are shared are discussed on page 20.

### **The Conference of the Parties (COP)**

The Conference of the Parties (COP) is the 'Supreme Body' of the Convention, i.e. its highest decision-making authority. It is an independent, stand-alone, self-financing institution within the UN system. All countries that are Parties to the Convention are members of the COP, and each has equal status. The COP has met annually since 1995, a year after the Convention came into force. It reviews the implementation of the Convention, adopts decisions to further develop the Convention's rules, and can negotiate substantive new commitments.

### **The Subsidiary Bodies**

There are two permanent subsidiary bodies to the COP. All Parties to the UNFCCC are members of these subsidiary bodies, which are the main working bodies of the Convention and usually meet in parallel, two-week sessions twice a year (in the Spring in Bonn, Germany

<sup>1</sup> For a list of Annex I Parties to the UNFCCC see: [http://unfccc.int/parties\\_and\\_observers/parties/items/2352.php](http://unfccc.int/parties_and_observers/parties/items/2352.php)

<sup>2</sup> To see the list of Annex B Parties to the Kyoto Protocol see: [http://unfccc.int/essential\\_background/kyoto\\_protocol/items/3145.php](http://unfccc.int/essential_background/kyoto_protocol/items/3145.php)

and in the Autumn in conjunction with sessions of the COP) to consider progress and to recommend decisions to be taken at COP meetings. The Subsidiary Body for Scientific and Technological Advice (SBSTA) is responsible for providing advice to the COP on scientific, technological and methodological issues, including the improvement of guidelines for preparing national communications and emission inventories, as well as cooperation with the IPCC and other relevant international organizations. The Subsidiary Body for Implementation (SBI) oversees assessment and review of the Convention's implementation, including the analysis of national communications submitted by Parties, liaison with the Global Environment Facility (GEF), and financial and administrative issues. The subsidiary bodies frequently invite Parties to submit views or proposals in writing on particular issues in between sessions, in order to move talks forward when they are in session.

In addition to the two standing subsidiary bodies, the COP can form ad hoc subsidiary bodies to carry out specific tasks. All Parties to the UNFCCC are also members of these ad hoc groups. For example, the Kyoto Protocol was negotiated by the Ad Hoc Group on the Berlin Mandate (AGBM). During its two year existence, the AGBM met more frequently than SBSTA and SBI, and was the main focus of UNFCCC activity.

### ***Secretariat***

The Convention also establishes a Secretariat to provide support to all the institutions of the climate change convention process. As of 2008, it is composed of approximately 225 staff, with a budget of about \$US 60 million/year. However, more than half of this budget and staff are devoted to Kyoto Protocol functions. The Secretariat is based at the Convention's headquarters in Bonn. The majority of the Secretariat staff are international civil servants, but their numbers also include short-term staff and consultants. Its head, the Executive Secretary, currently Yvo de Boer, is appointed by the Secretary General of the United Nations in consultation with the COP through its Bureau.

The main functions of the Secretariat are to make the practical arrangements for sessions of the Convention bodies, to provide support to on-going negotiations, to establish and oversee various review and monitoring procedures, and to coordinate with the secretariats of other relevant international bodies, notably the GEF and its implementing agencies (UNDP (UN Development Programme), UNEP and the World Bank), the IPCC and other relevant conventions.

The Secretariat prepares the official documents for the COP and its subsidiary bodies, coordinates in-depth reviews of Annex I Party national communications, compiles greenhouse gas inventory data, maintains the UNFCCC website, and also carries out technical and scientific studies at the instruction of the subsidiary bodies. The Secretariat usually hires consultants to carry out technical and scientific work, but as its staff has grown, so has its ability to do this type of work.

The Secretariat is accountable, through its Executive Secretary, to the COP and its subsidiary bodies. It is guided in its work by the Bureau of the Convention Bodies, a subset of 11 Parties, two from each of the five UN Regional Groupings plus one from the Alliance of Small Island States (AOSIS). These groupings are described in more detail on page 8.

## Funding

Every two years, the Executive Secretary proposes a programme budget, setting out the main tasks to be performed by the Secretariat in the coming biennium and funding needed to carry out this work. This proposal is considered by the SBI, which then recommends a programme budget for approval by the COP. The programme budget is funded by the Parties, whose contributions are based on the UN scale of assessment. The Secretariat also administers two trust funds supported by voluntary contributions from Annex II Parties. The first pays for attendance of one or two non-Annex I Party delegates to each formal UNFCCC or subsidiary body meeting. The other pays for special projects such as workshops between formal meetings.

Financial assistance provided by Annex II Parties to non-Annex I Parties is channelled primarily through the Convention's financial mechanism, operated by the Global Environment Facility (GEF), which also serves as the financial mechanism for other UN environmental treaties. Over the 1991–2005 period, approximately US\$ 2 billion was provided in grants from the GEF Trust Fund for climate change activities. GEF grants typically attract three times as much money in co-financing from bilateral agencies, recipient countries and the private sector.

## Collaborating organizations

Two intergovernmental organizations, external to the UNFCCC, provide essential input and services to the overall climate process. These are the Global Environment Facility (GEF) and the Intergovernmental Panel on Climate Change (IPCC). A wide variety of other organizations, including the World Health Organization (WHO), the Food and Agriculture Organization (FAO), the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO), cooperate with the UNFCCC on various aspects of adaptation to, and mitigation of, climate change. In addition, the UNFCCC cooperates with other UN environmental treaty organizations, particularly the Convention on Biodiversity (CBD), the Convention to Combat Desertification (CCD) and the Ramsar Convention on Protection of Wetlands to seek synergies between their programmes.

### **The Global Environment Facility (GEF)**

The GEF was established by developed countries in 1991 to fund the incremental costs to developing countries of their participation in international environmental treaties. GEF serves as the 'operating entity' of the Convention's financial mechanism. The COP provides policy guidance to the GEF on its climate change policies, programme priorities and eligibility criteria for funding based on advice from the SBI. Correspondingly, the GEF reports on its climate change work to the COP every year.

As part of the Marrakesh Accords (a 2001 set of agreements on implementation of both the UNFCCC and Kyoto Protocol) the COP gave additional guidance to the GEF that expanded the scope of activities eligible for funding, including in the areas of adaptation and capacity building. The Marrakesh Accords also established two new funds under the Convention. These are managed by the GEF, as the financial operating entity of the Convention:

- **The Special Climate Change Fund (SCCF):** this fund will finance projects relating to: capacity building; adaptation; technology transfer; climate change mitigation; and economic diversification for countries that are highly dependent on income from fossil fuels. As of 30 April 2007, 13 countries had contributed \$62 million to this fund.
- **Least Developed Countries Fund (LDCF):** this fund will support a special work programme to assist LDCs. As of 30 April 2007, 17 countries had contributed \$116 million to this fund.

The Marrakech Accords require Annex II Parties to report on their financial contributions on an annual basis, with these reports to be reviewed by the COP.

### **The Intergovernmental Panel on Climate Change**

The IPCC was initially conceived in 1988, and given 18 months to prepare a single report assessing the state of knowledge about climate change. However, in light of ongoing scientific uncertainty and policy needs, it has taken on a permanent role, preparing comprehensive assessment reports on most aspects of climate change including the assessment of the available scientific information on climate change; examination of the potential environmental and social impacts of climate change; and the consideration of national and international response options. Its latest assessment report, the *Fourth Assessment Report (AR4)*, was completed in 2007. As well as producing these comprehensive assessment reports, the IPCC responds to requests from the COP or the SBSTA by undertaking work on *Special Reports* and *Technical Papers*<sup>3</sup>. The UNFCCC, through SBSTA, and IPCC have established formal joint meetings of their Bureaus to coordinate work. The IPCC also plays an important role in providing the Convention with methodologies for the preparation of Parties' national inventories of GHG emissions.

The IPCC is a hybrid organization. The management of the IPCC is the responsibility of the 'Panel', which is comprised of government delegations. Any government that is a member of either UNEP or the World Meteorological Organization (WMO) can be a member of the IPCC 'Panel'. Typically more than 100 governments participate in IPCC deliberations. IPCC reports are written by scientists and technical experts. Each report has a *Summary for Policymakers (SPM)*, that is subject to a line-by-line review by the governments. This review can result in a change in SPM emphasis, but IPCC practice is to ensure that any change is acceptable to the report authors. The content of the underlying report is accepted by the IPCC without further review. For further information, see IPIECA's 'Guide to the IPCC'<sup>4</sup>.

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<sup>3</sup> A full listing of IPCC *Special Reports* and *Technical Papers*, and the text of many of them, is available on the IPCC website at <http://www.ipcc.ch>.

<sup>4</sup> *A Guide to the Intergovernmental Panel on Climate Change* (4th Edition, May 2006) is available in hard copy from the IPIECA Secretariat, or for download at: [http://www.ipieca.org/activities/climate\\_change/climate\\_publications.php](http://www.ipieca.org/activities/climate_change/climate_publications.php).

## PARTICIPANTS IN THE PROCESS

### *Party delegations and regional groups*

Each Party to the Convention is represented at sessions of the Convention's bodies by a national delegation consisting of one or more officials who are empowered to represent their governments. Their purpose is to negotiate agreements and make proposals on behalf of their governments.

Based on UN practice, Parties are organized into five regional groups, namely: Africa; Asia; Russia and Eastern Europe; Latin America and the Caribbean states; and the Western Europe and Others Group (the 'Others' include Australia, Canada, Iceland, New Zealand, and the USA). These groups are especially important because UN practice recognizes them for purposes of establishing representation in selection of Bureau membership. In addition to the five regional groups, the Alliance of Small Island States (AOSIS) has achieved formal recognition in climate change deliberations. AOSIS is described in more detail below.

### *Coordinated groups*

In practice the regional groups do not represent the substantive interests of Parties. Several other groupings are much more important in the negotiations. These groups are known as coordinated groups. Some more detail on these groups follows.

In the negotiations developing countries generally work through the G77 plus China. This grouping actually includes more than 130 countries, which work together to establish common negotiating positions. As the climate change negotiations have become more complex, the G-77 plus China has delegated responsibility for specific issues to individual member countries. The country holding the Chair of the G-77 plus China (which rotates every year) typically speaks for the group in opening statements, then the group is represented by the country with responsibility for the topic being discussed. However because it is such a diverse group with differing interests on climate change issues, individual developing countries, especially China, also intervene in debates, as do other smaller groupings within the G-77. These are groups such as the African UN Regional Group, AOSIS and the group of Least Developed Countries (LDC's).

The Alliance of Small Island States (AOSIS) is a coalition of 43 low-lying and small island countries that are particularly vulnerable to sea-level rise. The AOSIS countries are united by the view that climate change poses a significant threat to their survival, and frequently adopt a common stance in negotiations. They advocate the most stringent emission reduction targets and also are concerned about funding for adaptation.

The Group of Least Developed Countries (LDCs) is a group of 48 countries defined by the UN as being the least developed. They have become increasingly active in the climate change process, often working together to defend their particular interests, for example, with regard to vulnerability and adaptation to climate change.

The European Union (EU) forms another large negotiating block. It is now comprised of 27 Member States. The EU meets to agree on common negotiating positions before the sessions.

The country that holds the EU Presidency (rotates every six months) then speaks for the European Community and its member states often with the support of countries that are candidates for EU membership. As a regional economic integration organization, the European Community itself is a Party to the Convention. However, it does not have a separate vote from its members.

During the negotiation of the UNFCCC, the non-EU OECD countries (Japan, USA, Canada, Australia, and New Zealand) formed a group known as JUSCANZ, to express their views. During the negotiation of the Kyoto Protocol, JUSCANZ morphed into the Umbrella Group, a loose coalition of non-EU developed countries that included Russia and the Ukraine among others. The Umbrella Group was largely inactive from 2002–05, because two of its members, Australia and the USA, had not ratified the Kyoto Protocol. However, beginning in 2006, the group became more active, making statements on issues related to the UNFCCC. With Australia's ratification of the Kyoto Protocol in late 2007, the group also began making statement on Kyoto Protocol issues. The USA abstains from the group's position on these issues.

Other groups represent common interests. The Environmental Integrity Group (EIG) is a coalition comprising Mexico, the Republic of Korea, Switzerland, Monaco and Liechtenstein. The first three of these countries have substantial economies, but do not fit into any of the existing groups. Forming the EIG gives them more of a voice in the negotiations. The Organization of Petroleum Exporting Countries (OPEC) countries occasionally speak as a group on issues that relate to oil usage. The countries of Central Asia, the Caucasus, Albania and Moldova (CACAM) are non-Annex I countries, but do not consider themselves developing countries and are not part of the G-77. CACAM occasionally makes joint statements. Some Latin American countries will make common statements on issues related to deforestation. For a while, the EIT countries of Eastern Europe formed a group known as CG-11. However, some of these countries subsequently joined the EU, and others are candidates for EU membership, so the group is no longer functional.

### Observer organizations

Any organization or agency that is qualified in matters covered by the Convention, and which has informed the secretariat that it wants to be present as an observer to sessions of the Conference of the Parties or its subsidiary bodies, will be admitted on a provisional basis. The Secretariat determines whether the organization is qualified, but it uses a very broad definition of qualification. Officially the COP must approve admission of new observer organizations, and does so at each meeting. No request for observer status forwarded by the Secretariat has been rejected by the COP. In part this follows on from the open process spawned by UNCED in 1992. Subject to the approval of the Chair, observers may make interventions during meetings of the UNFCCC and its subsidiary bodies.

### **Non-governmental organizations**

Since the early days of the climate change Convention, non-governmental organisations (NGOs), have been actively involved, attending sessions as observers and exchanging views with other participants, including delegates, in informal side-events. This involvement allows

experience, expertise, information and perspectives from a wide range of interest groups to be brought into the process to generate new insights and approaches. Often an opportunity is also extended to NGOs to address the COP and subsidiary bodies in plenary meetings. These statements are encouraged to be on behalf of a broad constituency, though how agreement is to be achieved is left to the particular constituency.

Eight NGO constituencies attended COP-13 in December 2007:

- Business and Industry NGOs (BINGOs);
- Environmental NGOs (ENGOs);
- Indigenous Peoples Organizations (IPOs);
- Local Governments and Municipal Authorities (LGMAs);
- Research and Independent NGOs (RINGOs);
- Trade Union NGOs (TUNGOs);
- Women’s Environmental and Development Organizations (WEDO’s); and
- Youth Environmental NGOs (YENGOs).

The UN recognizes one additional NGO constituency—religious groups. While religious groups were present at COP-13, they did not organize themselves into a constituency.

### Attendance at UNFCCC Meetings

Private sector delegates seeking to attend meetings as observers must be registered in advance through a recognized business and industry NGO. Only representatives whose names have been communicated to the Secretariat through the designated contact points of NGOs will be admitted to sessions. All registered attendees should carry with them a recognized, government-issued photo-ID, e.g. a passport or driver’s licence, and should also bring a copy of the letter from a recognized NGO indicating that they intend to participate as part of that delegation.

Attendees receive a badge at registration which must be worn visibly at all times in the meeting area. Security at UNFCCC

meetings is tight. United Nations security staff check badges against their computerized database before allowing access to the meeting area and individuals and their belongings must undergo an airport-type screening procedure.

Categories of participants can be recognized by the colour of their badge. The colour of badges signifies the status of participants as follows:

- Pink: National delegates
- Yellow: NGOs
- Blue: UN organizations, including the Secretariat and its consultants
- Green: intergovernmental organizations (IGOs, e.g. OECD, IEA)
- Orange: media

## **BINGOs**

Private sector representatives attend the sessions of the UNFCCC as members of business and industry NGOs (BINGOs) such as the International Chamber of Commerce (ICC), the World Business Council for Sustainable Development (WBCSD) and IPIECA. BINGOs are assigned their own meeting rooms in which to hold meetings and discuss developments. The BINGO meeting room is organized by the ICC who coordinate meetings every morning to discuss the previous day's developments and what will be the pertinent issues for the day.

Business and industry is typically given several opportunities at each UNFCCC session to provide input to the formal process by making a prepared statement from the floor, known as an intervention. Business and industry uses these opportunities to make, where possible, coordinated statements which can be on behalf of certain constituencies within the diverse business and industry community or they can be broader consensus statements reflecting the views of the business as a whole.

More recently, business and industry has engaged in the formal process through its interactions with the Expert Group on Technology Transfer (EGTT) to the SBSTA as well as during the Dialogue on long-term cooperative action. Here business is able to

provide constructive input in areas in which it has unparalleled expertise.

## **IPIECA**

IPIECA is part of the BINGO constituency. It is one of more than 750 NGOs with Consultative Status to the UNFCCC. Formal consultative status is granted by the UN Economic and Social Council (ECOSOC) upon recommendation of the ECOSOC Committee on NGOs, which is comprised of 19 Member States. There are three categories of status: General consultative status, Special consultative status and Roster status. IPIECA is registered as having Special Consultative status (formerly 'Category II' status), which is granted to NGOs which have a special competence in, and are concerned specifically with, fields of activity covered by the ECOSOC. In practice, since UNCED, any NGO may seek and achieve accreditation with UN institutions merely by asking and gaining approval of the governing body, e.g. the UNFCCC.

### **At the meetings**

Attendance at COPs has grown as climate change has become a more important issue worldwide. COP-13 (December 2007) attracted a registration of nearly 15,000, including government delegates, observers, and the media. Not all who register actually attend (COP-13 saw around 11,000), and many who do, attend for only a small part of the session.

UN meetings in general take place in 3-hour timeslots, from 10am to 1pm and from 3am to 6pm. COP-12 decided against holding meetings in the evening, but this decision is ignored when a deadline is looming. Almost all COP meetings include an all-night session on the final night, and COP-13 continued for more than 24 hours after its scheduled end. Formal meetings require provision of translation to six recognized UN languages (English, French, Spanish, Russian, Chinese and Arabic) and can be halted if any

delegation demands translation when it is not available. Very little actual negotiation is carried out in formal meetings. It occurs in Contact Groups which are open to observers, and in a variety of other forums which are closed to observers. The more sensitive the negotiation, the less likely that it will be open to observers.

As well as the official negotiations many side events are held during the sessions. These generally cover topics which relate to the climate change negotiations are often organized by observer organizations such as IPIECA.

Sessions of the COP have included a high-level segment with ministerial participation. The formal part of the high-level segment is limited to prepared statements, in which Ministers make brief policy statements to the COP Plenary, and to 'debates' in which they

### ***UN bodies and intergovernmental organizations***

As well as NGOs several other categories of observer organizations also attend sessions of the COP and its subsidiary bodies. These include representatives of United Nations secretariat units and bodies, such as UNDP and UNEP, as well as its specialized agencies and related organizations, such as the GEF, IPCC and WMO. Observer organizations also include intergovernmental organizations (IGOs), such as the OECD and its International Energy Agency (IEA). In 2005, there were 56 IGOs accredited as observers to the UNFCCC. A substantial period of time at UNFCCC sessions is devoted to statements from UN bodies and related IGOs.

make formal statements of their national positions. Many COP sessions have featured roundtable discussions in an effort to promote an informal exchange of views among ministers and other heads of delegation. Ministers can conclude whatever decisions they wish, and in sessions such as COP-13, which involve significant new decisions, Ministers participate in the final rounds of negotiation.

Official documentation for the negotiations is disseminated by Secretariat staff through a document desk, though it is also available on the UNFCCC website ([www.unfccc.int](http://www.unfccc.int)), often before it is available in hard copy. The daily programme, which lets you know the times and locations of all negotiating sessions and side events that day, is also available at the document desk and on the website. Other useful information is provided in *Earth Negotiation Bulletin* (ENB), a daily

report on the outcomes of the previous day's meetings published by the IISD (International Institute for Sustainable Development). IISD also publishes *Earth Negotiation Bulletin on the Side* (ENBOTS), a daily summary of the highlights of the previous day's side bar events. These are available around the conference venue and from the IISD website ([www.iisd.ca/process/climate\\_atm.htm](http://www.iisd.ca/process/climate_atm.htm)). The Climate Action Network (CAN), a worldwide network of more than 340 ENGOs, produces a widely read daily advocacy paper called ECO. This is also available at the conference venue or on CAN's website ([www.climatenetwork.org/eco/](http://www.climatenetwork.org/eco/)). In the corridors around the conference halls you will find posters and booths of various organizations, including IPIECA. Documents and climate-relevant information, including promotional material for side events, are also distributed at these locations.

## NEGOTIATIONS AND DECISION MAKING

Meetings of the COP serve three main purposes:

- to review the implementation of the Convention;
- to adopt decisions to further the Convention's implementation; and
- to negotiate substantive new commitments.

Conduct of meetings and brokering of agreements within the collective decision making framework of the COP therefore involves negotiation and compromise.

### Decision making

Sessions of the COP are very formal. Most of its work is referred to the subsidiary bodies which negotiate proposed decisions. The main products of the subsidiary bodies (SBSTA and SBI) are recommendations for draft decisions, which are forwarded to the COP for consideration and adoption. The subsidiary bodies draw on a range of relevant input in producing their recommendations. These include Secretariat reviews and compilations, IPCC reports, and national communications. These bodies assemble much of the scientific, technical and socio-economic considerations that underpin decisions by Parties. An example of the how work is delegated within the system to eventually arrive at a decision is highlighted in 'Road to a Decision' (see box, below).

At COP and subsidiary body meetings national delegates utilize a variety of negotiating mechanisms to achieve consensus on decisions that reflect the view of all Parties. Draft text that is under discussion but not yet agreed is placed in square brackets. As agreement is reached, the brackets are removed. Once a draft decision is agreed in an informal group it may then be discussed and approved by the subsidiary bodies or additional negotiating groups. It is then forwarded for final adoption (or further negotiation, if disagreement remains) to the COP plenary. Usually the real negotiating and decision making has gone on behind closed doors and is presented as a *fait accompli* in the plenary. If there are no objections, the President will bang his or her gavel on the table and declare that the decision is adopted, using the time-honoured formula 'it is so decided'. Normally the decision cannot be reopened, though explanatory statements may be made after adoption.

### Documentation

Documentation is central to the entire process. It is through documents that proposals from Parties are circulated, information is disseminated, draft text is negotiated, and finally adopted and promulgated. There are various types of documents in the climate change process

bearing different symbols that can be mystifying for newcomers. See 'Useful Information' on pages XX for a description of the different types of documents involved in the climate change process and an explanation of the acronyms used.

## The road to a decision

To highlight how a decision is finally arrived at by the COP, this example follows the route to decision 2/CP.3 at COP-3, which required Annex I Parties to use the *Revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories* for their annual reporting requirements.

All Parties are required to report national inventories of their GHG emissions to the COP. To allow comparison between inventories, they must be prepared using comparable methodologies. Article 7 of the UNFCCC states that these methodologies must be approved by the COP. COP-1 (1995) adopted the *IPCC Guidelines for National Greenhouse Gas Inventories* as the methodology by which Annex I Parties should report their emissions. However COP-1 also requested SBSTA to provide further advice to the COP and SBI on the improvement and use of comparable methodologies for national inventories. At the same time it also requested the Secretariat to produce a report on the guidelines for national communications.

At its first meeting, SBSTA identified the areas where it would request assistance from the IPCC. At its second meeting, SBSTA considered the Secretariat report on the guidelines for the preparation of national communications from Annex I Parties and formally requested the IPCC to help in the production of comparable methodologies. The IPCC, in cooperation with the OECD, agreed to prepare information to be used in the revision of their original *Guidelines*. To this end the

IPCC convened three workshops to solicit the necessary information. The results of these workshops were subsequently incorporated as additions and/or revisions to the *Guidelines*, and approved at IPCC's 12th Plenary Session (September 1996).

The IPCC presented the approved *Guidelines* to SBSTA at its fourth session (December 1996). SBSTA's discussions on the use of the *Revised 1996 Guidelines* were complex and often difficult, but delegates eventually agreed that Annex I Parties should apply these *Guidelines*. The SBSTA concluded that the *Revised 1996 Guidelines* should be applied by Annex I Parties on a voluntary basis for the inventories due in 1997 and on a mandatory basis for inventories due in 1998 and beyond. There followed a significant period of negotiation until at SBSTA-7 (October, 1997) delegates considered a draft decision for adoption by COP-3 which would affirm that Annex I Parties should use the IPCC's *Revised 1996 Guidelines* for National GHG Inventories. Finally COP-3 (December 1997) formally adopted the draft decision (decision 2/CP.3) to require that Annex I Parties use the IPCC's *Revised 1996 Guidelines for National Greenhouse Gas Inventories*.

## Procedures

The UNFCCC establishes a collective decision-making process within which the Parties negotiate future actions. Some features of the decision-making process are set out in the Convention, but most are defined in a set of rules of procedure that have not been formally adopted, owing to differences in opinion over the voting rule. Because all of the other rules are agreed, the draft rules of procedure are 'applied' at each session, with the exception of the rule on voting. Negotiation and compromise are the primary basis for climate change decisions under the Convention.

As there is no agreed voting rule, all decisions must be adopted by consensus, which in practice means that there is no politically-viable objection to a decision. This is not quite the same as unanimity. Here the will of the Chair and his or her ability to reflect consensus—the lack of a politically viable objection—take precedence. For example, the Chair may decide to ignore a Party's objection, or a Party may choose not to object formally to a decision, but to ask for its concerns to be taken note of in the report on the session.

The Convention may be amended by a three-fourths majority vote of the Parties present at a COP. Once an amendment has been adopted, it must be ratified by three-fourths of the Parties before it enters into force. No amendment to the Convention text has yet been adopted, but Annex I has been amended to reflect the split of Czechoslovakia into the Czech Republic and Slovakia.

In the absence of agreed rules, any protocols adopted under the UNFCCC must be adopted by consensus and define their own entry-into-force procedures. The Kyoto Protocol was adopted in this way at COP-3.

The draft rules of procedure set out general rules for debating and negotiating. An important rule is that proceedings of formal meetings must be interpreted into all six languages of the UN (Arabic, Chinese, English, French, Russian and Spanish). Delegates may only speak when they are given the floor by the President or Chairperson, and a quorum of two-thirds of Parties must be present for a decision to be taken. The rules also cover the drafting and adoption of agendas and the participation of observers.

COP decisions<sup>5</sup> are included in the formal COP reports. Decisions are known by their number (e.g. decision 4/CP.3 is decision four taken at COP-3). Key decisions are sometimes given a more high-profile title. For example, decision 1/CP.1, which launched negotiations on the Kyoto Protocol, is known as the "Berlin Mandate", whilst decision 1/CP.13, the agreement that launched negotiations for post-2012 treaty on a wide range of climate change issues, is known as the 'Bali Action Plan'.

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<sup>5</sup> You can access all COP decisions through the Documents Main Page of the UNFCCC website. The direct link to decision 2/CP.3 is: <http://unfccc.int/resource/docs/cop3/07a01.pdf#page=31>.

Whilst decisions are eventually reached on most agenda items, a growing number of issues have been stalemated for varying lengths of time. The longest-running of these issues is the COP rules of procedure, on which no progress has been made since 1995. Other deadlocked issues include: the second review of adequacy of the UNFCCC, control of GHG emissions from fuels used in international aviation and marine transport, and Article 2.3 (compensation for non-Annex I Parties for damages resulting from mitigation actions by Annex I Parties). Each of these issues has its own, unique history, and continues to appear on the agenda of the COP or its subsidiary bodies, but is dismissed after a few perfunctory comments. However, their continued listing makes the COP and subsidiary body agendas look far more formidable than they actually are.

In addition to decisions, the COP can produce other outcomes, such as declarations or resolutions. These are non-binding political statements intended to guide the work of the Convention or express the will of the COP. These statements do not hold much weight.

## UNFCCC COMMITMENTS

### *Annex I and Annex II Parties*

Whilst all Parties to the Convention are subject to a set of general commitments, the commitments that have received the most attention are those for Annex I and Annex II Parties. It is important to note that there are no penalties if one of these Parties fails to meet its commitments.

- Annex I Parties are subject to a specific commitment to adopt climate change policies and measures with the non-legally binding aim of returning their GHG emissions to 1990 levels by the year 2000. The Convention granted EITs 'a certain degree of flexibility' in implementing their commitments, on account of the economic and political upheavals experienced in those countries in the early 1990s.
- The Annex II Parties are required to provide financial resources to enable developing countries to meet their obligations under the Convention, and to help them adapt to the adverse effects of climate change. In addition, the Annex II Parties must 'take all practicable steps' to promote the development and transfer of environmentally-friendly technologies to both EITs and developing countries.

### *Reporting and review*

All Parties are committed to submitting reports on the actions they are taking to implement the Convention. These are known as **National Communications** and are the most visible commitment for non-Annex I Parties.

- Annex I Parties must report more often and in more detail. There have been four deadlines for national communications from Annex I Parties since the ratification of the Convention, with the fourth being on 1 January 2006. The Secretariat compiles a summary of the information contained in these reports which, typically, are hundreds of pages long. Both the individual national communications and the Secretariat summaries are available on the UNFCCC website.
- The preparation of National Communications from non-Annex I Parties is dependent on the receipt of funding and LDC Parties may prepare a national communication at their discretion. The information required is less detailed than that asked of Annex I Parties. These reports are also available on the UNFCCC website.<sup>6</sup>

All Parties are also committed to compiling **Inventories of GHG Emissions**.

- Annex I Parties are required to submit a separate inventory of their GHG emissions every year.
- Non-Annex I Parties compile these as part of their National Communications and are not required to submit a separate annual emission inventory.
- Data from these inventories, as well as GHG emissions data from other sources, are available on the UNFCCC website.<sup>7</sup>

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<sup>6</sup> National communications and summaries are available at: [http://unfccc.int/national\\_reports/items/1408.php](http://unfccc.int/national_reports/items/1408.php). The Secretariat summary of the Fourth National Communications from Annex I Parties is document FCCC/SBI/2007/INF.6, and its two addenda, Add 1 and Add 2.

<sup>7</sup> GHG emission data can be found on the UNFCCC website at [www.unfccc.int/ghg\\_emissions\\_data/items/3800.php](http://www.unfccc.int/ghg_emissions_data/items/3800.php).

Reporting is one of the most important obligations of Parties and provides the basis for the COP to assess the implementation of the Convention and its effectiveness. The COP provides the guidelines for Parties to use in reporting information in their National Communications. Since 1995, these guidelines have been successively revised and improved in the light of the Parties' experience of putting them to use. Early reports had included flagrant gaps and glitches at odds with the apparent intent of the UNFCCC.

The IPCC has developed the inventory methodologies for the national reporting of GHG emissions which countries use to develop their national Inventories (see Box, *The road to a decision*, above). A complete revision of their methodology—the *IPCC 2006 Guidelines*—was published in 2006. SBSTA discussed these guidelines at its 26th session in May, 2007 and asked Annex I countries to test the new *Guidelines*. SBSTA will discuss the results of this testing in 2009, then decide on whether to recommend that COP adopt them. While the IPCC *Guidelines* technically apply to countries, they are used as reference elsewhere, for example, in guidance for the reporting of emission reduction projects and company inventories. IPIECA was involved in the development of the 2006 *Guidelines* through member company authors and expert reviewers.

The National Communications and Greenhouse Gas Inventories from Annex I Parties are subject to in-depth review by teams of independent experts. The aim is to provide a thorough technical assessment of each Party's commitments and steps taken toward their implementation. Teams are selected from a roster of experts nominated by Parties and coordinated by the Secretariat. The in-depth reviews typically draw on findings from visits to the country concerned as well as desk-based studies, and are documented in an in-depth review report available on the UNFCCC website<sup>8</sup>, which typically expands on, and updates, the national communication. The in-depth review reports aim to facilitate the work of the COP in assessing the implementation of commitments by Annex I Parties. The reports also allow easier comparison of information between the national communications of Parties, although no common indicators are employed.

### Other commitments

- Prepare and regularly update National Climate Change Mitigation and Adaptation Programmes, including measures to address sources of GHG emissions and to protect and enhance so-called carbon “sinks” and “reservoirs” (forests and other natural systems that remove carbon from the atmosphere). Parties must also take climate change considerations into account in their relevant social, economic and environmental policies, and use methods such as impact assessments to minimize any adverse economic, health or environmental consequences of climate change measures.
- Promote the development, application and transfer of climate-friendly technologies and practices, as well as the sustainable management of carbon sinks. In addition, Parties are required to make preparations to adapt to climate change, participate in climate research, systematic observation and information exchange, and promote education, training and public awareness relating to climate change.

<sup>8</sup> Reports on the in-depth reviews of national communications can be searched for at the UNFCCC website at: <http://maindb.unfccc.int/library/?screen=list&language=en&FLD1=dC&VAL1=/IDR&OPR1=contains>

## KYOTO PROTOCOL

Article 4 of UNFCCC calls for a review at COP-1 of the adequacy of its commitments towards meeting the objective of the Convention to stabilize atmospheric concentrations of GHGs. At COP-1 (Berlin, March/April 1995), the Parties agreed that the UNFCCC's voluntary commitments would not lead to stabilization, and in a decision known as the Berlin Mandate, launched a new round of talks to decide on legally binding commitments for industrialized countries. The Berlin Mandate specifically stated that there would be no new commitments from non-Annex I Parties. After two and a half years of intense negotiations, the Kyoto Protocol was adopted at COP-3 in Kyoto, Japan, on 11 December 1997.

The Kyoto Protocol is intended to supplement and strengthen the Convention by creating binding targets on GHG emissions for Annex I Parties. It is founded on the same principles as the Convention and shares its ultimate objective, as well as the way it groups countries into Annex I, Annex II and non-Annex I Parties. It also shares the Convention's institutions. The COP will also serve as the 'meeting of the Parties' (the CMP, formerly the COP/MOP) to the Protocol. The COP Secretariat will serve as the Secretariat to the Kyoto Protocol, and the IPCC will support the Protocol on scientific, technical and methodological matters.

Only countries that are already Parties to the Convention can ratify (or accept, approve, or accede to) the Protocol, and thereby become Parties to it. The rules for entry into force of the Kyoto Protocol require 55 Parties to the Convention to ratify (or approve, accept or accede to) the Protocol, including Annex I Parties accounting for 55 per cent of that group's carbon dioxide emissions in 1990. These criteria ensured that no single Party could veto the Protocol's entry into force. Following ratification by Russia on 18 November 2004, the Protocol achieved its criteria for entry into force, and 90 days after this date, on 16 February 2005, the Kyoto Protocol entered into force. The entry into force of the Protocol shifted attention to the implementation of its legally-binding emissions targets.

### Commitments

#### **Targets**

The Kyoto Protocol established legally-binding emissions targets for industrialized countries that required an average 5.2 per cent reduction in Annex I Party emissions on 1990 levels during the 2008–12 period. The total reduction is shared in a differentiated fashion; each Annex I Party has its own individual emissions target. These individual targets, which are listed in the Protocol's Annex B, were decided upon in Kyoto through intense negotiation. EITs were given flexibility to choose a year other than 1990 as their base year, and all Annex I Parties may use 1995 as their base year for emissions of fluorinated gases.

The Protocol's emissions targets cover a 'basket' of six GHGs: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>); nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulphur hexafluoride (SF<sub>6</sub>). Greenhouse gases already controlled by the Montreal Protocol are not controlled under the Kyoto Protocol<sup>9</sup>. The Kyoto Protocol covers only the anthropogenic

<sup>9</sup> See the Montreal Protocol website at: [www.unep.org/ozone/index.asp](http://www.unep.org/ozone/index.asp).

emissions of the six GHGs. Natural sources of GHG emissions, for example, methane emissions from anaerobic decay in wetlands, are excluded.

### **Timetables**

The emissions targets set by the Kyoto Protocol are to be achieved during its first commitment period, 2008–12. The total emissions that an Annex I Party may emit over the commitment period and still meet its emissions target are known as its ‘assigned amount’. Prior to the start of the commitment period, each Annex I Party must submit a report providing emissions data for its baseline in order to formally establish its assigned amount.

### **General commitments**

In addition to emissions targets for Annex I Parties, the Kyoto Protocol also contains a set of more general commitments (mirroring those in the Convention) that reinforce the fundamental obligation of all Parties—both industrialized and developing—to tackle climate change. These commitments include preparing national climate change mitigation and adaptation programmes, taking steps to improve the quality of emissions data, promoting environmentally-friendly technology transfer, cooperating in scientific research and international climate observation networks, and supporting climate change education, training, public awareness and capacity-building initiatives.

## **The Kyoto Mechanisms**

The Protocol introduces three ‘flexibility’ mechanisms (also known as the Kyoto, or sustainable mechanisms) that allow Annex I Parties to meet their commitments in part through actions outside their borders: the Clean Development Mechanism (CDM), Joint Implementation (JI) and emissions trading. These mechanisms aim to maximize the cost-effectiveness of climate change mitigation by allowing Parties to pursue opportunities to cut emissions, or enhance carbon sinks, more cheaply abroad than at home. The cost of curbing emissions varies considerably from region to region as a result of differences in, for example, energy sources, energy efficiency and waste management. It therefore makes economic sense to cut emissions, or increase removals, where it is cheapest to do so, given that the impact on the atmosphere is the same.

For the most part, limits have not been imposed on the use of the mechanisms to meet emissions targets. However, Annex I Parties must provide information in their national communications submitted under the Protocol demonstrating that their use of the mechanisms is ‘supplemental to domestic action’, which must constitute ‘a significant element’ of their efforts in meeting their commitments. This information is to be assessed by the Facilitative Branch of the Compliance Committee. The functions of the Compliance Committee are discussed later in this section.

### **Clean Development Mechanism**

The Clean Development Mechanism, or CDM, (established under Article 12 of the Kyoto Protocol) allows Annex I Parties to obtain emissions credits for projects that reduce emissions in non-Annex I countries, provided that the projects also help the non-Annex I Parties achieve their sustainable development goals. The credits are known as Certified Emission Reductions

(CERs), and can be used by Annex I Parties to help meet their emissions targets. In practice, most CDM projects are developed and implemented by the private sector.

CDM projects must have the approval of the Parties involved, and must lead to real, measurable and long-term benefits related to the mitigation of climate change, in the form of emission reductions or GHG removals that are additional to any that would have occurred without the project. The CDM is intended to generate investment in developing countries, especially from the private sector, and promote the transfer of environmentally sound technologies. However, the finance and technology transfer commitments of Annex II Parties under the Convention and the Kyoto Protocol are separate and remain valid.

The Kyoto Protocol provides only a brief outline of the CDM, and it took several years of additional negotiation to develop an elaborate project verification process to ensure CERs represent real emissions reductions. Agreement on this process was part of the Marrakech Accords, agreed at COP-7 (2001). It took several years after that for the CDM Executive Board, which has to approve projects, to become functional. As a result, the first CDM project was not approved until 18 Nov 2004. Since then the CDM has grown exponentially. As of 30 September 2007, the CDM Executive Board had approved 825 projects. These, and projects in the pipeline, are projected to generate 2.5 billion CERs by 2012. While early doubts about the ability of the CDM to generate significant numbers of CERs have been allayed, concerns remain about the current functioning and future of the CDM. These include:

- African nations and other LDCs have been unable to attract significant numbers of CDM projects and have not benefited from this mechanism.
- Debate continues over whether certain types of projects, including carbon capture and storage and the destruction of HFC-23 produced as a by-product from new HCFC-22 manufacturing plants, should be allowed in the CDM.
- Attempts to use the CDM to promote reforestation and forest protection projects have, to date, been unsuccessful.

It is likely that attempts will be made to address these and similar issues in the negotiation of the post-2012 agreement described in Section 7.

### ***Joint Implementation***

Joint Implementation, or JI (established under Article 6 of the Kyoto Protocol) allows Annex I Parties to the Protocol to implement projects that reduce emissions, or increase the removal of emissions from the atmosphere by sinks, within other Annex I countries. Emission Reduction Units (ERUs) are generated by such projects, which can then be used by the Annex I Parties that invested in the JI project to help meet their emissions targets. To avoid double counting, a corresponding subtraction is made from the host Party's assigned amount. An important difference between CDM and JI is that CDM projects increase the total number of credits available to Annex I Parties; JI projects do not.

In practice Joint Implementation projects are most likely to take place in EIT nations where there tends to be more scope for reducing emissions at low cost. JI projects must have the

approval of the Parties involved, and must lead to emission reductions or removals that are additional to any that would have occurred without the project. If the Annex I Parties involved in a JI project are in compliance with all of their Kyoto Protocol commitments, they can approve the JI project and transfer credits. If one or more of the Parties is not in compliance, the project is subject to a review procedure similar to that developed for CDM projects.

ERUs for JI projects can only be issued for emission reductions occurring after 1 January 2008, whilst CERs from CDM projects can be issued for emission reductions occurring after 1 January 2000. As a result, the development of JI projects and the structure to evaluate them has been considerably slower than for CDM. As of COP-13, approximately 100 JI projects were in the pipeline, but no estimate was provided of the cumulative number of ERUs they might generate. It is also too early to tell whether JI will follow the same pattern as CDM with most projects being developed and implemented by the private sector.

### **Emissions trading**

The Kyoto Protocol establishes several classes of emission credits:

- AAUs (Assigned Amount Units)—each Annex I Party's cumulative target for 2008–12 is divided into units of 1 metric tonne CO<sub>2</sub>-equivalent.<sup>10</sup>
- CERs (Certified Emission Reductions)—credits from CDM projects.
- ERUs (Emission Reduction Units)—credits from JI projects
- RMUs (Removal Units)—credits generated by Annex I Parties by enhancing carbon sinks.

Emission trading under the Kyoto Protocol (established under Article 17) allows Annex I Parties to trade any of these classes of emissions credits. In concept, this should allow Parties to meet their targets at lower cost than if they had to achieve all of their emissions reductions domestically, especially since it is anticipated that, as a result of their economic collapse in the early 1990s, Russia and Ukraine will have many more AAUs than they need to meet their targets. This system will only go into effect with the start of the 2008–12 commitment period, and is unlikely to be used to any great extent until near the end of that period.

In order to address the concern that some Parties could 'over sell' and then be unable to meet their own targets, each Annex I Party is required to hold a minimum level of AAUs, CERs, ERUs and/or RMUs. This is known as the 'commitment period reserve' and cannot be traded.

A number of regional and national emission trading systems have either been established or are under development. The EU Emission Trading System (EU ETS) is well established, and systems are under development in Australia, New Zealand and Norway. The EU has established procedures for accepting CDM and JI credits into its system, and it is anticipated that other emissions trading systems will also accept these credits.

<sup>10</sup> GHGs have different impacts on the climate system. To establish equivalence between different GHGs, the impact of the emission of one kg of a given gas over a 100-year period is compared to that of one kg of CO<sub>2</sub>. The resulting ratio is known as the gas's Global Warming Potential (GWP). GHG emissions are reported in terms of CO<sub>2</sub>-equivalence, which is the mass of gas emitted multiplied by its GWP.

### **Other flexibility provisions**

Whilst not usually thought about in the same terms as CDM, JI and emissions trading, two other provisions of the Kyoto Protocol provide significant additional flexibility to Parties in a position to take advantage of them. The first provision is the 'bubble' (Article 4 of the Kyoto Protocol), which allows a group of Annex I Parties to jointly meet their commitment. The only group of countries to take advantage of this provision is the EU, and the provision is often referred to as the 'EU bubble'. However, the provision is not restricted to the EU. Under the bubble, the EU has reallocated its overall target to reduce emissions by 8 per cent below 1990 levels, with some EU countries having more stringent targets and others having less stringent targets.

The second additional flexibility provision is the banking provision, which allows an Annex I Party to 'bank' any extra credits it has at the end of the first commitment period for use in subsequent commitment periods. Whilst it is too early to tell whether any Annex I Parties will take advantage of this provision, it is conceivable that Russia and Ukraine, both of which are expected to have many more credits than they will need, might find it attractive to bank some or all of them. If they choose to bank their credits, fewer will be available for emissions trading.

### **The Registry system**

Emissions obligations and credits under the Kyoto Protocol will exist as entries in formal registries denominated in tonnes of CO<sub>2</sub>-equivalent emissions. The three Kyoto mechanisms operate on the basis of accounting units, which are tracked and recorded through national registries established and maintained by Annex I Parties. A computerized system of registries will keep track of transactions in all of the units.

There are three components to the registry system:

- **National Registries:** each Annex I Party has established and will maintain a national registry, containing accounts for holding AAUs, CERs, ERUs and RMUs. It will also contain accounts for setting units aside to comply with emissions targets at the end of the commitment period ('retirement'), and for removing units from the system ('cancellation'). Transactions between Parties or between account holding legal entities will take place through these national registries.
- **CDM Registry:** The Executive Board of the CDM has established and will maintain a CDM registry, containing CER accounts for non-Annex I Parties participating in the CDM.
- **International Transaction Log (ITL):** The Secretariat has established and will maintain the ITL, which verifies transactions of AAUs, CERs, ERUs and RMUs as they are proposed, including their issuance, transfers and acquisitions between registries, cancellation and retirement. If any transaction is found not to be in order, the registry is required to stop the transaction.

Whilst the registry system may seem complicated, in reality it is simpler than many similar structures used by financial markets. The necessary systems have been developed and are in place, and we will soon see whether they work to the level needed to meet the demands of the Kyoto Protocol.

### Compliance procedures

Article 18 of the Kyoto Protocol calls for CMP-1 to approve the 'procedures and mechanisms' to determine and address cases of non-compliance with the Protocol. The Marrakech Accords include a proposed set of procedures and mechanisms, which were formally adopted at CMP-1. These procedures established a Compliance Committee made up of two branches: a Facilitative Branch and an Enforcement Branch, both of which are composed of 10 members. The Facilitative Branch aims to provide advice and assistance to Parties in order to promote compliance, whereas the Enforcement Branch has the power to apply certain consequences, or penalties, on Parties not meeting their commitments.

Compliance also deals with eligibility to participate in the Kyoto Mechanisms. The approved compliance procedures state that the eligibility to participate in the mechanisms by a Party included in Annex I is dependent on its compliance with methodological and reporting requirements of the Kyoto Protocol. Oversight of this provision will be provided by the Enforcement Branch of the Compliance Committee.

In the case of non-compliance with emissions targets, Annex I Parties are granted 100 days after the completion of the expert review of their final emission inventory for the commitment period to make up any shortfall in compliance (e.g. by acquiring AAUs, CERs, ERUs or RMUs). If at the end of this period, a Party has still missed its emissions target, it must make up the difference in the second commitment period, plus a penalty of 30 per cent. It will also be barred from 'selling' under emissions trading and, within three months, it must develop a compliance action plan detailing the action it will take to make sure that its target is met in the second commitment period. In all cases, the Enforcement Branch would make a public declaration that the Party is in non-compliance and would also make public the consequences to be applied.

Article 18 of the Kyoto Protocol also states, '*Any procedures and mechanisms under this article entailing binding consequences shall be adopted by means of an amendment to this Protocol.*' It is unclear whether the consequences contained in the agreed procedures are considered 'binding'. However, following the procedures for amendment of the Kyoto Protocol, prior to CMP-1, Saudi Arabia submitted the text on compliance from the Marrakech Accords as a proposed amendment. The proposal was assigned to SBI for evaluation. As of CMP-3, it was still under consideration, with no indication of when SBI would come to a conclusion.

## *Funding*

Annex II Parties (the OECD countries) are committed to providing financial resources, through the GEF as the Convention and Protocol's financial mechanism, to help non-Annex I Parties meet their general commitments under the Protocol.

In addition, the Marrakech Accords established an Adaptation Fund, which will be managed by the GEF, and funded by both a 2 per cent levy on CERs and additional contributions from Annex I Parties. The Adaptation Fund will finance concrete adaptation projects and programmes in developing countries, along with such activities as supporting capacity building. Annex I Parties that ratify the Kyoto Protocol are required to report on their contributions to the fund on an annual basis, and these reports will be reviewed by the CMP.

Non-Annex I Parties have expressed concern that the Adaptation Fund will not be adequate to pay for the adaptation projects they will require. They have proposed a variety of schemes for expanding its funding base, including levies on JI projects and emissions trading, and a carbon tax on Annex I emissions. These proposals are likely to be part of the post-2012 negotiation discussed below.

## THE ROAD AHEAD: AGREEMENT ON POST-2012 COMMITMENTS

It is well recognized that the Kyoto Protocol alone will not meet the objective of the UNFCCC, i.e. the stabilization of GHG concentrations in the atmosphere at a level that would avoid dangerous anthropogenic interference with the climate system. Even if it was ratified by all Annex I countries, the Kyoto Protocol would make only a small reduction in global GHG emissions, and that reduction would only be in force until 2012, the end of the first commitment period. The Protocol recognizes the need for additional commitment periods, and calls for negotiations on further commitments from Annex I Parties to begin at least seven years before the end of the first commitment period, i.e. by the end of 2005. CMP-1 met this requirement by establishing the Ad Hoc Working Group on Further Commitments from Annex I Parties under the Kyoto Protocol (AWG-KP, formerly the AWG). The AWG-KP's mandate is limited to establishing targets for Annex I Parties for the next commitment period, the length of which has not been defined. This is a necessary, but far from sufficient, step to address concerns about the limitations of the current international approach to climate change.

In an attempt to address some of these concerns, COP-11 established a Dialogue on Long-term Cooperative Action to Address Climate Change by Enhancing Implementation of the Convention. The Dialogue was to hold four workshops over two years and report to COP-13. Specifically, it was to be held 'without prejudice to any future negotiation, commitments, process, framework or mandate under the Convention'. At COP-13, the co-convenors of the Dialogue—Australia and South Africa—reported that a future agreement should be based on four building blocks:

- mitigation;
- adaptation;
- technology; and
- finance.

In addition to these four building blocks, there was a longer list of issues on which one or more countries was looking for agreement, including:

- establishment of a long-term emission reduction goal to meet the UNFCCC objective of stabilizing atmospheric concentrations of GHGs;
- reduction of emissions from deforestation and forest degradation;
- expansion of CDM and JI;
- compensation for the effects of Annex I Party mitigation actions on non-Annex I Parties;
- control of emissions from fuel used in international aviation and marine transport; and
- easier mechanisms for voluntary commitments from non-Annex I Parties

COP-13 agreed on the Bali Action Plan (informally known as the Bali roadmap), which called for a two-year negotiation to reach agreement on most of these issues, in parallel with the AWG-KP deliberations. The negotiation will be carried out in the Ad hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA). Both the AWG-KP and the new AWG-LCA will meet four times in 2008, and at least four more times in 2009.

The Bali Action Plan represents a significant new departure for the UNFCCC process. It specifically addresses setting a long-term goal for emission reductions, the first time that this has been attempted, calling for:

*'A shared vision for long-term cooperative action, including a long-term global goal for emission reductions, to achieve the ultimate objective of the Convention, in accordance with the provisions and principles of the Convention, in particular the principle of common but differentiated responsibilities and respective capabilities, and taking into account social and economic conditions and other relevant factors.'*

Unlike the Berlin Mandate, the Bali Action Plan does not rule out new commitments from non-Annex I Parties. Rather it calls for:

*'Measurable, reportable and verifiable nationally appropriate mitigation actions by developing country Parties in the context of sustainable development, supported by technology and enabled by financing and capacity-building.'*

It avoids discussing numerical targets for Annex I Parties, calling for:

*'Measurable, reportable and verifiable nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties, while ensuring the comparability of efforts among them, taking into account differences in their national circumstances.'*

This language could allow discussion of commitments for the USA and Japan that were very different from those set for the EU.

Between the AWG-KP and AWG-LCA, the COP and CMP have set themselves an aggressive negotiating agenda through 2009.

## FURTHER READING

IPIECA (2007). *Climate Change: A Glossary of Terms*, 4th Edition, IPIECA Secretariat, London, UK. Available at:

[www.ipieca.org/activities/climate\\_change/climate\\_publications.php](http://www.ipieca.org/activities/climate_change/climate_publications.php)

UNFCCC (2007). *Uniting on Climate*, Climate Change Secretariat (UNFCCC), Bonn, Germany. Available in English at:

[http://unfccc.int/resource/docs/publications/unitingonclimate\\_eng.pdf](http://unfccc.int/resource/docs/publications/unitingonclimate_eng.pdf)

UNFCCC (1997). *The Kyoto Protocol to the Convention on Climate Change*, Climate Change Secretariat (UNFCCC), Bonn, Germany. Available at:

[http://unfccc.int/kyoto\\_protocol/items/2830.php](http://unfccc.int/kyoto_protocol/items/2830.php)

UNFCCC (1994). *The Convention on Climate Change*, Climate Change Secretariat (UNFCCC), Bonn, Germany. Available at:

[http://unfccc.int/essential\\_background/convention/background/items/2853.php](http://unfccc.int/essential_background/convention/background/items/2853.php)

## USEFUL INFORMATION

### **Parties to the Convention and the Kyoto Protocol**

Information on signatories is available from the UNFCCC website:

i) for the Convention at:

[http://unfccc.int/essential\\_background/convention/status\\_of\\_ratification/items/2631.php](http://unfccc.int/essential_background/convention/status_of_ratification/items/2631.php); and

ii) for the Kyoto Protocol at:

[http://unfccc.int/files/kyoto\\_protocol/background/status\\_of\\_ratification/application/pdf/kp\\_ratification.pdf](http://unfccc.int/files/kyoto_protocol/background/status_of_ratification/application/pdf/kp_ratification.pdf)

### **UNFCCC Guides to the Convention and Kyoto Protocol**

UNFCCC guide books to the Convention and Kyoto Protocol are available from the UNFCCC website at:

[http://unfccc.int/essential\\_background/background\\_publications\\_htmlpdf/items/2625.php](http://unfccc.int/essential_background/background_publications_htmlpdf/items/2625.php)

### **NGOs and IGOs with UN Observer status**

Visit the UNFCCC website for:

i) a list of admitted IGOs at:

<http://maindb.unfccc.int/public/igo.pl?mode=wim>; and

ii) general information on IGOs at:

[http://unfccc.int/parties\\_and\\_observers/igo/items/3720.php](http://unfccc.int/parties_and_observers/igo/items/3720.php).

For NGOs, a list of admitted organizations is at:

<http://maindb.unfccc.int/public/ngo.pl?mode=wim&search=A>; and

NGO information can be found at:

[http://unfccc.int/parties\\_and\\_observers/ngo/items/3667.php](http://unfccc.int/parties_and_observers/ngo/items/3667.php)

**UNFCCC documentation**

All documents start with the letters FCCC, indicating that the document comes from the climate change process. The symbol then shows the body for which the document is intended and the year of publication, followed by an acronym indicating the document type (if it is not a regular document) and the document number.

Document type	Typical content	Acronym	Usual language
Regular	Session reports, provisional agendas, most secretariat background documents.	–	All six UN languages
Information	Practical data (e.g. list of participants at a COP session), more substantive information (e.g. a scoping study), or workshop reports.	INF	English
Miscellaneous	Proposals or views submitted by Parties (or occasionally observer organizations). No formal editing.	MISC	Language of submission (usually English)
Technical papers	Detailed background papers on technical issues.	TP	English
Limited distribution	Draft decisions or conclusions presented to the COP or subsidiary bodies for adoption.	L	All six UN languages
Conference room papers	New proposals or text prepared during a negotiation session to reflect the status of discussion on a particular issue.	CRP	English
In-depth review report	Report on the in-depth review of an Annex I Party national communication.	IDR	English
Addendum	Additional to any of the above documents.	Add	According to the original document
Revision	Revision to any of the above documents.	Rev	
Corrigendum	Correction to any of the above documents.	Corr	

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## **IPIECA**

IPIECA is the single global association representing both the upstream and downstream oil and gas industry on key environmental and social issues, including: oil spill response; global climate change; fuels and products; health; biodiversity; social responsibility; and sustainability reporting.

Founded in 1974 following the establishment of the United Nations Environment Programme (UNEP), IPIECA provides a principal channel of communication with the United Nations. IPIECA Members are drawn from private and state-owned companies as well as national, regional and international associations. Membership covers Africa, Latin America, Asia, Europe, the Middle East and North America.

IPIECA's Climate Change Working Group was formed in 1988 to provide reliable and timely information, issues analysis, education and involvement in international processes related to global climate change. The Working Group provides an important interface to the Intergovernmental Panel on Climate Change and United Nations Framework Convention on Climate Change processes.

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