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Addendum

VII. PROCEDURES

* In order to facilitate processing, the consolidated working document is being reproduced as A/AC.237/Misc.17 and Add.1-9. The present addendum is thus an integral part of the whole document, an edited version of which will be published subsequently as an annex to the report of the Committee on the work of its fourth session.

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VII.1. REPORTING

Submission of Reports

1. [In accordance with its particular circumstances and capabilities] Each Party [shall] [may] submit to the secretariat a report on [its national strategy and on the policies and] the measures it [has undertaken] [is undertaking] to implement its obligations [as well as the opportunity costs of foregoing a national development option and projects for transfer of financial resources and technologies] under the Convention, as well as on any other actions it deems relevant [with respect to the objectives to the Convention], [including the extent to which those measures will contribute to meeting such obligations], [[drawn up] [in accordance with] [and may include] the provisions set forth in [Annex III] to this Convention] [consistent with national laws and regulations]. [For developing country Parties, the fulfilment of this obligation will be conditional on the availability of corresponding new and additional financial resources.]

First Report

2. For developed country Parties, the first report [shall] [may] be submitted within [one] [two] year[s] of the entry into force of the Convention [for it] or within [one] [two] year[s] of ratification, acceptance or approval of, or accession to, the Convention. For developing country Parties, the first report [shall] [may] be submitted within [two] [four] [five] years of the entry into force of the Convention [for it] or within [two] [four] [five] years of ratification, acceptance or approval of, or accession to, the Convention.

[3. The developing country Parties to this Convention shall be assisted in the preparation of the report. Such assistance will include both technical and financial assistance as well as the identification of the technical and financial needs associated with the implementation and review of such reports.]

Frequency of Reports

(See also Annex II, paragraph 3)

[4. The frequency according to which reports and their updating will be submitted will vary from one year to five years, depending on the different levels of energy-related CO₂ emissions per capita, as defined by the Conference of the Parties, based on internationally

accepted data.]

Regional/Group reporting

[5. Any group of Parties may, subject to the prior notification to the [Advisory Committee on Implementation] [body in charge of implementation], [and with the approval of the Conference of the Parties], submit a single report in fulfilment of their obligation under paragraph 1 above [provided that such a report includes details of each Party's contribution to fulfilment of its individual obligations].]

Transmission to Conference of the Parties

6. The secretariat [shall] [may] transmit the reports submitted by the Parties to the Conference of the Parties, [within four months of receiving such reports] except as provided for in paragraph 8 below.

Transmission to Advisory Committee on Implementation

[7. The secretariat [shall] [may] transmit the reports submitted by the [Parties to the [Advisory Committee on Implementation] [body in charge of implementation].]

Confidential Information

8. The secretariat shall ensure that information [designated as confidential by the supplying Party] [and] [meeting the criteria for confidentiality established in Annex III] is not disclosed [[to other Parties and is aggregated] [and shall aggregate it] to protect its confidentiality [before it is made available to all Parties].]

[VII. 2. (Alternative A)]

**RESOLUTION OF QUESTIONS REGARDING
INTERPRETATION AND IMPLEMENTATION OF THE CONVENTION**

Process

[1. [Subject to paragraph 5] The Conference of the Parties shall, in a timely fashion, consider and resolve questions regarding the interpretation and implementation of the Convention [including those questions] that are brought to its attention in writing by Parties or by its subsidiary bodies. To this end, it may establish [one or more ad hoc] [a] Panel(s) of its members, designated [with specific and limited terms of office] in accordance with Annex ____ (Annex to be drafted). [If questions relate to a specific Party, the ad hoc panel(s) shall invite a representative of the Party that is the subject of the question (hereinafter referred to as the "Party concerned") to attend the meetings of the Panel.] [In considering the question before the next ordinary meeting of the Conference of the Parties and following the meeting at which the ad hoc Panel was established, the ad hoc Panel shall:

- (a) If the question relates to a specific Party, [(hereinafter referred to as the "Party concerned")] notify in writing the Party concerned that a question regarding [its] interpretation and implementation of the terms of the Convention has arisen;
- (b) [If the question relates to a specific Party,] request the Party concerned to respond [and] take part in consultations with the Panel [and attend meetings of the Panel];
- [(c) Request any Party which brought the question to the attention of the Conference of the Parties to take part in consultations with the Panel and attend meetings of the Panel;]
- (d) Consult, as it deems necessary, representatives of any Party and other expert bodies;
- (e) Request that the Party concerned advise the ad hoc Panel(s) of its capacity to implement fully the provisions that were the subject of the question, the

provisions of the Convention as a whole, and of its needs relevant to the implementation of the Convention;

- (f) Promote, using the means, institutions, and funds available under the Convention, the capacity of the Party concerned to comply with and implement its commitments under the Convention; and
- (g) Report the results of the consultations to the Conference of the Parties, including, if necessary, a recommendation for resolution of the question.]

[Possible addition to paragraph 1

The Conference of the Parties may, pending final resolution of the question, take any interim action it deems necessary to advance the objectives of the Convention.]

[Alternative to paragraph 1

1. The Conference of the Parties shall, in a timely fashion, consider and resolve questions regarding the interpretation and implementation of the Convention that are brought to its attention in writing by Parties or by its subsidiary bodies. To this end the Committee on Implementation established under Article [VI. 5.] (Implementation Committee) shall consider such questions and submit a report to the Conference of the Parties.]

Consideration of Report

[2. At its next [ordinary] meeting, the Conference of the Parties shall consider the report of [an ad hoc Panel] [Committee on Implementation] and [take any course of action] [adopt any recommendation] [issue recommendations on actions] [it deems] necessary to further the objectives of the Convention. In doing so, the Conference of the Parties [or an ad hoc Panel] may, at any time, seek an advisory opinion from [an ad hoc Panel of Legal Experts.] [a subsidiary body established by or under the Convention.] [The Conference of the Parties may also, if appropriate, request an advisory opinion from the International Court of Justice.]]

Decisions by Conference of the Parties

[3. If the Party concerned does not comply with the course of action set out by the Conference of the Parties, the Conference of the Parties may, again, take any further action it

deems necessary to advance the objectives of the Convention [including:...].]

Voting

4. The Parties shall make every effort to take [action] [decisions] under this Article by consensus. If [all] efforts at consensus have [been exhausted] [failed], [action] [recommendations] shall [, as a last resort,] be [taken] [adopted] by a [two-thirds] [three-quarters] majority vote of the Parties present and voting.

[Possible additional paragraph]

5. The Conference of the Parties may resolve not to use the procedure set out in this Article, if the particular question of interpretation or implementation is being considered by the Arbitral Tribunal pursuant to Article [VII. 2.] (Alternative 2) (Settlement of Disputes) or the International Court of Justice.]]

[POSSIBLE ALTERNATIVE TO VII. 2. (Alternative A)]**Process**

1. Questions relating to the implementation of the Convention may be drawn to the attention of the Conference of Parties by Parties [and by any subsidiary body established by or under the Convention]. Any Party concerned about another Party's implementation of its obligations under the Convention or about its own capacity to implement fully those obligations may notify its concern, through the secretariat, to the Conference of Parties. The Conference of Parties shall, in timely fashion, consider any such question and promote its resolution. To that end it may, as necessary, establish an ad hoc Panel of of its members.
2. In considering the question before the next ordinary meeting of the Conference of Parties, the ad hoc Panel shall:
 - (a) Invite the Party which has brought the question to the attention of the Conference of Parties and any other Party whose implementation of the Convention is in question to attend meetings of the Panel and take part in consultations with it;
 - (b) Provide the Party whose implementation of the Convention is in question a full opportunity to inform the Panel of its capacity to implement its obligations under the Convention and of its needs relevant to that issue;
 - (c) Consult, as it deems necessary, any subsidiary body established by or under the Convention and other expert bodies;
 - (d) Promote, as necessary, the enhancement of the capacity of the Party whose implementation of the Convention is in question to implement fully its obligations under the Convention; and
 - (e) Report the results of its consultations, together with any recommendations, to the next ordinary meeting of the Conference of Parties.

Consideration of Report

3. After considering the report of the ad hoc Panel, the Conference of Parties may decide to adopt a recommendation or recommendations to promote the full implementation of the Convention and to further its objectives.

Voting

4. The Conference of Parties shall make every effort to take decisions under this Article by consensus. If all efforts at consensus have been exhausted decisions shall, as a last resort, be taken by a two-thirds majority vote of the Parties present and voting.

Additional rules

5. The Conference of Parties may in elaboration of the provisions of paragraph 2 of this Article, lay down additional rules relating to membership of ad hoc Panels, their meetings and procedures.

Relationship to Dispute Settlement (VII. 2.) (Alternative B)

Option 1

6. If, after the expiry of months following the initial submission of any question to the secretariat pursuant to paragraph 1 of this Article, any Party continues to have a concern relating to the implementation by another Party of its obligations under the Convention, it shall be entitled to invoke the dispute settlement procedures, established by Article [VII. 2.] (Alternative B) (Settlement of Disputes) of the Convention.

Option 2

6. The provisions of this Article are without prejudice to the operation of Article [VII. 2.] (Alternative B) (Settlement of Disputes) of the Convention.]

[VII. 2. (Alternative B)]

SETTLEMENT OF DISPUTES

Negotiation and other peaceful means:

[1. In the event of a dispute between Parties concerning the interpretation or application of this Convention or any Protocol thereto, the Parties concerned shall seek solution by negotiation [or in the manner set forth in Annex... (Resolution of Questions Regarding Interpretation and Implementation of the Convention).]

2. If the Parties concerned cannot reach agreement by negotiation, they may jointly seek the good offices of, or request mediation by, a third party.]

Recourse to other third-party procedures

[3. If the Parties concerned cannot settle their dispute in the manner set forth in paragraphs 1 and 2 of this Article, and if they so agree, the dispute shall be submitted to the International Court of Justice or to arbitration in accordance with Annex IV.

4. Failure to reach common agreement on submission of the dispute to the International Court of Justice or to arbitration does not absolve the Parties from the responsibility of pursuing the means of settlement pursuant to paragraphs 1 and 2 of this Article.

5. At the time of ratification, acceptance, approval, or accession to the Convention, or at any time thereafter, a State or regional economic integration organization may declare in a written instrument submitted to the Depositary that, for a dispute not resolved in accordance with paragraphs 1 and 2 above, it accepts in relation to any Party accepting the same obligation, one or both of the following means of dispute settlement:

(a) Arbitration in accordance with Annex IV;

(b) Submission of the dispute to the International Court of Justice.

6. A declaration made under paragraph 5 above shall remain in force until it expires in accordance with its terms or until three months after written notice of its revocation has been deposited with the Depositary.

7. A declaration made under paragraph 5 above shall not affect the operation of paragraphs 1 and 2 of this Article.

8. A new declaration, a notice of revocation or the expiry of a declaration shall not in any way affect proceedings pending before the International Court of Justice or the Arbitral Tribunal, unless the Parties to the dispute otherwise agree.

9. Declarations and notices referred to in this Article shall be deposited with the Depositary who shall transmit copies thereof to the Secretariat and to all Parties.

10. If, after the expiry of twelve months from the date of a request made pursuant to paragraph 1 of this Article, the Parties concerned have not been able to settle their dispute or have not agreed on the competence of the International Court of Justice or the Arbitral Tribunal, the dispute

OPTION 1: Conciliation Commission

shall be submitted to a Conciliation Commission. The Commission shall be composed of an equal number of members appointed by each Party concerned, and of a chairman chosen jointly by the members appointed by the Parties. The Commission shall render a final, non-binding decision, which the Parties shall consider in good faith.

OPTION 2: Judicial settlement

may be submitted, at the request of any one of the Parties, to the Arbitral Tribunal.]]

VII. 3. AMENDMENTS TO THE CONVENTION

Proposals

1. Any Party may propose amendments to this Convention.

Adoption of Amendments

2. Amendments to this Convention shall be adopted at a [regular] meeting of the Conference of the Parties. The text of any proposed amendment to this Convention shall be communicated to the Parties by the secretariat at least [three] [six] months before the meeting at which it is proposed for adoption. The secretariat shall also communicate proposed amendments to the Signatories to the Convention for information.
3. The Parties to the Convention shall make every effort to reach agreement on any proposed amendment to the Convention by consensus. [If all efforts at consensus have been exhausted, and no agreement reached,] [If the efforts do not seem likely to attain this objective,] the amendment shall be adopted by a [two-thirds] [three-quarters] majority vote of such Parties present and voting at the meeting [whose [net] emissions of [greenhouse gases] [CO₂ represent at least [xx%] [75%] [80%] of estimated global [net] [CO₂] [greenhouse gases] [emissions in the preceding [five] year[s],] the amendment shall be submitted by the Depositary to all Parties for their ratification, acceptance or approval.

Voting

4. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

Entry into Force of Amendments

5. Instruments of ratification, acceptance or approval of amendments shall be deposited with the Depositary. Amendments adopted in accordance with paragraph 3 above, [for those States having accepted the amendment] shall [unless otherwise provided in the amending instrument itself] enter into force on the ninetieth day after the date of receipt by the Depositary of notification of their ratification, acceptance or approval, by at least [two-thirds] [three-quarters] of the Parties to this Convention [and whose [net] emissions of greenhouse

gases represent at least 80% of [net] global emissions in the preceding year].

6. The amendments shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of ratification, acceptance or approval of the amendments.

[VII. 4. PROTOCOLS]

Adoption

1. [This Convention and its protocols shall jointly constitute an international legal regime regarding climate change.] The Conference of the Parties may at any [regular] meeting adopt protocols [that are aimed at implementing the [comprehensive] purposes and principles established in the Convention, specifying [comprehensive] measures or obligations relating to [certain] [all] aspects of climate change]. [The protocols shall be in conformity with the provisions of the Convention.]

Notification to the Parties

2. The text of any proposed protocol shall be communicated to the Parties by the secretariat at least [three] [four] [six] months before such a meeting.

Entry into Force

[3. The requirements for the entry into force of any protocol shall be established by that instrument [and may include provisions regarding [accelerated] [differentiated] procedures for entry into force].]

Parties to a Protocol

[4. Only Parties to the Convention may be Parties to a protocol.]

Only Parties to Protocol to take Decisions relating to a Protocol

5. [Subject to the provisions of paragraph 1 above,] Decisions under any protocol shall be taken only by the Parties to the protocol concerned.]

VII. 5. ADOPTION AND AMENDMENT OF ANNEXES TO THE CONVENTION

Annexes as integral to the Convention

1. The Annexes to this Convention shall form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to any Annexes thereto. [Such Annexes shall be restricted to [procedural, scientific, technical and administrative matters] [technical lists or forms of a scientific or technical character] [lists, forms and any other material of a descriptive nature only].]

Adoption of Additional Annexes to the Convention

2. [Additional] Annexes to the Convention shall be proposed and adopted according to the procedure set forth in Article [VII. 3.] (Amendments to the Convention).

Procedure for Entry into Force of Additional Annexes to the Convention

3. Annexes that have been adopted in accordance with paragraph 2 above shall enter into force for all Parties to the Convention [three] [four] [six] months after the date on which the Depositary issues notices to such Parties of the adoption of the Annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the Annex. The Annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date of withdrawal of such notification has been received by the Depositary.

Procedure for Amendments to Annexes

4. The proposal, adoption and entry into force of amendments to Annexes to the Convention shall be subject to the same procedure as that for the proposal, adoption and entry into force of Annexes to the Convention.

5. If an additional Annex or an amendment to an Annex involves an amendment to the Convention, the additional Annex or amended Annex shall not enter into force until such time as the amendment to this Convention enters into force.

VII. 6. RIGHT TO VOTE

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