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INTERGOVERNMENTAL NEGOTIATING COMMITTEE
FOR A FRAMEWORK CONVENTION ON CLIMATE CHANGE
Eleventh session
New York, 6-17 February 1995
Item 7 (b) of the provisional agenda

MATTERS RELATING TO COMMITMENTS

REVIEW OF THE ADEQUACY OF COMMITMENTS IN ARTICLE 4, PARAS. 2 (A) AND (B)

Letter dated 20 September 1994 from the Permanent Representative of Trinidad and Tobago to the United Nations in New York to the Executive Secretary of the interim secretariat, transmitting a draft protocol to the United Nations Framework Convention on Climate Change on Greenhouse Gas Emissions Reduction

Note by the interim secretariat

1. Article 17.1 of the Convention provides that "the Conference of the Parties may, at any ordinary session, adopt protocols to the Convention", and Article 17.2 provides that "the text of any proposed protocol shall be communicated to the Parties by the secretariat at least six months before such a session".
2. In accordance with these provisions, the Permanent Representative of Trinidad and Tobago to the United Nations, on behalf of the States Parties to the Convention that are members of the Alliance of Small Island States, transmitted the text of a proposed protocol to the interim secretariat. Consequently, on 21 September 1994, the interim secretariat sent a note verbale containing this text to all Permanent Missions to the United Nations in New York and at Geneva.
3. The Committee is invited to consider this draft protocol at its eleventh session, in preparation for the first session of the Conference of the Parties, to be held in Berlin from 28 March to 7 April 1995.

GE.94-64640

Letter dated 20 September 1994 from the Permanent Representative of Trinidad and Tobago to the United Nations in New York to the Executive Secretary of the interim secretariat, transmitting a draft protocol to the United Nations Framework Convention on Climate Change on Greenhouse Gas Emissions Reduction

Please find attached a "Draft Protocol to the United Nations Framework Convention on Climate Change on Greenhouse Gas Emissions Reduction" which has been prepared by the Alliance of Small Island States.

I would be grateful if arrangements could be made for the Draft Protocol to be considered at the eleventh session of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change and at the first session of the Conference of the Parties in 1995.

(Signed)

Annette des Iles
Ambassador
Permanent Representative

DRAFT PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE ON GREENHOUSE GAS EMISSIONS REDUCTION

PREAMBLE

The Parties to this Protocol,

Being Parties to the 1992 United Nations Framework Convention on Climate Change (the Convention),

Acknowledging that the ultimate objective of the Convention and of this protocol is to achieve stabilisation of atmospheric greenhouse gas concentrations at a level which would prevent dangerous anthropogenic interference with the climate system 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,

Noting that Article 3 of the Convention requires developed country Parties to take the lead in combating climate change and the adverse effects thereof,

Conscious of the need for developed country Parties to adopt specific targets and time frames for reducing emission of greenhouse gases to achieve the Objective of the Convention,

Reaffirming that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs,

Aware of the advantages of coordinating relevant measures and strategies, including specific administrative and economic instruments to achieve the Objective of the Convention,

Acknowledging that in accordance with the principle of common but differentiated responsibility Parties to the Convention and this Protocol should in future re-examine the impact of global efforts to combat climate change and the adverse effects thereof,

HAVE AGREED AS FOLLOWS:

ARTICLE 1 - DEFINITIONS

For the purposes of this protocol:

1. "Annex I Parties" means the developed country Parties and other developed Parties included in Annex I of the Convention, that are also Parties to this Protocol.
2. "Conference of the Parties" means the Conference of the Parties to the Convention established pursuant to Article 7 of the Convention.

3. "Convention" means the United Nations Framework Convention on Climate Change adopted on 9 May 1992, and unless the text otherwise indicates, the terms defined in Article 1 of the Convention shall have the same meaning in this Protocol.
4. "Meeting of the Parties" means the Conference of the Parties established pursuant to Article 8 of this Protocol.
5. "Montreal Protocol" means the 1987 Montreal Protocol on Substances that Deplete the Ozone Layer, as subsequently adjusted and amended.
6. "Objective" means the ultimate objective stated in Article 2 of the Convention.
7. "Parties" means the Parties to the present Protocol.
8. "Parties to the Convention" means Parties for whom the Convention has legally entered into force in accordance with the Convention's provisions.
9. "Principles" means, unless the context otherwise requires, the Principles stated in Article 3 of the Convention.
10. "Secretariat" means the Secretariat established under Article 8 of the Convention.

ARTICLE 2 - BASIC COMMITMENT

In accordance with the Objective and Principles of the Convention, all Parties, taking into account their common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances shall implement national and, where appropriate, regional programmes containing measures to mitigate climate change by addressing anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol.

ARTICLE 3 - TARGETS FOR GREENHOUSE GAS REDUCTIONS

1. Each of the Annex I Parties shall:
 - (a) Reduce its 1990 level of anthropogenic emissions of carbon dioxide by at least 20 percent by the year 2005; and
 - (b) Adopt specific targets and timetables to limit or reduce other greenhouse gases not controlled by the Montreal Protocol, including, targets and timetables for methane, nitrous oxide and fluorocarbons, in accordance with a programme of additional commitments to be negotiated and adopted by the first Meeting of the Parties.

2. The Meeting of the Parties shall review and revise the commitments of the Annex I Parties contained in subparagraph (a), and the commitments adopted pursuant to subparagraph (b) above, in accordance with the precautionary principle and the best available scientific information and assessment of climate change, not later than five years after the entry into force of this Protocol and thereafter at regular intervals to be determined by the Meeting of the Parties.
3. Any Party not included in Annex I of the Convention that has expressed its intention to be bound by Article 4.2(a) and (b) of the Convention in accordance with Article 4.2(g) of the Convention, may in its instrument of ratification, acceptance, approval or accession to this Protocol, or at any time thereafter, notify the Depositary that it intends to be bound by Articles 3 to 5 of this Protocol. The Depositary shall inform the other signatories and Parties of any such notification.

ARTICLE 4 - COORDINATION MECHANISM

1. A mechanism to facilitate Annex I Parties' coordination of measures developed to achieve the Objective of the Convention is hereby established to provide the Meeting of the Parties, and as appropriate, the institutions established by the Convention and other relevant international organizations, with timely advice on the coordination of such measures.
2. The mechanism shall provide advice on the full range of measures the coordination of which could assist Annex I Parties implement their commitments to combat climate change and the adverse effects thereof. These measures shall include, inter alia, the coordination of economic instruments such as taxes or subsidies, administrative instruments such as least cost or integrated resource planning, energy efficiency standards and recycling, and specific measures covering the industrial, energy, transportation, land use, agriculture, waste management and forestry sectors.
3. The mechanism shall be open to participation by all Parties to this Protocol and shall be multidisciplinary. It shall comprise governmental representatives competent in the relevant field of expertise. It shall report regularly to the Meeting of the Parties on all aspects of its work.
4. The functions, terms of reference, organization and operation of this mechanism shall be elaborated further at the first Meeting of the Parties.

ARTICLE 5 - REPORTING REQUIREMENTS

1. Each of the Annex I Parties shall communicate to the Meeting of the Parties, through the Secretariat, the following information:
 - (a) A detailed description of the policies, programmes and measures it has undertaken to implement its commitments under Articles 2 to 4 above; and
 - (b) A specific estimate of the effects that these policies, programmes and measures will have on anthropogenic emissions by its sources and removals by its sinks of greenhouses gases.
2. Each of the Annex I Parties shall also provide information on the full costs and benefits of the policies and measures described in subparagraphs (a) and (b), and indicate how such policies and measures form part of a least cost implementation strategy. At their first Meeting, Parties shall consider and agree on methodologies for Annex I Parties to undertake calculations of the full costs and benefits referred to above.
3. Each of the Annex I Parties shall make its initial communication within one year of the entry into force of the Protocol for that Party. The frequency of subsequent communications shall be determined by the first Meeting of the Parties.

ARTICLE 6 - INSTITUTIONAL ARRANGEMENTS

1. Decisions under this Protocol shall be taken only by Parties to this Protocol. Parties shall bear in mind that the Conference of the Parties, as the supreme body of the Convention, must also keep under regular review the implementation of any related legal instruments, such as this Protocol.
2. The Secretariat, financial mechanism and subsidiary bodies established by the Convention or by the Conference of the Parties shall be available for use by the Parties subject to the prior approval of such arrangements by the Conference of the Parties.
3. To avoid duplication, overlap and conflicts between the institutional structures and reporting requirements established by the Convention and those established by the Protocol, the first Meeting of the Parties shall seek guidance on these matters from the Conference of the Parties.
4. The first Meeting of the Parties shall adopt by consensus financial rules, in accordance with guidance received from the Conference of the Parties, to ensure that any additional funds for the operation of this Protocol are provided by the Parties to this Protocol.

ARTICLE 7 - TRANSFER OF TECHNOLOGY

Annex 1 Parties shall ensure:

- (a) That the best available technologies, practices and processes that control, reduce or prevent anthropogenic emissions of greenhouse gases not controlled by the Montreal Protocol in all relevant sectors, including the industrial, energy, transport, industry, agriculture, forestry and waste management sectors, are expeditiously transferred to developing country Parties to this Protocol;
- (b) That every practicable step is taken to support the development and enhancement of the endogenous capacities and technologies of developing country Parties;
- (c) That the transfers referred to in subparagraph (a) occur under fair and most favourable conditions.

ARTICLE 8 - MEETING OF THE PARTIES

1. A Meeting of the Parties is hereby established. The Meeting of the Parties shall keep under regular review the implementation of the Protocol and shall make, within its mandate, the decisions necessary to achieve its effective implementation.
To this end, it shall:
 - (a) Periodically review the commitments of the Parties and the institutional arrangements under the Protocol, in the light of Objective and Principles of the Convention, the experience gained in the Protocol's implementation and the evolution of scientific and technological knowledge;
 - (b) Adopt targets and timetables referred to in Article 3.1;
 - (c) Review and revise the commitments of Annex I Parties referred to in Article 3.2;
 - (d) Receive, review and ensure the publication of information submitted to it, including the reports submitted by Parties pursuant to Article 5;
 - (e) Regularly assess the overall aggregated effect of the steps taken by Annex I Parties in the light of the latest scientific assessments concerning climate change, and of the Protocol's objective, and ensure the publication of such assessments;
 - (f) At its first Meeting, agree upon and adopt by consensus, rules of procedure and financial rules for itself and for any subsidiary body;
 - (g) Receive reports from, and if necessary give guidance to the financial mechanism and to subsidiary bodies on matters relating to the implementation of this Protocol;

- (h) Seek and utilize, where appropriate, the services and cooperation of, and information provided by, competent international organizations and intergovernmental and non-governmental bodies;
 - (i) Establish further subsidiary bodies as may be deemed necessary for the implementation of the Protocol;
 - (j) Make recommendations on any matters necessary for the implementation of this Protocol;
 - (k) Consider and if approved, adopt proposals for any amendment of or addition to this Protocol or any annex thereto; and
 - (l) Exercise such other functions as are required for the implementation of this Protocol, including any functions assigned to it by the Conference of the Parties.
2. The Secretariat shall convene the first Meeting of the Parties not later than one year after the date of the entry into force of this Protocol and if feasible, in conjunction with a meeting of the Conference of the Parties. Thereafter ordinary sessions of the Meeting of the Parties shall be held every year in conjunction with sessions of the Conference of the Parties, unless otherwise decided by the Meeting of the Parties.
3. Extraordinary sessions of the Meeting of the Parties shall be held at such other times as may be deemed necessary by the Meeting of the Parties, or at the written request of any Party, provided that, within six months of such a request being communicated to the Parties by the Secretariat, it is supported by at least one third of the Parties.
4. The United Nations, its specialized agencies and the International Atomic Energy Agency, as well as any State not Party to this Protocol, may be represented at any Meeting of the Parties as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by the Protocol and which has informed the Secretariat of its wish to be represented at a session of the Meeting of the Parties as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of observers shall be subject to the rules of procedure adopted by the Parties at their first Meeting.

ARTICLE 9 - SETTLEMENT OF DISPUTES

In the event of a dispute arising between any two or more Parties concerning the interpretation or application of the Protocol, the Parties shall seek a settlement in accordance with Article 14 of the Convention.

ARTICLE 10 - AMENDMENTS TO THE PROTOCOL

1. Any Party may propose amendments to the Protocol.
2. Amendments to the Protocol shall be adopted at a Meeting of the Parties. The text of any proposed amendment to the Protocol shall be communicated to the Secretariat who shall inform the Parties of the proposed amendment at least 6 months before the meeting at which it is proposed for adoption.
3. The Parties shall make every effort to reach agreement on any proposed amendments to the Protocol by consensus. If all efforts at consensus have been exhausted, and no agreement reached, the amendment shall as a last resort be adopted by a two-thirds majority vote of the Parties present and voting at the meeting. The adopted amendment shall be communicated by the Secretariat to the Depositary, who shall circulate it to all Parties for their acceptance.
4. Instruments of acceptance in respect of an amendment shall be deposited with the Depositary. An amendment adopted in accordance with paragraph 3 above shall enter into force for those Parties having accepted it on the ninetieth day after the date of receipt by the Depositary of an instrument of acceptance by at least two-thirds of the Parties to the Protocol.
5. The amendment shall enter into force for any other Party on the ninetieth day after the date on which that Party deposits with the Depositary its instrument of acceptance of the said amendment.
6. For the purposes of this Article, "Parties present and voting" means Parties present and casting an affirmative or negative vote.

ARTICLE 11 - ADOPTION AND AMENDMENT OF ANNEXES TO THE PROTOCOL

1. The Meeting of the Parties may adopt annexes to this Protocol. Such annexes shall form an integral part thereof and, unless otherwise expressly provided, a reference to the Protocol shall constitute at the same time a reference to any annexes thereto.
2. Annexes to the Protocol shall be proposed and adopted in accordance with the procedure set out in Article 10, paragraphs 2 and 3 above.
3. An annex that has been adopted in accordance with paragraph 2 above shall enter into force for all Parties to the Protocol six months after the date of the communication by the Depositary to such Parties of the adoption of the annex, except for those Parties that have notified the Depositary, in writing, within that period of their non-acceptance of the annex. The annex shall enter into force for Parties which withdraw their notification of non-acceptance on the ninetieth day after the date on which withdrawal of such notification has been received by the Depositary.

4. The proposal, adoption and entry into force of amendments to annexes to the Protocol shall be subject to the same procedure as that for the proposal and adoption of annexes to the Protocol in accordance with paragraphs 2 and 3 above.
5. If the adoption of an annex or an amendment to an annex involves an amendment to the Protocol, that annex or amendment to an annex shall not enter into force until such time as the amendment to the Protocol enters into force.

ARTICLE 12 - RELATIONSHIP BETWEEN THIS PROTOCOL AND THE CONVENTION

Except as otherwise provided in this Protocol, the provisions of the Convention relating to its protocols shall apply to this Protocol.

ARTICLE 13 - RIGHT TO VOTE

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

ARTICLE 14 - DEPOSITARY

As provided under Article 19 of the Convention, the Secretary-General of the United Nations shall be the Depositary of the Protocol.

ARTICLE 15 - SIGNATURE

The Protocol shall be open for signature by States Members of the United Nations or any of its specialised agencies or that are Parties to the Statute of the International Court of Justice and by regional economic integration organisations at Berlin during the first session of the Conference of the Parties, and thereafter at the United Nations Headquarters in New York from 8 April 1995 to 7 April 1996.

ARTICLE 16 - RATIFICATION, ACCEPTANCE, APPROVAL AND ACCESSION

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

ARTICLE 17 - ENTRY INTO FORCE

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

ARTICLE 18 - RESERVATIONS

No reservations may be made to this Protocol.

ARTICLE 19 - WITHDRAWAL

1. At any time after three years from the date on which the Protocol has entered into force for a Party, that Party may withdraw from the Protocol by giving notice in writing to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal or on such later date as may be specified in the notice of withdrawal.
3. Any Party which withdraws from the Convention shall, pursuant to Article 25 of the Convention, be considered to have withdrawn from this Protocol also.

ARTICLE 20 - AUTHENTIC TEXTS

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

IN WITNESS WHEREOF the undersigned, being duly authorised to that effect, have signed this Protocol.

DONE at Berlin this _____ day of _____ one thousand nine hundred and ninety five.

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