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UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

SUBSIDIARY BODY FOR IMPLEMENTATION

Twenty-fourth session

Bonn, 18–26 May 2006

Agenda item 12 (d)

Arrangements for intergovernmental meetings

**Review of arrangements for the eleventh session of the Conference of the Parties
and the first session of the Conference of the Parties serving as the meeting
of the Parties to the Kyoto Protocol**

Views on participation of observer States in Kyoto Protocol processes

Submission from a Party/observer State

The secretariat has received a submission from Australia (Party to the Convention, observer State to the Kyoto Protocol). In accordance with the procedure for miscellaneous documents, this submission is attached and reproduced* in the language in which it was received and without formal editing.

* This submission has been electronically imported in order to make it available on electronic systems, including the World Wide Web. The secretariat has made every effort to ensure the correct reproduction of the text as submitted.

SUBMISSION FROM AUSTRALIA

Participation of Observer States in Kyoto Protocol Processes **Submission by Australia**

Key Points

- Parties to the Convention have an express legal right to participate in all Protocol processes whereas other observers only have a right to be represented.
- Parties to the Protocol have no right to object to the participation of Parties to the Convention but one-third can object to other observers' representation.
- Parties to the Convention have an express legal right to participate in both the COP/MOP and subsidiary body sessions including contact groups and informal consultations whereas other observers only have a legal right to be represented in COP/MOP sessions.

Hierarchy of Rights

The Protocol clearly distinguishes between three levels of observers to Protocol meetings and accords substantially different legal rights to these three levels:

- Parties to the Convention that are not Parties to the Protocol
- State observers that are not Party to the Convention or the Protocol and other UN specialised agencies, such as the International Atomic Energy Agency
- any accredited national, international, governmental or non-governmental body or agency qualified in matters covered by the Protocol.

Participation versus Representation

Parties to the Protocol have an express legal obligation to allow Parties to the Convention to participate as observers in Protocol proceedings (Article 13(2) and 15(2)). The only limitation on participation is that only Parties to the Protocol can take decisions. Participation by Parties to the Convention would include a right to speak at all Protocol sessions, including making textual suggestions, but would not include a right to vote or block consensus. In contrast, Parties to the Protocol only have an obligation to allow other observers to be represented (Article 13(8)).

Right to Object

Protocol Parties have no right to object to the participation of Parties to the Convention as the rights in Article 13(2) and 15(2) are not subject to the rules of procedure. In contrast, the representation of other observers is expressly subject to the rules of procedure (Article 13(8)) that include a right of one-third of Protocol Parties to object.

COP/MOP versus Subsidiary Bodies

Parties to the Convention can participate as observers in the proceedings of any session of the COP/MOP (Article 13(2)) and subsidiary bodies (Article 15(2)). This includes plenaries, contact groups, informal consultations and any "friends of the chair" consultations, as "any session" is not limited in any way. In contrast, other observers only have a right to be represented in the COP/MOP (Article 13(8)).