



## **Views regarding the second review of the Kyoto Protocol under Article 9**

**Submission of the Climate Action Network International\*  
7 March 2008**

*CAN-International welcomes the opportunity to provide inputs to the discussions moving towards a post 2012 agreement. CAN is a coalition of more than 400 environmental and development non-governmental organizations in 85 countries worldwide, committed to limiting human-induced climate change to ecologically sustainable levels.*

### **Introduction**

CAN seeks to ensure that all processes under the UNFCCC and its Kyoto Protocol are based on sound scientific information and analysis. Scientific analysis, particularly that from the IPCC's Fourth Assessment Report and subsequent peer-reviewed literature, should be the basis for any negotiations or discussions under the UNFCCC and its Kyoto Protocol. In addition, bringing forward lessons learned from the first commitment period, *inter alia* through Article 9 review, will help to inform the post 2012 negotiations in a sound, effective and balanced fashion.

In CAN's view, the work of 2008 under both the Convention and its Protocol should focus on reaching a common understanding of the options on the table and their scope, for their negotiation in 2009. This work should be informed by the outcomes of the Article 9 review of some of the first commitment modalities. The work plan for the second Article 9 review will therefore need to be well-planned to make use of synergies between the various strands under discussion, and well-resourced to allow the participation of all Parties and relevant stakeholders. One of two workshops referred to in the Bali Decision *Scope and Content of the second review of the Kyoto Protocol pursuant to its Article 9* must take place before the SB28 and the other well before Poznan, and each must be substantial and comprehensive. In CAN's opinion, it is appropriate for the Article 9 working groups to also convene at the August/ September intersessional to ensure that there is time to cover all necessary aspects of the review. Information sharing between all relevant bodies will be essential to keep the negotiations as coherent and streamlined as possible, and to avoid duplication of efforts.

In general, the negotiating and review processes must be conducted as transparently as possible and all documents should be published on the UNFCCC website. The work must be carried out expeditiously: there are substantial and complex issues to be discussed.

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\* This submission is not endorsed by Christian Aid, Friends of the Earth International or Oil Change International.

## **Extending the Share of Proceeds**

In CAN's opinion, the Kyoto mechanisms must not only work towards decarbonization efforts, but also contribute towards the funding of adaptation, based on the polluter pays and historical responsibility principles. Currently a 2% levy is limited to the CDM. Such a levy could be extended to emissions trading and joint implementation in the future, resulting in additional finance for the Adaptation Fund. The total amount generated would depend both on the size of the market and the level of the levy set, which must be set from a comprehensive assessment of adaptation needs.

In this context, CAN supports the Article 9 exploration of placing a levy on each of the three flexible mechanisms of the Kyoto Protocol, so that the generation of funding to the Adaptation Fund is broadly and fairly shared. The Article 9 review should conduct an economic analysis of the scale of finance that could be generated by setting levies on all three mechanisms based on a number of likely scenarios of trading in these credits and on the levels of the levies.

In its submission regarding the Bali Action Plan workplan<sup>1</sup>, CAN called for there to be submissions on the Secretariat's paper "Investment and Financial Flows to address Climate Change" addressing both adaptation and mitigation finance needs, followed by an in-session workshop, to facilitate a decision on the magnitude of finance required at COP14. The work on financial needs assessment done under the Bali Action Plan should be informed by the Article 9 review of the levels of finance that could be generated from the Kyoto mechanisms.

It is obvious that there is a huge gap between adaptation financing needs and resources available. The costs of adaptation for developing countries will be *at least* \$50bn per year by 2020, whereas current finance for the Adaptation Fund through the 2% levy on the CDM will generate less than \$0.5bn per year during 2008-2012, i.e. less than 1% of the resources required in the future. Extending the share of proceeds to mechanisms other than the CDM must contribute substantially to filling this gap and be designed to deliver the desired outcome. However, CAN recognizes that the Kyoto mechanisms alone will likely not raise the requisite finances even for adaptation, and additional and substantial financial resources will also be needed for technology and for reducing emissions from deforestation and degradation. Other financing options that should be considered for subsequent commitment periods include, *inter alia*, levies on international aviation, global carbon taxes, or a levy on AAUs or auctioning some or all AAUs.

## **Inscribing Commitments for Annex I Parties in Annex B**

In CAN's opinion non-Annex-B countries willing to take on quantified emission limitation and reduction obligations (QELROs) should be encouraged to do so, and there should be a review of the legal processes for inscribing these commitments in Annex B. Criteria for the quantification of the emission reduction commitments need to be well defined so as to avoid getting more hot air into the Kyoto system.

CAN wishes to emphasize at this juncture that nothing other than QELROs are appropriate types of target for existing Annex-B countries, and in CAN's view, replacing deeper

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<sup>1</sup> NGO submissions are published on the UNFCCC website in the following location:  
[http://unfccc.int/parties\\_and\\_observers/ngo/items/3689.php](http://unfccc.int/parties_and_observers/ngo/items/3689.php)

QELROs with voluntary commitments, now or in future periods, is completely unacceptable. The way into Annex B has been, and must remain, a one-way-street.

### **Scope, Effectiveness and Functioning of the Flexible Mechanisms**

The Kyoto flexible mechanisms were designed to complement domestic action, intending to facilitate cost-effective action internationally that should assist in transferring sustainable technologies and build capacity. While the mechanisms have had some limited benefits, notably in putting a price on greenhouse gas emissions - an important signal to the markets to encourage investment in cleaner technologies - there have also been significant problems. CAN looks forward to the review of these mechanisms under Article 9, and believes that social and environmental considerations, beyond greenhouse gas impacts, must be an integral aspect of the review and must lead to substantive improvements in these mechanisms for the post 2012 period, through the uptake of review recommendations by the AWG.

### *CDM*

CAN has serious concerns about the current structure and functioning of the CDM. In terms of emission reductions, the CDM at best only off-sets Annex I emissions, and without effective additionality testing and rigorous baselines, allows global emissions to increase in absolute terms. It is imperative to ensure that the CDM in the future moves beyond offsetting and in fact yields real, additional, net reductions in global emissions, as well as real benefits for sustainable development, additional to strong domestic emissions reductions in Annex I countries. If the environmental integrity of uncapped trading cannot be assured, it should be abandoned and other means of financing and technology transfer be explored. Whatever the mechanism used to achieve this, it will need to be substantially better designed and larger in scale and scope than the current CDM if it is to deliver large emissions reductions and large-scale changes in technological investments in developing countries.

CAN therefore suggests that the Article 9 review explores shifting away from the project-by-project approach to more comprehensive approaches, variously discussed as policy-based or sectoral approaches. No-lose targets may be appropriate for some developing countries. Policy-based crediting would mean to reward specific policies which result in reduced emissions compared to an agreed reference level. Sectoral crediting would look at the performance of a sector as a whole, i.e. the transport sector in a country or province, and would generate reduction units for sale if the sector's emissions stayed below the baseline. No-lose targets would function very similarly to sectoral crediting, with credits being awarded if the target is overachieved but no penalties applied if the target is not met. They would have the added advantage that the target would be negotiated. However it must be stressed that great care would need to be taken to ensure that the targets adopted would result in real emission reductions.

Sectoral crediting approaches to the CDM, however, also entail some important new risks. In particular, the quantification of emissions and reductions at the sectoral level will have to rely on modeling and projections, which always possess a degree of uncertainty and may be subject to the same problems of gaming that currently are observed in the CDM. Projections at the sectoral level may prove even less reliable than project-by-project additionality testing. It is therefore imperative to assess the reliability of quantifying developing country reductions at the sectoral level before scaling up uncapped trading.

If the project-based CDM is retained instead of or alongside sectoral approaches, major reforms would be needed, in particular to drastically strengthen additionality testing. The Article 9 review should explore the reforms that would be required, and their implications.

CAN also has strong concerns regarding the environmental and social sustainability of many CDM projects to date. It is crucial that this issue be included in the Article 9 review. CDM projects must be required to meet the CDM Gold Standard<sup>2</sup> to ensure that they positively contribute to sustainable development in host countries, as required by Article 12. To prevent projects with high social and environmental costs from being registered under the existing or future mechanisms, international sustainability standards, and procedures for stakeholder consultations, including full and prior informed consent of customary land owners and local communities, that have been adopted by many international entities such as the World Commission on Dams should be applied to the CDM, in the first commitment period, as well as post 2012.

Improving sustainability of the CDM, and any future mechanisms, will also require a greater geographic distribution of activities, and again this is an important area for analysis by the Article 9 review. CAN is keen to see a fairer distribution of investment in climate-friendly development activities in developing countries. CAN would also welcome the review to consider interactions of an improved CDM with any new mechanisms proposed under the Bali Action Plan, as CAN sees potential for, for example, the Sustainable Development Policies and Measures (SD PAMs) approach, in addition to an improved CDM, being able to provide better geographic distribution of finance and technology deployment.

**"The Gold Standard" is an independent, transparent, internationally recognized benchmark for "high quality" CDM projects.**

The Gold Standard, amongst others, only certifies projects which meet the following criteria:

- they must be end use efficiency or renewable energy projects (this includes methane to energy in certain circumstances);
- they must pass a sustainable development screen i.e. there must be evidence that the project is making a real contribution to sustainable development and that it benefits the local community;
- they must only provide an energy service that helps catalyze the transition to non- fossil fuel based energy systems. Projects which generate credits from the destruction of industrial waste gases such as HFCs are therefore not eligible. These projects have little or no wider sustainable development benefits and
- they must follow a conservative, guided interpretation of the UNFCCC- additionality test that is necessary to demonstrate that a project delivers real emission savings which would not have occurred anyway under 'business as usual'.

### *Joint Implementation*

JI shares the fundamental flaw of the CDM in that it is generally not possible to demonstrate that an investment would not have taken place under business-as-usual conditions. The Article 9 review should explore the best way for JI to be progressively replaced by domestic cap-and-trade emission trading systems in all industrialized countries.

### *Cap-and-Trade Emissions Trading*

The strength of a cap and trade system is that it places an absolute limit on the total emissions that can occur and therefore has the potential to guarantee environmental effectiveness, as

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<sup>2</sup> <http://www.cdmgoldstandard.org/>

long as the cap is sufficiently tight, it excludes external credits from uncapped sources and rigorous monitoring and compliance regimes are in place. Such a system may be able to reduce emissions with low compliance costs, particularly if the market is sufficiently large (potentially with linking of appropriately structured carbon markets).

However, the provisions in the Protocol do not necessarily provide assurance that emissions trading involves credits that are “supplemental to domestic actions” as required by Article 17. CAN suggests that the Article 9 review explore the implications of the quantification of the supplementarity provision.

### **Minimization of Adverse Effects**

Mitigation policies and measures are being, and must continue to be, put in place which contribute to minimizing the adverse impacts of climate change, which impact the poorest and most vulnerable disproportionately. Thus fulfillment of the Convention’s promise to “prevent dangerous anthropogenic interference in the climate system” is the ultimate and overarching way in which adverse social, environmental and economic effects can be minimized. Policies and measures put in place by governments or private actors may have consequences on other Parties, and these consequences may be direct (intended) or indirect (unintended).

#### *Reduced use of fossil fuels*

The wholesale reduction in the use of fossil fuels, and in the emissions of the associated GHG reductions, are essential and intended consequences of the battle against climate change. Additionally, reductions in fossil fuel use are linked to more general energy security policies and measures, making the extent of causality of Kyoto impacts alone difficult to assess. CAN thinks a discussion of compensation for lost oil revenues is absolutely and non-negotiably unacceptable.

However, CAN believes a more positive and productive discussion could be on ways to effect the sustainable diversification of the economies of fossil fuel producing countries, through the sharing of experiences of economies that have already undergone significant transformations, and through the negotiations on the development and deployment of sustainable technologies.

#### *Other vulnerable sectors*

Other consequences of climate change mitigation are unintended; byproducts of climate policy rather than the direct and desirable result of mitigation policies. In CAN’s opinion, the Article 9 review should first define the scope of the unintended consequences to be addressed in the UNFCCC process; areas cited in the literature include food miles and other international trade, and impacts on tourism. Also important is the specific assessment of unintended consequences on vulnerable or indigenous communities including issues of land tenure, livelihood security, conflict, food and water security, and culture. The second phase of the Review should collect and explore life-cycle analytical evidence for the scale of the impacts (including, where relevant, carbon comparisons of the same goods from different producers into the same market<sup>3</sup>). There is an obvious need for more and better information

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<sup>3</sup> Some studies, for instance, have found that if a life-cycle emissions analysis is undertaken comparing the same products from different sources into the same market, that even with air miles factored in, developing country

to be brought into the discussions the impacts on unintended consequences. The next step would then be to propose possible means for addressing the unintended consequences within the different sectors. In CAN's opinion a discussion on the sustainable diversification of the economies of these countries is also relevant.

## **Additional areas that should be covered by the Article 9 review**

### *Demonstrable progress*

CAN looks forward to the publication of Parties' submissions containing information demonstrating their respective progress (or lack thereof) in implementing their commitments under the Kyoto Protocol relating to reporting and review, the provision of financial resources and the transfer of technology. The ability of developing country Parties to address domestic mitigation and adaptation opportunities is dependent on capacity, access to clean and genuinely sustainable technologies and an adequate level of financial resources. The overall performance of developed country Parties in facilitating resources and access to technology has been weak. CAN calls on developed country Parties to urgently explore and implement measurable, reportable, verifiable technology transfer mechanisms, with full participation of developing countries, in order to help promote and fund positive sustainable development pathways in developing countries. Fulfillment of these obligations by developed countries is essential to demonstrate not only progress, but good faith.

### *Aviation and Maritime bunker fuels*

In CAN's view, the adequacy of the arrangements under Article 2.2 on "emissions from greenhouse gases not controlled by the Montreal Protocol from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively" should be reviewed. There has been no real progress on this issue through these organizations and CAN is keen that a new arrangement be found to deal with the emissions from these sectors.

### *Legal review of Articles 20 and 21*

The procedure for adopting amendments to the Kyoto Protocol and its Annexes, as laid out in Articles 20 and 21, sets an extremely high barrier for the agreement of any changes to the Protocol for the first or subsequent commitment periods. CAN would like to see the scope of the Article 9 review widened to encompass a wider review of these Articles and an assessment of means to overcome the perverse situation that any amendment of these articles would require the original provisions of these very articles to be fulfilled.

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producers may still be able to produce and get goods to eg the European market with a much lower footprint than local producers. Addressing a response measure on developing country Parties in this case might be a matter of consumer education in the developed world markets rather than producer compensation