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**Report to CAN on the Articles 5, 7 and 8 section of the Marrakech Accords to
the Kyoto Protocol**

This summary is based on sections J (Article 7.4) and M (Articles 5, 7 and 8) of the advance version of The Marrakech Accords, as posted on the UNFCCC website.

1. Situation prior to COP7

The guidelines for implementing national systems for estimating GHG emissions and removals by sinks (Article 5.1) was the only section of the Article 5, 7 and 8 text that was complete and agreed by all parties.

The texts relating to reporting (Article 7) and review (Article 8) were well advanced, but there were a number of 'crunch' issues that needed to be resolved in Marrakech. These related to:

- Accounting and reporting on sinks
- Modalities for the accounting of assigned amounts (Article 7.4)
- Methodological and reporting requirements
- Reporting and review of Article 3.14 information
- Composition of the expert review teams (ERTs)
- Reinstatement of mechanisms eligibility

A number of these issues had been left open at previous sessions awaiting decisions in the LULUCF, mechanisms and compliance working groups. Most significantly for the talks in Marrakech, the text on Article 7.4 had never been discussed pending decisions on the nature of the assigned amount, fungibility and the carry over of commitments. These were clearly ratification issues for some members of the Umbrella Group.

2. What was agreed at COP7

LULUCF reporting

The Bonn Agreement introduced a number of provisions on land-use, land-use change and forestry. Under Article 3.4, countries were allowed to count additional sinks activities (forest management, cropland management, grazing land management and revegetation) towards meeting their targets. In addition, the agreement set out definitions for the terms 'afforestation', 'reforestation' and 'deforestation'. However, it was left to the COP7 negotiations to make these decisions operational. On the reporting side, the debate at COP7 centred on a number of items including annual reporting, and information that had to be reported for Article 3.3/4 activities.

The EU and G77&China position was that parties should have to report on their Article 3.3/4 sinks in their annual inventories in the same way as for the six gases and sinks listed in Annex A of the protocol. However, this position was resisted by the UG (most notably Russia and Japan) due to concerns over the feasibility of

annual reporting and the fact that compliance with the annual reporting provisions under Article 7.1 was an eligibility requirement for the mechanisms. Russia will find it difficult to meet the sinks reporting standards and consequently would not be eligible to trade its hot air.

The eventual deal was a compromise between the two positions. Parties will have to report annually on both Annex A sources/sinks AND 3.3/4 sinks, but a failure to meet the quality thresholds for the 3.3/4 sinks data will not effect a party's eligibility to use the mechanisms. This is different than the reporting rules for the six gases, which must meet certain quality thresholds in order for countries to have access to the mechanisms.

Parties also agreed on what type of sinks information should be reported. Provisions for reporting geo-referencing information was lost, but instead parties have to report the '*geographic location of the boundaries*' for each unit of land subject to 3.3 and 3.4 activities. Countries also agreed to report annually information that demonstrates that each of these activities is (directly) human-induced. As part of the national communications parties must also report on their national biodiversity and sustainable national resources legislation in order to insure that these activities are contributing beneficially to biodiversity. The methods and guidelines for reporting information on LULUCF will be further elaborated by the IPCC in their best practice guidelines over the next two years.

Reporting is also a crucial element in the accounting of sinks (discussed below). Decisions made at COP7 on the Article 7.4 text now prevent countries from issuing sinks units if they have not met the methodological and reporting standards that will be set out by the IPCC. This will ensure that only quality sinks tons are entered into the system.

Article 7.4

Due a number of controversies, the Article 7.4 text detailing the accounting system for the Kyoto Protocol had not been discussed prior to COP7. This text establishes the concept of the assigned amount and determines how each country should keep track of its own assigned amount and any transactions that occur through the flexible mechanisms. It also makes provision for a transaction log to be held by the UNFCCC Secretariat and used as the basis for the compliance assessment at the end of the commitment period.

Negotiation of the 7.4 text had to confront the vast differences between the UG and G77&China positions on the nature of the assigned amount, fungibility and banking. These cross cutting issues meant that this was best done with the mechanisms working group. The leverage of the UG in the negotiations meant that the final deal largely reflects their position so that the elements of the G77&China proposal that were included are more symbolic than substantive.

Fixed assigned amount

The text establishes the concept of a fixed assigned amount, based on the 1990 baseyear and the Annex B targets. Additions and subtractions (due to the mechanisms and 3.3/4 activities) will be taken into account at the end of the commitment period in order to assess compliance.

Removal unit

The deal also introduces a new unit - the removal unit (RMU) - in order to give a separate identity to LULUCF credits. RMUs will be issued for 3.3 and 3.4 sinks activities and ERUs generated from JI sinks projects will be converted to RMUs.

Fungibility, transfer and banking

Under the Marrakech agreement, all the units are fungible and can be transferred freely. However, countries are not allowed to bank (carry-over) RMUs to the next commitment period. Outwardly this is to prevent parties building up large allowances of these credits to offset against future targets. However, the reality is that it will be easy to launder these credits by using them to meet the first commitment period targets and carrying over AAUs, CERs and ERUs instead, making the provision an essentially symbolic one.

The deal also limits the banking of CERs and ERUs to 2.5% of each of the assigned amount. Again, this will not represent a real restriction as 5% of assigned amount total is quite a large number and unlikely to be reached. In addition, credits above this cap can simply be laundered into AAUs.

Accounting

Under the 7.4 rules, parties will be able to elect prior to the start of the commitment period, for EACH 3.3/3.4 activity, whether they issue or cancel RMUs annually or at the end. In addition, they will only be allowed to count these units towards their commitment if they have satisfied the annual reporting provisions and followed the good practice guidelines on land-use change and forestry (to be developed over the next two years). If the activity turns out to be a source, they will have to cancel an equivalent number of units for the same period that it elected to issue units.

Operation of the national registries and dealing with discrepancies

In order to be able to track and monitor the operations of the registries, each unit will be given an individual serial number and each transaction will be logged in a database maintained by the secretariat. Automatic checks will occur during each transaction to check that:

- Each party is eligible to use the mechanisms
- There are no infringements of the CPR
- There are no infringement of the LULUCF caps
- That there are no unresolved discrepancies

In the event that a discrepancy is flagged, the secretariat will be informed and parties will have to implement any corrective action within 30 days. As well as this case by case procedure, the ERTs will cross check information on registry transactions as part of the annual review, highlighting any discrepancies.

Publicly accessible information

Each national registry is required to make non-confidential information available via the Internet. This will include lists of all the units and their serial numbers held in each account

Review to reinstate eligibility

The Japanese put forward a late proposal to include provisions under Article 8 for a expedited review procedure for reinstating eligibility to use the mechanisms. This was incorporated into the final deal to ensure that Annex 1 parties do not have to wait for the next annual review to demonstrate their return compliance in the case where their eligibility has been suspended. The guidelines set a target of 10 weeks for assessing new submissions of information and writing a report.

Methodological and reporting requirements

The decision text for Article 7 sets out the reporting standards necessary for country would to meet the eligibility criteria for the flexible mechanisms. These are essentially set a quality control system for the annual inventories. In Marrakech, Parties finalised these standards for the six gases Annex A gases, and makes provision for incorporating similar standards for sinks reporting once the IPCC has completed its LULUCF good practice guidance.

Article 3.14

Demands from Saudi Arabia relating to the minimisation of adverse impacts due to the implementation of the Protocol were only partly met by the final deal. Parties will be required to report supplemental information as part of their annual report demonstrating how it is striving to meet its commitments under Article 3.14.

The Marrakech deal also included extra provisions for reviewing this information. Now the ERTs will undertake both an annual desk review and a periodic in-country visit timed to coincide with those of the national communications. However, as spelt out in the Bonn agreement, questions of implementation will be considered by the facilitative branch of the compliance committee and will not have an impact on a party's eligibility to use the mechanisms.

Composition of the ERTs

The expert review teams will assess each country's compliance with a range of reporting commitments. They will also assess at the end of the commitment period whether a country has met its target. Prior to COP7, parties disagreed over the composition of these review teams and whether selection should be based primarily on technical knowledge (EU and UG position) or equitable geographic representation (G77&China position).

The disagreement between the Annex 1 and non-Annex 1 was finally resolved so that:

- The team refrains from political judgements
- That the secretariat will select team members so that there is a 'balance' of Annex 1/non-Annex 1 personnel and that they try and achieve 'geographic balance' within each group. However, the selection should not compromise the team's expertise
- The team will be led by both an Annex 1 and a non-Annex 1 reviewer (taken from the standing group of experts)
- Training will be available to enhance reviewers' skills.

3. What remains to be done

	Task	Schedule
Article 5.2	Complete technical guidance on methodologies for adjustments	COP9 (COP10 for LULUCF adjustments)
Article 7	Development of the IPCC good practice guidelines for LULUCF reporting	COP9
	Development of criteria for cases where parties fail to submit information related to the GHG and sinks inventories	As soon as practicable after IPCC good practice guidelines on LULUCF reporting are available.
	Elaborate the guidelines for submitting information on AAs and national registries	COP8
	Consider how information submitted for review of demonstrable progress should be presented and evaluated	COP8
Article 7.4	Develop technical standards for ensuring accurate, transparent and efficient data exchange between registries, transaction log and CDM registry	COP8
	Establish transaction log	COP/MOP2
Article 8	Elaboration of the terms of service for lead reviewers on the ERTs and the characteristics of the training and assessment needed to ensure ERT competence	COP8
	To further develop the guidelines for review of information on AA, national registries and the reinstatement of eligibility	COP8
	Consider options for how to treat confidential data during Article 8 review	COP8