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POST-2012 CLIMATE CHANGE AGREEMENT

Why MRV is important

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M easurement, reporting and verification (MRV) refers to a set of processes and procedures through which factual information is provided, assessed and checked to determine whether, when and how Parties effectively meet their respective obligations. As such, MRV can play a key role in building trust among Parties and instill confidence in the post 2012 international climate regime. To achieve the ultimate objective of the UNFCCC, all Parties must contribute towards global emissions reductions. To this end, all efforts should be measured and reported in order to demonstrate that, taken collectively, emission pathways are on the right track or, if necessary, show that additional efforts would be necessary. However, MRV requirements must also reflect the nature of commitments and actions in light of common but differentiated responsibilities and respective capabilities. Moreover, if actions and commitments are made by Parties through a bottom up approach, it is crucial to develop a common MRV framework for purposes of accountability and credibility of the governance

system of the post 2012 climate regime. Nevertheless, MRV should not be viewed as a substitute of compliance, given that both processes are complementary in ensuring an effective international climate regime through proper implementation and enforcement.

What is MRV about?

The terminology “MRV” is used in several sections of the Bali Action Plan (BAP)¹, but is not defined by the UNFCCC, or implementing decisions. “Measurable” is an adjective that applies to a given object (action/commitment/support to action) to be realized in response to a specific obligation, which requires Parties to collect and compile national information/data/statistics in relation to this object, that are complete, accurate and consistent over time, in particular for the purpose of reporting. “Reportable” implies the compilation and availability of national data and statistics for information and/or scrutiny. Reporting requirements may in fact cover issues other than just those sub-

1. BAP (1 b(i) et (ii) + REDD (1 b (iii) + Flexible Mechanisms (1 b (v) + Finance/MRV of support to action

This paper focuses on MRV of mitigation actions and their support (not adaptation).

ject to measurement, for instance the description of national circumstances. “Verifiable” implies the establishment of a process whereby reported information is subject to a technical review, including a comprehensive and objective assessment of completeness, accuracy and quality.

The current climate regime² does in fact contain important monitoring, reporting and verification requirements, including some elements for tracking financial and technological support to action that are reported through National Communications, particularly for Annex I country Parties. Under the UNFCCC, reporting of monitored information, in particular through national inventories, is based on the principles of transparency, accuracy, comparability, and completeness. This is usefully supplemented by the Kyoto Protocol, which provides for an international verification of commitments and related obligations that rest upon Annex I Parties, with the possibility given to Expert Review Teams to raise a question of implementation that can be brought directly before the Compliance Committee. But National Communications of Annex I Parties are only submitted every four years, and performance of both implemented and planned domestic actions is not subject to any review process.

As far as developing country Parties are concerned, national inventories and National Communications are not frequent enough and are not subject to any review process³, whereas there is no reporting of impacts of policies and measures in terms of their performance or GHG outcome (with the exception of CDM projects through the issuance of CERs by the Executive Board).

Nevertheless, MRV requirements of the post 2012 international climate regime should build upon this *acquis* as much as possible while increasing the frequency and quality of reported information and improving the measurement and reporting of performance of actions and commitments taken by all Parties towards achieving the long term global emission

reduction goal. Common reporting guidelines should apply to all, but flexibility for developing countries should be provided within these guidelines.

MRV may cover issues to be looked at in both qualitative and/or quantitative terms. The term “actions” referred to in §§1 b (i) and 1 b (ii) of the BAP is not defined either. In any case, MRV of action may look at the action itself (whether it is credible and coherent with respect to national policies), its performance (in terms of implementation) and its outcome (performance based, result based, GHG outcome and/or co-benefits).

If MRV of action looks at outcomes other than just GHG impacts, it would require the adoption of common metrics to assess the pathway from efforts to outcomes in terms of GHG results at a particular point in time.

If MRV of support to action is about tracking financial flows in response to request for support, through the registry of NAMAs or other channels, it may also be used as a means for assessing the credibility of the proposed action, taking into account national circumstances and emission pathways.

What is to be MRVed and how?

Annex I commitments/actions and developing countries’ actions should be measured through national inventories, in accordance with internationally agreed methodologies, in order to show aggregate emission trends. All Parties should report on implementation of their respective obligations, including on the performance of actions in qualitative and, where appropriate and necessary, quantitative terms as well as on support to action through improved National Communications. The registration of all NAMAs would usefully complement the reporting through National Communications, in particular for those developing countries that would have to report on a less frequent basis. If only those NAMAs for which support is requested are to be registered, this would also help both Annex I countries and developing countries report regularly on support to action. In their National Communications, developing countries could also report on their Low Carbon Development Strategies, including projected emission trends, pathways and a mitigation plan that would be regularly updated in

2. Art. 4 and 12 of UNFCCC + Art. 5, 7 and 8 of the Kyoto Protocol + verification of additional emission reductions achieved through JI/CDM projects eligible under Art. 6 and 12 of KP.

3. The Consultative Group of Experts only examine National Communications, including national inventories, that are submitted to the SBI for improving their preparation.

order to progressively cover all sectors of the economy.

Based on such measured and reported information, the COP would have a clear picture to assess globally whether all mitigation efforts and results are on the right trajectory. It would be the only way to know exactly if and when peak of global emissions effectively happens. As such it would constitute a “thermometer” on the basis of which the adequacy of commitments, including the need to adjust the level of ambition of Annex I commitments and to increase support to developing countries’ actions, could be regularly reviewed. To this end, verification of measured and reported information is essential to assure efforts by all Parties taking into account their common but differentiated responsibilities and respective capabilities. In that context, the registry of NAMAs for which financial support would be requested would be a useful vehicle to assess whether action and support do match in an efficient and effective manner.

When to M/R/V?

The timing dimension is key to ensure accountability while safeguarding the environmental integrity of the post 2012 climate regime. Clearly, M, R and V are closely interlinked. Although each element is relevant on its own for implementation purposes, MRV should be designed with a dynamic perspective in mind to inform decision-making processes and, where MRV provide evidence that there is a risk that aggregate and/or individual emissions pathways go to the wrong direction, foster the adoption of more ambitious and well-targeted international and domestic actions.

Measurement can be carried out by Parties on ex ante basis, mainly through the National Communications (assessment performance of domestic policies and measures planned/designed by Annex I Parties to achieve their commitments, and of actions proposed by developing countries). The Low Carbon Development Strategies (LCDS) could also help developing country Parties to measure a certain level of ambition at aggregated level as a result of the sum of proposed actions. Some Parties suggest that the registration of NAMAs may also give an opportunity to measure the performance of action, in particular those for which

support to action is requested), on an ex ante basis. They propose that these NAMAs seeking support should undergo an “initial analysis” facilitated by a coordinating mechanism that would be established under the UNFCCC in order to check whether the proposed actions are technically sound and are consistent with the overall LCDS. Results of this analysis would be inscribed into the registry. Although such coordinating mechanism may be useful to provide advice on best available techniques and practices, it should not be entitled to measure whether the proposed action is consistent with the overall LCDS as it would entail a political judgment from a third party over domestic policy of the developing country. In addition, measurement of emissions trends should be done on an on-going basis through national inventories. Developing countries should start producing national inventories as soon as possible, thanks to an increased financial support from Annex I countries to be allocated for “fast start” period (2010-2013). Finally, performance of implemented actions should mainly be measured through National Communications based on emission levels measured in national inventories. The registry could also be a vehicle to measure on an ex post basis the performance and/or results of supported NAMAs, gathering information and data that could be reconciled when Parties submit their National Communications.

Reporting can also be done on an ex ante basis. With a bottom up approach, both Annex I and developing countries would report on their planned policies and measures through the inscription of their respective commitments and actions in an annex or a Schedule. With a top down approach, it is only the developing countries that would report on an ex ante basis when they register their NAMAs, at least those for which support would be requested. In that case, the registry that provides for a permanent reporting platform allowing political and legal recognition of actions taken by developing countries. Reporting would be also done on an ongoing and ex post basis through national inventories, on an annual basis, and National Communications at a frequency that should take account of respective responsibilities and capabilities of Parties. If Annex I countries must continue to provide for regular National Communications, they should be required to

submit improved National Communications more frequently (every two years) in particular with a bottom up approach where the level of ambition would be fixed by the aggregation of pledges, in the first place. Developing countries should be required to start regular submission of National Communications (every 4 years). At a later stage (2020), the COP should review the need for more frequent submission on the side of the most advanced developing countries. Logically, verification is done on an ex post basis, whether it look at national (annual) inventories or National Communications. However, the outcome of the verification process may lead to some consequences or facilitative measures before the submission of the next National Communication is due.

Should MRV requirements be different for Annex I and developing countries?

Setting principles for a robust MRV system should be a key component of the agreed outcome from both a collective and individual perspective. Collectively, MRV would inform whether emission pathways are on trajectory towards the long term global goal, whether it is expressed in temperature increase limitation, concentration levels or emission reduction levels. Individually, MRV should provide updated information to assess domestic efforts for recognition of each Parties' actions and, where applicable, financial needs. MRV should also help compare efforts of Annex I country Parties with the view of assuring a level playing field for any given period as much as a matter of coherence between individual mid-term and long term efforts, without prejudice to any review of adequacy pursuant to Art. 4.2, d) of the UNFCCC.

MRV requirements should be designed in taking account of the way commitments and/or actions are "pledged" or "inscribed" into the post 2012 international climate regime. Under a top down approach (Kyoto-type), it is the international agreement that inscribes the level of ambition of commitments and actions. With this approach, it is legitimate to arrange for a common accounting framework and an international system of verification of commitments that is agreed upon by the international agreement itself. Under a bottom up approach, each and every Party would inscribe its com-

mitments and actions in an annex or a schedule containing its emissions pathways in the mid and long term. Some Parties insist that such inscription should be done in accordance with their national legislation. If such a bottom up approach is likely to embrace "a spectrum of efforts",⁴ such efforts would have to be verified in the light of national circumstances in the first place.

From a legal perspective, MRV requirements should be different depending upon the nature and form of commitments and/or actions. It is through the MRV discussion that some Parties questioned whether there is to be a "firewall" between §§1 b (i) and 1 b (ii) of the BAP distinguishing between Annex I commitments and developing countries' actions. These Parties argued that actions taken respectively by Annex I country Parties and some advanced developing country Parties are of the same legal nature, because they should both respond to an obligation to take action, and should therefore be MRVed on the basis of the same requirements. However, the same Parties recognized that actions and commitments from Annex I country Parties should be more "stringent". Beyond the fact that this discussion provocatively raised the sensitive issue of differentiation among developed and developing countries, and despite the difficulty encountered by the Chair of the LCA to acknowledge these "cloud issues" in a formal way in its report forwarded to COP15, this discussion raises the fundamental question of whether commitments from Annex I country Parties only differ from actions taken by developing country Parties to the extent that only the former are viewed as binding. By law, if the agreed outcome foresees that all Parties have an obligation to take mitigation actions, whether they take the form of commitments or actions, it should bind all Parties and foresee consequences, including facilitative measures, in case any Party fails to meet such obligation. However, the agreed outcome could provide for differentiated MRV requirements and, accordingly, different consequences. In particular with the bottom up approach discussed above, Annex I commitments and developing countries' actions would not be differentiated that much in terms of their nature, or even their form (e.g. the Australian proposal foresees

4. Statement from Australia.

the possibility for developing country Parties to inscribe quantified emission reduction and limitation targets, at least at sectoral level), but rather in terms of the consequences attached to the Party's failure to effectively develop and implement its commitments and/or actions.

In consequence, M, R, and (to a lesser extent) V requirements may not be that different for Annex I and non Annex I Parties. Notably, M and R requirements, based on internationally agreed methodologies, should apply to each and every Party provided that it has the capacity to apply them, with some flexibility left to developing country Parties in terms of frequency and completeness. One exception should be the case of market-based mechanisms, for which specific MRV requirements shall be designed on the basis of the experience gained with JI and the CDM for actions under which they are eligible, and wherever they take place, so as to ensure that transactions on the carbon market lead to the transfer of real emission reductions that can be accurately accounted for if they are to be used as offsets against Annex I commitments.

The special case of verification

Because the consequences of MRV are so different, it is important to determine whether verification, which outcome can trigger consequences (or not), should be undertaken the same way for Annex I Parties and developing country Parties. The latter are very sensitive on this international verification issue, not only because of the sovereignty dimension but also because they consider that it would give industrialized countries the opportunity to make a political judgment on their domestic policies and measures or national strategies. There is a consensus that the future verification process should be based on internationally agreed procedures and methodologies, but not as to level at which verification should be done. Indeed, verification may be undertaken by national verifiers, and/or by international verifiers (ERT type) and include accredited third party verifiers (such as accredited verifiers, DOE type under the CDM). For Annex I country Parties, the verification system provided for in Article 8 of the Kyoto Protocol proved to be efficient, although it should be strengthened to ensure that progress and results of implementation

actions are also verified, in order to give more indication on the capability to meet the Annex I quantified emission reduction commitments. For developing country Parties, a distinction should be made between verification of supported action and domestically funded action. There is some logic to arrange for international verification of supported action as it would help determine if it could effectively deliver the expected outcome on the basis of reported information but also to check on an ex post basis if financial support was adequate with regard to the needs and national circumstances. Such international verification could be done through the review of performance/result of supported action and adequacy of financial support that would be reported through National Communications, and it would not involve in country visits by ERT type of international experts. Domestically funded action could be verified at the national level in accordance with internationally agreed procedures methodologies, but the outcome of the verification process should be reported at international level through national inventories and National Communications.

Consequences of verification

A number of Parties rightly suggest that all (improved) National Communications should be regularly reviewed for the purpose of verifying GHG emissions outcome (for quantitative commitments and, where applicable, actions) and implementation results (for qualitative actions and support). Such review should be undertaken by a panel of technical experts (the ERT approach), which would report findings to the Conference of the Parties. Some Parties also suggest supplementing this technical review by a "peer review" that would take place in the SBI, arguing that it would promote transparency and enough accountability to incentivize the defaulting Party to remediate the situation by taking additional measures. But a "peer review process" under the SBI would be very much politicized, whereas verification should rather be a technical assessment of whether a Party fulfils agreed requirements, which can trigger a compliance procedure. In that respect, the post 2012 regime should contain provisions to distinguish commitments and actions and, accordingly, foresee appropriate consequences.

Annex I Parties' commitments and obligations should be subject to a compliance regime that would build upon the Kyoto provisions and implementing decisions, whereby the verification process could lead to the determination of non compliance by an Implementation Committee. Consequences could be decided by the COP and should rather be of facilitative nature (appropriate assistance) in the course of commitment periods. But the COP should also be entitled to issue cautions, to suspend specific rights (eligibility to participate in any flexible mechanisms) and to require any Annex I defaulting Party to adopt an action plan including corrective measures.

Developing countries' actions would not be subject to compliance. If domestically funded actions do not deliver as expected, there would be no consequences other than simple recommendations emphasizing the need for more ambitious measures in the report to the COP further to the review of National Communications. For supported action, the consequence of verification could be that financing cease to flow up until the country concerned takes appropriate actions and measures. However, it should be given the possibility to those developing country Parties who encounter difficulties to meet their obligations to seek, on a voluntary basis, assistance from the Implementation Committee mentioned above.

Some key points to keep in mind in Copenhagen

The discussion on MR&V issues plays like a revealing of the tensions between Annex I and developing country Parties on whether and how

to differentiate their respective commitments and actions, but also on how to structure the future regime (bottom up versus top down). But these tensions should not overshadow the imperative need for strict M and R requirements that should apply to all in order to get a thermometer that can guide the governance of the future international climate regime in an environmentally sound manner, including for the review of adequacy of commitments and subsequent adjustments that would be necessary. Indeed, some flexibility should be left to developing countries, in particular on frequency and completeness of M and R, taking into account of their capabilities. The "fast start" should place a particular emphasis on capacity building of developing countries to establish annual inventories in as far as this would give them the necessary data to elaborate their domestic actions in well targeted manner. Although MR & V requirements should be improved on the basis of the current MRV framework, laid down in particular by Art. 4 and 12 of the UNFCCC, a key question is to know whether the accounting system (with UNFCCC accounting units AAUs, RMUs, ERUs and CERs) that was established pursuant to article 7.4 of the Kyoto Protocol should be maintained into the future regime, in particular for the functioning of the global carbon market as well as for compliance purposes. The answer should be yes if Parties agree on a two track outcome, but may be different with a one track outcome based on a bottom up approach (where the carbon market would also function bottom up). In any case, Parties should agree on a common accounting framework, but this discussion will necessarily take place after Copenhagen. ■

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FOUNDED IN PARIS IN 2001, the Institute for Sustainable Development and International Relations (IDDRI) is born from three assumptions: the global changes resulting from human activities are unsustainable over the long-term; a complete transformation of development models is needed; this is possible if coherent policies are soon implemented at the global level to bring about changes in lifestyles.

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