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Day 1 of the Conference

Introduction The 18th Conference of the Parties (“**COP**”) to the United Nations Framework Convention on Climate Change (the “**Convention**”) opened in the vast new conference centre in Doha, Qatar, yesterday to the words “*the draft documents before you are not final, but they are familiar.*” Another year, another city (albeit one with the world’s highest per capita greenhouse gas emissions): arguably, these words might have been used to open any number of the recent COPs, but will 2012 be different?

The Conference officially runs until Friday, 7 December 2012, but in reality, and based on past experience of this annual event, it is likely that high-level ministerial negotiations will continue throughout much of the weekend of 8/9 December 2012. Any key agreements are likely only to be reached in those concluding hours.

So vast have these conferences become, so complex and controversial the issues and so numerous the interlocking work streams that the opening day is typically – and unsurprisingly – long on energy sapping set-piece opening statements and short on surprises. Yesterday was no exception.

In the coming days we will provide short daily updates on the key developments in Doha. For today’s purposes, given the traditionally slow start we will focus on describing the key issues due to be debated and, hopefully in some cases, resolved, over the coming two weeks.

Background The Copenhagen Conference (COP 15) in 2009 was so burdened by the weight of expectation that it effectively collapsed, leaving the parties without a binding agreement to take forward and only a loose statement of political intent to show for their efforts. This is, however, a grim and arguably disparaging view of the Copenhagen Conference, which did at least successfully establish the Green Climate Fund (“**GCF**”), reform aspects of the clean development mechanism (“**CDM**”), and achieve agreement on the Copenhagen Accord.

Whilst having no binding effect, the Accord adopted a “pledge and review” method, inviting Convention Annex 1 countries to commit to their own, self-imposed limits on emissions, and encouraging non-Annex 1 countries to implement their own mitigation actions. In doing so, it provided a basis such that the following Cancun Conference in 2010 (COP 16) was able to give those emissions limits (now termed “quantified emission limitation or reduction objectives” (“**QELROs**”)) some legal weight. Despite the announcement that Japan, Canada, Russia, and now New Zealand, would not sign up to a second commitment period under the Kyoto Protocol, the Cancun Conference did help to inject some faith that a new international agreement to commence in 2020 could potentially be achieved.

The Durban Conference in 2011 (COP 17) again failed to reach a binding agreement. Instead, the parties established the “Ad Hoc Working Group on the Durban Platform for Enhanced Action” (“**AWG-DP**”), a new group formed under the auspices of the Convention, tasked with developing either “*a protocol, another legal instrument or an agreed outcome with legal force under the Convention.*” This Working Group is due to complete its work by 2015, with a view to the resulting “legal instrument” entering force in 2020. Important decisions were also taken as to the funding of the GCF, further promoting REDD+ activities, and potentially ensuring the long-term survival of the CDM through an “in principle” agreement to begin a second Kyoto Protocol Commitment Period on 1 January 2013.

This Conference opens of course just days after devastating Superstorm Sandy wreaked its havoc, with many trumpeting that event as a “wake up call,” and particularly hoping that it may focus the minds of the US delegation.

The Doha Conference: Day One In addition to statements by the President of the Conference and the chairs of key working groups, opening addresses were made yesterday by representatives for the usual diverse range of constituents: the G-77/China, the Arab Group, the African Group, the BASIC nations (Brazil, South Africa, India and China), a Group of Mountainous Landlocked Developing Countries, the Coalition for Rainforest Nations, Women and Gender and Youth, to name but a few. Naturally, all of these groups have their own differing agenda. However, whilst the focus and emphasis varies from group to group and there are always exceptions, overall there appears to be broad consensus as to the key issues for determination at the Doha Conference.

These include: (1) the agreement of the key terms necessary to see the adoption of a second Kyoto Protocol Commitment Period commencing from 1 January 2013: arguably the single most important deliverable for this Conference, (2) tangible progress towards implementation – one of the “buzz” words for this Conference – of the Durban Platform via the AWG-DP on the road towards enactment of a new international agreement by 2015, (3) further development of the structure of the GCF and, in particular, the role of private sector finance, and (4) the future of the cap-and-trade markets and development of new “market mechanisms”.

Second Kyoto Commitment Period With the number of countries continuing to participate in the Kyoto Protocol dropping to the point where now less than 15% of the world's emissions are covered by its terms, its effectiveness is increasingly questioned. The parties will need to determine a number of key issues in Doha.

Firstly, whether the Second Commitment Period lasts for five or eight years, ending on either 31 December 2017 or 2020. If there is to be no break between the end of the Kyoto Protocol and the new international agreement which is targeted for 2020, it should logically run until that time.

Secondly, the Ad Hoc Working Group on Further Commitments for Annex 1 Parties under the Kyoto Protocol (AWG-KP) is expected to deliver its report on the transition from the commitments given at the Copenhagen Accord to the more legally binding QELROs under the Kyoto Protocol. It will be important that the new targets are definitive and have a clear legal status.

It will also be essential to resolve the uncertainty surrounding the carry-over of assigned amount units in a manner that maintains environmental integrity and preserves their role as an incentive to overachieve.

International Agreement If any real progress is to be made by the AWG-DP over the next two weeks it will be vital for developed nations to lead the way. Without the world's largest emitters, such as the United States, China, Canada, India and Brazil participating in a meaningful way, little can be achieved in the long term.

Whilst China is still not willing to commit to absolute reductions in carbon dioxide emissions, it has recently acknowledged that having unconstrained emissions is not acceptable. It is very unclear what approach that the U.S. will take in this conference. Reports yesterday quoted Jonathan Pershing, the U.S. climate treaty negotiator, as stating that the U.S. is unlikely to "*modify the commitment we've made of cutting emissions by 17% by 2020*". However, there is optimism among some that having secured a second term in office Barak Obama may now target a new international deal on climate change as part of his "legacy".

Probably the most that can realistically be hoped for at Doha on this topic is the agreement of a concrete work plan for the AWG-DP containing specific milestones to be achieved in 2013.

Green Climate Fund The GCF was conceived at the Copenhagen Conference, with the objective of providing developing countries "fast-start" access to finance of US \$30 billion by 2012 and up to US \$100 billion per year by 2020 to help them adapt to a low carbon economy and reduce their emissions. However, the Conference has opened to a heated debate as to whether the initial "fast start finance" that was promised has actually been provided, with a recent study by the International Institute for Environment and Development claiming that commitments between 2010 and 2012 have thus far only reached US \$23.6 billion, rather short of the US \$30 billion promised. Others contend that significantly more than \$30 billion has been delivered, whilst debate rages as to how much of the finance that has been provided is truly "additional" over and above that which would have been provided anyway.

The market will hope for measures to increase the transparency of the GCF funding regime in order to restore confidence in the GCF and bring less developed countries, who may have lost faith in the pledges of the Annex 1 countries, back to the table. As current levels of available public funding diminish, it is clear that decisions to encourage private investment are also essential.

Songdo in the Republic of Korea seems certain to be approved as the host city for the headquarters of the GCF, which will be headed by Ajay Mathur until a permanent executive director can be appointed in 2013.

Market Mechanisms Two key outcomes required at Doha are increased access to and confidence in the existing CDM market. Market participants will also be watching out for tangible progress on the development of new market mechanisms that will work alongside and in continuity with existing mechanisms as part of the work towards a new international agreement from 2020.

One measure to assist this is the materiality concept established at Durban, which allows the issuance of carbon credits despite a lack of certain information which might otherwise change a decision of the Executive Board of the CDM. The Executive Board of the CDM are expected to report on the effectiveness of these measures in Doha.

Another aspect which will continue to be discussed is the CDM appeals process, an aspect somewhat overlooked at the Durban Conference. With the significance of private finance recognised as a key source of funds for the GCF, clarity in this process will be essential to maintain the engagement and confidence of private sector investors.

The future of the Joint Implementation Mechanism ("JI") will also fall to be decided. It had been hoped that a decision would be made at the Durban Conference with respect to the carry-over of assigned amount units into the Second Commitment Period, and the associated consequences, however, in the event, no decision was made and this will also need to be addressed in Doha.

Market participants will obviously be hoping for measures to expand the demand sources for CERs to relieve the current shortage in demand for CDM and JI project credits and increased levels of emissions reduction ambition to further stimulate demand.

Conclusions The Doha conference got off to a business-like and uneventful start yesterday. To the extent one can read anything into these opening stages, the mood appears to be neither unduly pessimistic, nor unrealistically optimistic, with the Conference in effect facing up to the enormity of the challenge facing it and taking a collective deep and purposeful breath ahead of what everyone knows will be a gruelling and critical 2 weeks.

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Day 2 of the Conference

Introduction With the opening speeches and administrative proceedings complete, the delegates were free to concentrate on the job at hand and the conference opened on “Gender Day” Tuesday 27 November 2012 with a new air of purpose.

In addition to resuming the plenary session of the Subsidiary Body for Implementation (“**SBI**”), the delegates met for the opening sessions of the three prime working groups, on Further Commitments for Annex 1 Parties under the Kyoto Protocol (“**AWG-KP**”), on Long-term Cooperative Action under the Convention (“**AWG-LCA**”) and on the Durban Platform for Enhanced Action (“**AWG-DP**”).

The Doha Conference: Day Two Predictably for this early stage, little, if any, substantive progress was made but the clear focus of many minds was on the manner in which the second Kyoto Protocol Commitment period would be implemented. With Australia’s announcement of a much criticised 0.5% emissions reduction target by 2020, and many other developed countries either not having proposed a QELRO1 at all, or having proposed targets considered far too low by developing countries, there is concern that the political enthusiasm for an all parties binding agreement in 2015 may stall if Annex 1 countries stick to what other nations consider “deeply inadequate” emissions reduction targets.

AWG-LCA The meeting began with discussion of an informal overview text, compiled following consultations with the parties in Bangkok earlier this year, covering the elements of the Bali Action Plan which still require resolution. Little was achieved as regards the substantive issues, however, there was broad agreement that the parties must now look forwards, with the Umbrella Group2 most notably expressing a desire to move to full implementation of the post-2012 undertakings.

Several countries expressed concern as to the lack of clarity which surrounds financing in the 2013-2020 period, whilst the Umbrella Group confirmed that

(in their view) the “fast-start” commitment has been met, and the EU stated its intention to “scale up” finance towards 2020. The African Group requested clear milestones for finance going forwards, while the less developed countries pushed for a common platform of accounting rules to boost confidence in the area and others pressed for a doubling of fast-start financing for the 2013-15 period.

As regards the future of the working group, which (in light of an understanding that was reached at the Durban conference) most parties expect to be terminated following this conference, opinions were split about how this could best be achieved. Broadly, the Arab Group suggested working towards agreement on the outstanding issues before transferring any unresolved matters to other existing Subsidiary Bodies, whilst in contention, the BASIC Group³ felt that the working group could only be closed down once all of the elements of the Bali Action Plan had been fully addressed. In true COP style, the only discernible decision was that a decision must be made.

AWG-KP There were no surprises in this meeting, with the parties statements agreeing that discussion had to focus on the length and practical continuity of the second commitment period, raising the levels of ambition with regard to countries’ QELROs, the carry-over of surplus assigned amount units (“**AAUs**”), and parties’ eligibility to participate in the flexible mechanisms: Clean Development Mechanism (“**CDM**”) and Joint Implementation Mechanism (“**JI**”).

The Umbrella Group and the EU expressed a desire to see an eight year second commitment period, whilst the Coalition for Rainforest Nations, AOSIS and Climate Justice Now contended that the current ambitions were too low and that a second commitment period which “locked in” such inadequate levels of ambition for eight years would be a disaster rather than a success. Interestingly, the Coalition for Rainforest Nations did at least express a willingness to consider an eight year term provided it included a mid-term review mechanism with the possibility for deeper cuts following, for example, publication of the fifth IPCC report. Developing countries, led by the G-77/China group continue to press for developed countries to commit to QELROs to reduce emissions by at least 40-50% below 1990 levels by 2020 and at least 25-40% by 2017.

Doha of course represents the last opportunity for the COP to secure a second commitment period under the Kyoto Protocol without any gap between the first and second periods. At least there seems to be consensus that a second commitment period must start on 1 January 2013, with even the Umbrella Group (which includes the USA) clearly agreeing with this objective.

The issue of access to flexible market mechanisms also drew clear lines in the sand. The Umbrella Group understandably opposed the broad agreement that has developed amongst non-Annex 1 countries that developed nations which have not adopted commitments for the second commitment period should not have access to the flexible mechanisms, even if they commit to undertake potentially comparable commitments independently. This issue is a prime

bargaining chip in this particular debate. In a closely related proposal, most developing nation representatives led by the G-77/China group continue to press for strict limits on the carry-over of surplus AAUs into the second commitment period.

Work on these aspects will continue in the contact groups and in spin-off sessions.

AWG-DP The parties outlined their views for how the conference should proceed, with all parties agreeing that a clear route map is required in order to capture the political momentum that is hoped to lead to an agreement in 2015.

Beyond the walls of the convention, President Obama signed a bill which will bar U.S. airlines from participating in the EU's Emissions Trading Scheme ("EU ETS"). This announcement was not unexpected and is far less incendiary than it might have been given that the European Commission announced last week that it proposes to delay the application of the EU ETS to international flights entering and exiting the EU in order to allow time for a global solution to be reached through the International Civil Aviation Organisation. If this route fails, the European Commission's suspension will be lifted in 2014. For more information on the European Commission's proposal, please see our two client alerts on the issue: <http://www.reedsmith.com/Up-in-the-air--the-suspension-of-the-aviation-EU-ETS-for-non-EU-airlines-11-15-2012/> and <http://www.reedsmith.com/Up-in-the-air--the-suspension-of-the-aviation-EU-ETS-for-non-EU-airlines-UPDATE-11-22-2012/>

The Day Ahead Today sees the second meeting of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol ("**CMP**") to discuss amendments to the Kyoto Protocol and the CDM. The COP will also meet for the second time, on this occasion focussing on Articles 15 and 17 of the Convention and the financing of the Green Climate Fund. There will also be another meeting of the SBI and numerous contact groups, spin-off sessions, informal consultations and other meetings.

Conclusions With little substantive progress achieved or expected by this early stage, the media flashlight turned onto Poland yesterday in light of its potential as the venue for COP 19 next year. Strong criticism was levelled at the country by some parties due to its insistence on full carry-over of AAUs as a prerequisite for their participation in a second commitment period and for having opposed European efforts to increase their emissions reduction targets on three occasions. Poland was not, however, alone in attracting specific criticism, with Australia's newly announced emissions reduction target being roundly criticised and Turkey, which like New Zealand has already declared that it will not sign up to a second commitment period, being voted Fossil of the Day!

Let us see what tomorrow brings.

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Day 3 of the Conference

Introduction The discussions continued on Wednesday 28 November 2012 against the backdrop of protests by the Youth Group, demonstrating for an increase in the parties' ambitions.

The Doha Conference: Day Three Yesterday saw the second meeting of the Conference of the Parties ("**COP**") and of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol ("**CMP**"). Discussions also continued from Tuesday's KP, LCA and DP working group meetings in numerous contact groups, informal consultations and other meetings on the side-lines.

However, yesterday was one of those days familiar to regular attendees, where much was said, little was done and after the novelty and enthusiasm of the first two days, grim reality set in. .

AWG-LCA The frustrating nature of the day's proceedings was perhaps most starkly illustrated by debate in the AWG-LCA meeting, where much of the discussion was taken up in heated debate as to whether the informal overview text tabled by the group's Chair, Mr Tayeb, was even capable of being used as the basis for negotiations.

Views were polarised and broadly divided along developing vs developed world lines. The Umbrella Group (Canada, Japan, Kazakhstan, New Zealand, Norway, Russia and the US), backed up by the EU, Switzerland and others stated forcefully that the text had not been requested, was flawed both procedurally and substantively and suggested that the Chair might perhaps benefit from the appointment of co-facilitators. China, Pakistan, India, Iran and others on the other hand warmly welcomed the text whilst repeating complaints about the level of fast-start funding provided by Annex 1 countries and demands for firm commitments to fill the finance gap between now and 2020. No substantive progress was made.

AWG-DP The AWG-DP also spent some time in debating procedural matters (contact groups vs roundtables vs informal plenaries etc.). There was much

discussion from non-Annex 1 countries of the application of Convention principles (in particular, common but differentiated responsibility) to the new international agreement targeted for 2015, with non-Annex 1 countries pushing for their commitments to be flexible, prioritising adaptation not just mitigation and reflective of their national circumstances. India especially reminded delegates that climate change is only one of numerous “priorities” for developing nations. New Zealand, whilst accepting this view point, favoured a base level commitment agreed by all parties, which could be adjusted for specific countries if necessary. In a clear negotiating stance, there was, again, much emphasis placed by developing countries on the fact that the Durban Platform was part of a “balanced” package dependent also on satisfactory outcomes to the AWG-KP and AWG-LCA work streams.

AWG-KP The AWG-KP continued the theme of discussions from Tuesday, with further restatement of positions on the key issues of the length of the commitment period, the carry-over of assigned amount units and access to the flexible mechanisms. It is becoming particularly clear that on these issues, as predicted in our introductory report, no real progress will occur until the closing hours of the conference.

CMP/COP The Clean Development Mechanism (“**CDM**”) Executive Board reported various “successes”, but noted a continuing need for certainty in order to motivate private sector investment. This sentiment resonated with multiple parties requesting a simpler, more transparent and accountable system which ensured environmental integrity.

The Chair of the Joint Implementation Supervisory Committee had a more difficult time, reporting troubled waters and a need for reforms if the Joint Implementation Mechanism (“**JI**”) scheme is to survive. The suggested reforms (including a single “optimised” track, devolution of powers to register projects to host countries and a new governing body for the scheme) met with far from universal agreement.

The Day Ahead Today sees further contact group meetings, informal consultations, workshops and other meetings of the Convention and Protocol bodies. The COP and CMP will continue to discuss the issues noted above, as will each of the Ad Hoc Working Groups.

Conclusion With The long-term viability of the CDM and JI continued to be a key theme in the discussions, but in truth the talks are, as is to be expected at this early stage, somewhat stalled at present with the parties largely just restating their prior positions. Indeed, to some extent overall expectations were lowered with China indicating that there probably aren’t any new promises for aid or cuts in greenhouse gases on the horizon, and Connie Hedegaard, the EU Climate Commissioner, announcing in Brussels yesterday that a roadmap outlining future climate financing “will not be doable in Doha”. Experience suggests progress will pick up only as the end of the conference draws nearer.

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Day 4 of the Conference

Introduction With finance at the top of the agenda on “Youth Day” Thursday 29 November 2012 there was broad concern to avoiding falling down a “climate finance cliff” as the European Commission’s lead climate negotiator, Artur Runge-Metzger, described it. Whilst little was decided, there was finally a sense of real work being done as the parties sat down to do some serious talking.

Definitions of terms used in this and our previous daily Doha conference reports can be found at the link in the left-hand margin.

The Doha Conference: Day Four Yesterday saw a plethora of further meetings of the COP, CMP and Ad Hoc work streams’ contact groups, plus numerous informal consultations, roundtables and workshops. In the spirit of the COP, there were of course many “decisions to make decisions”, but with a shorter time frame that saw many groups agreeing to produce draft texts for discussion during today and tomorrow. There is little substantive progress to report, so we will keep this paper short.

COP The workshop on long-term climate finance delivered their wide reaching report which, amongst other matters, contained suggestions for alternative sources of financing that might flow from market-based measures applied to the international maritime and aviation sectors. Both Japan and the EU opposed such a suggestion, noting that whilst the contribution of bunker fuels, for instance, to climate change is important, it would be inappropriate and ineffective to look to target a single source. Cuba, speaking for Brazil, China and others, raised similar concerns in the SBSTA meeting, warning that market based measures applied to these key sectors will raise the cost of air and sea freight, which will impact international trade. Additionally, Singapore and India both voiced their own objections to unilateral measures to tackle marine and aviation emissions by individual states (such as the recently suspended Aviation EU ETS). The parties agreed to work towards a draft text, with proposals due on Saturday.

There was also further discussion in this group concerning the governance of the GCF. The parties are agreed, in general, that the COP will provide guidance to the GCF, but debate regarding the precise level of oversight and interaction between the GCF and the COP caused friction. Opinions differ widely as to which body should draft the GCF's operating procedures and accountability rules. The US and Japan among others pressed for the GCF to draft its own operating arrangements and stressed the importance of its autonomy. The EU, agreeing with Colombia, suggested a cooperative approach, with a committee of the COP and the GCF working together to produce a draft by COP 19. If this is taken up, it may delay the functional operation of the GCF still further. This timeline was corroborated by Mr Runge-Metzger who recently stated that *"There are a zillion things that need to be decided... Negotiations will go on for, I think, another year before we see the GCF firmly established."* Parties agreed to submit further proposals on the GCF today.

Meanwhile, it has been reported that the G77/China is preparing a proposal that will call on developed nations to double their "fast-start" finance commitment of US \$30 billion (provided from 2010 – 2012) to US \$60 billion for the years 2013 – 2015. However, views as to financing during the interim period of 2013-2020 differ widely. A negotiator for AOSIS, described the G77/China's proposal as *"not an unreasonable request,"* while Mr Runge-Metzger for the EU acknowledged the clear need to provide reassurance to developing nations, but noted that *"some member states are in very difficult situations with their public finances and it will be very difficult."* Officials from the U.S., Germany and the UK were quick to state that they do not see a "climate finance cliff on the horizon," but also declined to comment on their ability to provide a roadmap for finance over the interim period.

CMP Reform of the CDM came up for further discussion in a meeting co-chaired by Kunihiko Shimada. Discussion revolved around the general governance of the CDM, methodologies and additionality, registration and issuance and regional distribution. The parties also agreed to discuss widening the distribution of CDM proceeds which flow into the Adaptation Fund to encompass all of the flexible mechanisms, further regional collaboration centres in Africa, improving the guidelines for the CDM Programme of Activities, and setting out a forecast of work for the CDM in 2013. Time will also be spent debating the inclusion of carbon capture and storage in the CDM, an issue which has proved divisive in the past. The co-chairs are to produce a draft text and informal consultations continue.

There were also discussions of the DP, KP and LCA working groups, but with little of note to relay.

The Day Ahead Following the trend, today see further meetings of the COP and CMP discussing finance issues, amendments to the Convention (Article 4.2(f)) and the privileges and immunities enjoyed by individuals serving on bodies constituted under the Kyoto Protocol. Each of the Working Groups, SBI and SBSTA will also meet during the day.

Conclusions Slow progress today with potentially more issues added to the table rather than taken off, but whilst talks continue, we may be able to regard slow progress as progress nonetheless.

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Days 5, 6 & 7 of the Conference

Introduction The prospect of having nothing clearly agreed after a week of negotiations seemed to hang over proceedings on Friday 30 November 2012. However, as the sun set on Saturday 1 December 2012, the delegates' motivation began to increase and the early hours of Sunday morning saw genuine progress made before the delegates enjoyed a break on Sunday 2 December 2012.

Definitions of terms used in this and our previous daily Doha conference reports can be found at the link in the left-hand margin.

The Doha Conference: Day Five and Six Friday and Saturday both began with the usual array of contact group meetings and spin-off sessions, although the evenings were marked by informal round-up sessions at which the Chairs of each working group updated the parties on their progress to date. In plenary session the parties were encouraged to reflect on the progress, or lack thereof, during the past few days. The effects of this exercise are reflected in the generally productive outcomes from the SBI and SBSTA work streams which closed following Saturday's session.

COP Once again, climate finance was the dominant topic of discussion, and a draft discussion paper was produced to the group that considered the implementation, mobilisation, tracking and scaling up of finance, assessment of needs and the development of an enabling environment. Discussions will continue of course, and the value of the paper must be tempered by the confirmation that it should not be seen as the basis for any decisions.

AWG-LCA Initially the focus of discussion was on mitigation measures, both for developing and developed countries. As to developed countries, discussion was directed at clarifying the assumptions which underlie each country's commitments. Norway, with the support of Australia, Canada and the U.S. amongst others, proposed a new work programme (running until 2014) to assess these assumptions and establish a common accounting framework

and methodology to enable the valid comparison of achievements. The Environmental Integrity Group (“EIG”), comprised of Mexico, the Republic of Korea and Switzerland also proposed an additional work programme that would consider the assumptions which underlie aspects such as the market mechanisms and LULUCF. New Zealand took a pragmatic approach, noting that agreement on accounting principles would not occur in Doha. Nevertheless, a draft paper on these proposals will be produced with a view to driving forward agreement on this.

Mirroring the COP, finance was again on the agenda, with the G-77/China tabling a proposal which seeks to address the financial uncertainty between 2013 and 2020 by requiring a further commitment for Annex I countries to provide a further US \$60 billion by 2015, with most of this flowing from public (rather than private) sources. The U.S., Canada, EU, Russian Federation and Japan have all opposed any requirement for additional funding, stating that targets are in place for 2020 and that discussion of this point is not required in the LCA working group.

In the round-up session, Chair Tayeb’s appraisal of the situation acknowledged the significant divergence between parties’ views and hinted that, as predicted, any measurable convergence of opinion should only be expected once the ministers for the respective countries arrive. Broadly speaking, the developed countries continue to argue for the closure of the LCA work stream (whether or not all elements of the Bali Action Plan have been performed), whilst developing countries would like to see it reach a conclusion on each issue under its mandate. Nevertheless, the parties do appear to have agreed that informal notes, prepared by the spin-off groups, would be helpful for clarifying those issues where agreement is not currently possible, allowing efforts to be channelled into more productive discussions.

AWG-KP A draft CMP decision was offered for discussion, covering aspects such as the duration of the second commitment period and eligibility for participation in the flexible mechanisms such as the CDM. Progress of substance on this paper should only be expected towards the end of the second week of the conference. Optimistically, Chair Diouf suggested that agreement may be possible by Wednesday.

AWG-DP There was a broad consensus that any new agreement in 2015 should continue the principles which underpin the Kyoto Protocol, especially transparency and accountability. Two voices raised notes of caution, with China arguing that developing countries should not be re-categorised as developed, and Bolivia again pointing out that climate change is only one of many priorities for less developed nations. Chair Mauskar described the working group discussions as positive, and in light of the on-going discussions, many parties supported preparation of a timetable for additional meetings, with multiple stakeholders, throughout 2013. A draft text for this should be presented and discussed on day 8 (3 December 2012).

SBI / SBSTA With the end of its COP schedule in sight, the SBSTA announced

at the close of business on Friday that they had concluded their discussions with regard to response measures, carbon capture and storage and hydrofluorocarbons. However, further discussion was required as to agriculture and methodological guidance for REDD+. Similarly, the SBI announced the conclusion of their work on adaptation measures, but that there is still work to be done on the Adaptation Fund and the NAMA registry (something that may be transferred to the AWG-LCA), while progress has essentially stalled as to technology transfer and national adaptation plans.

Despite these outstanding issues, and potentially as a sign of things to come, both work streams finally closed in the early hours of Sunday morning. The parties adopted numerous draft decisions which will be passed to the COP for consideration and further debate in the remaining days of the conference. Given their draft, non-binding, nature, these are not listed here and will be reported on more fully as and when they are considered by the COP/CMP.

The discussions as to Articles 3.14 and 2.3 of the Kyoto Protocol (relating to the impact of the implementation of response measures under the Convention), and decision 1/CP.10 (the Buenos Aires programme of work on adaptation and response measures) could not be completed, and will be picked up again at the next session of the SBI (subsequent to this Doha conference). In addition, the SBSTA was unable to complete its consultations with regard to HCF-22 and HFC-23, agriculture, and REDD+ (where in fact agreement was reached, albeit limited to an agreement to disagree).

Conclusions At the end of the first week the delegates are beginning to find their feet. The battle lines have been drawn around the survival of the LCA work group, the second commitment period under the Kyoto Protocol and the levels of financing to be provided by developed countries.

Some progress has clearly been made in spin-off sessions and contact groups, with draft papers being passed to the COP for decisions in plenary, but many other matters have been set aside due to almost “irreconcilable differences”. Of those that have been passed to the COP, we await the arrival of the Ministers of the relevant delegations so that, hopefully, more substantial progress can be made.

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Day 8 of the Conference

Introduction *"It must be understood that what we are negotiating here is a complete transformation of the economic structure of the world. This cannot happen overnight..."* said Christiana Figueres, the head of the UN climate secretariat, in a press conference on Monday 3 December 2012. Ms. Figueres does not appear to underestimate the ramifications of the decisions taken in Doha, but with government ministers and some heads of state arriving in Doha and anticipation increasing, her statement appears to be one of expectation management.

The Doha Conference: Day Eight Given the closure of the SBI and SBSTA, the focus has now turned to the Ad Hoc Working Groups ahead of their planned closure on Wednesday. There is much still to be decided before this can happen, but it is hoped that the arrival of the more senior delegates will give the working groups sufficient drive to overcome their current stalemate. The arrival of UN Secretary General Ban Ki-moon on Tuesday 4 December 2012 (day 9) for the High Level Segment of the conference may well provide further momentum to the discussions.

AWG-LCA Chair Tayeb offered a new text to the working group, however, once again it was not well received and the rifts between the parties appeared to have widened. The G77/China noted that the paper failed to reflect the Bali Action Plan, which is regarded by many, including the African Group, as essential for continuing discussions. Given their desire to close the working group, perhaps unsurprisingly, the U.S., Japan, Canada, Australia and New Zealand all suggested recognising the progress that had been made, and that discussions as to long-term finance and adaptation will continue in other work streams. Barbados noted that there are currently no plans for the GCF's funding to be discussed elsewhere, whilst the EU noted a similar concern as regards market approaches.

With the end of the AWG-LCA in prospect, at this stage the delegates appear to have largely lost sight of pushing forward the substantive issues and instead the focus has shifted to writing an elaborate testament to determine which work streams will inherit the numerous outstanding issues. Chair Tayeb suggested that additional negotiating time may be beneficial.

AWG-KP Modest progress was reported by the spin-off group on numbers and text, although there continues to be disagreement as to the eligibility criteria for participation in the flexible mechanisms during the second commitment period and for carry-over of AAUs. These issues will now be pared down for consideration by the ministers. It is hoped that the current disagreement as to the key issues of the duration of a second commitment period, QELROs and the ambitions of the parties can be resolved or narrowed with further negotiation, although these may also find their way to the ministers in due course.

CMP Discussion continued regarding the CDM, with current proposals including limiting the lifespan of projects to 10 years, tightening the rules on baselines in order to limit the number of credits that each project can produce, and increasing demand by opening the CDM registry completely. It is expected that limiting the lifespan of projects alone could reduce supply by 15%. However, it must be emphasised that these proposals are merely proposals at this stage.

AWG-DP As reported in our previous note, the co-chairs produced a draft text for discussion which included a road map for the working group and noted aspects of a possible decision. Comments unsurprisingly suggested that there should be a commitment to complete work in 2015 (ahead of the 2015 date for signing an agreement to enter force in 2020) although several parties expressed the opinion that it was too early to discuss the specifics of a future agreement.

COP Given the arrival of ministers from the represented countries, on Monday evening the President of COP 18, His Excellency Abdullah Bin Hamad Al-Attiyah, called an informal stocktaking plenary session. Outstanding matters from the closed SB sessions include the development and transfer of technology, a loss and damage mechanism, methodological issues pertaining to Articles 5, 7 and 8 of the Kyoto Protocol, national adaptation plans and MRV for developing nations. These may continue to be discussed in the COP, or may only be taken forward in the next SBSTA. Concerns as to the lack of clarity here were expressly raised by the African Group.

Referring to the state of play under the AWG-KP, many delegates in the COP plenary session noted the need to focus on access to flexible mechanisms by parties that are not signing up to a second commitment period under the Kyoto Protocol. In light of this, President Al-Attiyah instituted an informal ministerial outreach process, led by delegates from Brazil and Norway, to assist Chair Diouf in these discussions.

As expected, the tone of the AWG-LCA feedback in the COP plenary was less positive, with only one of the four pillars of discussion (mitigation) having produced an agreed paper. Consensus is still being sought on the issues

of adaptation, finance, technology transfer, capacity building and response measures, although the Umbrella Group (and indeed many developed nations) continue to push for closure of the LCA work stream. Developing nations, notably Bangladesh and India, continue to regard technology transfer as a priority. If the AWG-LCA does not reach a meaningful conclusion, a key aspect of the Durban platform will have fallen away.

The current intention is to complete discussions on the outstanding aspects from the SB work streams by Tuesday (day 9) and to close the Ad Hoc Working Groups on Wednesday (day 10).

Conclusions The arrival of the ministers created a noticeable buzz of increased activity. The rumble of developing countries' dissatisfaction at the lack of ambition amongst developed countries is becoming a constant soundtrack to the conference. Indeed, a spokesman from AOSIS described the conference thus far as a "*sobering experience*". On a lighter note, mention should perhaps be given to Monaco who has committed to reducing their emissions by 30% and to participate in a second commitment period under the Kyoto Protocol.

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Day 9 of the Conference

Introduction The high-level segment of the conference opened on Tuesday 4 December 2012, sandwiched between further contact group meetings and informal consultations. The buzz from Monday continues to permeate the atmosphere in Doha, with strong statements from many heads of State and heads of government.

The Doha Conference: Day Nine *“Let us be under no illusion. This is a crisis”* stated UN Secretary General Ban Ki-moon in his opening remarks to COP 18, *“I urge all parties to work with a spirit of compromise – to take the long view and avoid getting bogged down in minutiae.”* It was almost as though the Secretary General had been listening on Monday when comments were heard discussing whether text should be italicised.

Despite the distraction of (arguably important) political rhetoric, the productivity of discussions appears to be increasing and consultations continued late into the day with papers beginning to take form around the conference. The conference has now reached a stage where the issues have been spread so widely, to informal sub-groups of a variety of descriptions, that actual definitive progress is difficult to gauge.

AWG-DP A draft decision paper was presented to the working group by AOSIS, setting out a work plan for 2013 and highlighting the urgent need to narrow the gap between mitigation efforts and climate change targets. It proposes scheduled meetings throughout the year and invites further proposals with regard to raising ambitions, MRV, finance and implementation. There was widespread support for the paper, with notes of caution from Brazil and the Dominican Republic as to the correct balance between prescriptive detail and flexibility. Both Norway and Brazil also suggested that input from other stakeholders may be beneficial. Perhaps tellingly, New Zealand, having announced its intention not to enter a second commitment period under the Kyoto Protocol, suggested that ambition was being hampered by “an environment of finger pointing”.

Following the roundtable session, informal consultations continued looking at the draft paper and a revised draft text from the co-chairs, with the latter now appearing to be light on detail.

AWG-KP The disagreement as to the level of developed countries QELROs continued, with a grouping of developing countries tabling a proposal under which Annex I Parties would take on QELROs in line with the uppermost limits of their pledged range, plus raised targets under the second commitment period of at least an aggregate of 33% emissions reductions by comparison with 1990 levels by 2017. Additionally, a further review of the QELROs would be mandated in 2014, with a view to a 45% emissions reduction by 2020. Whilst several countries agreed the proposal could be the basis for further discussion, it will not come as a surprise that many developed countries had reservations, both as to the timelines and as to the level of emissions reductions proposed. One must query whether the EU even has a mandate to set any targets in excess of its stated 20% levels by 2020, making such proposed targets meaningless.

Discussion again looked at the proceeds from the CDM, with developing countries suggesting that the share of proceeds from CERs issued under CDM projects should be increased. With the present reduced value of CERs in the market, the increase in the share of proceeds will have a minimal effect in boosting the finance that may become available through the Adaptation Fund. Discussions on all of the proposals will continue at informal sessions.

A meeting chaired by Lord Stern also turned attention to the market mechanisms, with concerns again being raised as to uncertainty as to the future of the CDM. Australia and the EU noted their linked emissions trading schemes, which, in conjunction with the recent announcements from China, Thailand and Vietnam regarding their intentions to establish similar emissions trading initiatives, should increase demand for CERs.

AWG-LCA The stalemate that has emerged in this working group continued to play itself out, with the outstanding issues of adaptation, technology transfer, capacity building and response measures largely taking second place to discussions of procedure and delegation of the issues to sub-groups.

One proposal, put forward by a group of 17 countries, but led by China and India, suggested that the UN should have oversight of all investments made by the GCF. This has received significant criticism in the press as it would grossly impact the possibility of raising finance from the private sector, which is now widely recognised as key to achieving the target of US \$100 billion per year by 2020.

COP The opening ceremony for the high-level segment took place in the afternoon, with speeches followed by press conferences from the numerous heads of State and government ministers of the parties represented at the conference, including UNFCCC Executive Secretary Christiana Figueres, the President of the UN General Assembly Vuk Jeremić and UN Secretary General Ban Ki-moon. There was a clear understanding, echoed in numerous speeches,

of the required outcomes from the Doha conference. Ban Ki-moon's speech could be regarded as representative, outlining five key deliverables which, whilst familiar, are worth repeating:

1. the adoption of a ratifiable second commitment period of the Kyoto Protocol;
2. progress on long-term climate finance to mobilize US \$100 billion per year by 2020;
3. fully equipping the GCF and Climate Technology Centre and Network ("**CTCN**") in order to support developing countries' adaptation and mitigation efforts;
4. a demonstration that negotiations for a global and legally binding instrument remain on track for signature in 2015;
5. and closing the gap between the parties' mitigation pledges and the target of preventing a rise in global temperatures of more than 2°C.

This is a useful list against which the Doha conference's successes can be benchmarked come the end of this week.

Conclusions To some extent it is too early to tell whether substantial progress will be made now that the heads of state and government ministers have arrived, but it is notable that the UK Energy Secretary Ed Davey announced the UK's commitment to contribute £1.8 billion to climate finance between 2013 and 2015. The UK is the first G7 nation to make such a pledge in Doha and earned the country the "Ray of the Day" award. Whether this £1.8 is additional to, or part of, the £2.9 billion already pledged for delivery between 2011 and 2015 may be clarified by the government in due course.

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Day 10 of the Conference

Introduction The high-level segment continued on Wednesday 5 December 2012, slowly drawing together the threads of agreement. A further stocktaking plenary session was held in the evening to assess progress, but the mood of optimism is beginning to wane.

The Doha Conference: Day Ten After ten days the negotiations appear to have stalled. Although discussions continue, the sense of urgency and real-world importance underscored by the news of hurricane Bopha in the Philippines has not yet translated into binding decisions. As a result, this report today has limited news to report.

AWG-LCA Wednesday was intended to be the day of reckoning for the AWG-LCA, but with many issues still undecided, identifying any real success of the Working Group looks bleak. Finance continues to be of utmost priority to most of the parties, however, progress has nevertheless ground to a halt and Switzerland has therefore called for the COP to decide the best route forwards.

Chair Tayeb announced that the working group will continue to meet in plenary to discuss an agreed outcome, and spin-off sessions will now only be held for those issues where agreement appears possible (essentially in relation to mitigation measures and REDD+).

COP Government ministers continued to set out their positions in statements to the COP as the high-level segment continued during the day, and an informal plenary session was held in the evening to apprise the delegates of (limited) progress thus far.

The Chair of the SBSTA announced that the reporting guidelines for developed countries have been agreed, although the use of those guidelines beyond the boundaries of the Convention is still undecided, and on the more fundamental questions of response measures and technology transfer (under the report of the Technology Executive Committee (“**TEC**”)) the parties appear to be deeply entrenched in their opposing views.

Under the SBI workstream, agreement has been reached on a draft COP decision for national adaptation plans, although the operational practicalities of the technical experts are still outstanding. It is likely that at this stage, these issues will be shelved until the next SBI session. Agreement has also been reached on a draft text to address loss and damage, which will be passed to the ministers for discussion at the COP. Given the rather divergent opinions between developed and developing countries as regards loss and damage, it looks unlikely that an effective agreement will be reached.

Finally, the ultimate composition of the Climate Technology Centre and Network (“**CTCN**”) Advisory Board has also been left for ministerial discussion at the COP. The CTCN and TEC jointly form the Technology Mechanism, established under the guidance of the Cancun COP, which aims to facilitate technology development and transfer in developing countries. Specifically, the CTCN will assist in the identification of technology needs and the implementation of environmentally sound technologies, practices and processes. At present, the precise interaction between the GCF and the Adaptation Committee on the CTCN’s advisory board is unclear, preventing it becoming operational.

All of the Ad Hoc Working Groups have now entered the final rationalisation process, pulling each of the proposals together through a process of consolidation and compromise. Whilst the intention was to close the working groups on Wednesday, at the plenary session they appeared likely to close extremely late in the day, if at all. It was noted by AWG-DP Co-chair Mauskar that closure of the LCA and KP working groups is a greater priority than closure of the DP working group, and in any event, a draft paper setting out the AWG-DP’s conclusions and a draft decision paper have already been concluded.

As regards access to the flexible mechanisms for Annex I Parties who will not be signing up a second commitment period under the Kyoto Protocol, the delegates from Norway and Brazil reported that their “ministerial outreach programme” had further clarified the parties’ positions, but no agreement had been reached. Similar programmes have been established to look at the outstanding issues of long-term finance (including the GCF), reporting guidelines, loss and damage, the composition of the CTCN Advisory Board, and reporting obligations by parties outside of the Kyoto Protocol.

Conclusions With little substantive progress made on paper, the agreement of text for the necessary documentation of a second commitment period under the Kyoto Protocol could be regarded as a highlight worthy of note. However, with details such as the length of the second commitment period and a decision as to the carry-over of AAUs still outstanding, celebrations would be premature.

Despite this, perhaps some optimism can be gleaned from the news that, following the UK’s announcement on Tuesday, Germany will provide €1.8 billion per year in 2013 and 2014. France will go marginally further, providing €2 billion per year, whilst the EU will provide €900 million in 2013, and Sweden and Denmark agreed to provide €350 million between them next year.

These statements, although very welcome, are not enough to satisfy the demand expressed by developing countries, and others, for a clear road map to how the US \$100 billion target by 2020 will be achieved.

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Day 11 of the Conference

Introduction The AWG-KP closed on Thursday 6 December 2012 amidst on-going discussions in the other Working Groups. The atmosphere is beginning to become tense as delegates see the end of the conference approaching with two Working Groups still active.

The Doha Conference: Day Eleven Meetings continued throughout the day with draft papers slowly taking form around the conference, sentence by sentence, square bracket by square bracket.

The revised draft conclusions paper, proposed by the Chair of the AWG-KP is impressive in the scope of the optionality that is still available. However, the COP is scheduled to finish on Friday 7 December 2012 and with so many choices on the table, at this stage it looks implausible that substantive decisions will have been made before the weekend, if at all. As has become the “norm” at these conferences, it looks like discussions will extend into the weekend.

AWG-KP As the negotiations continued late into Wednesday night, the closing plenary was pushed back to Thursday morning. Chair Diouf put forward a revised paper in which the outstanding issues have been distilled into distinct alternative options for the CMP to discuss and finalise. Many will regard this with relief, as when it was first envisaged at the Bali COP in 2007, the discussions were expected to be completed in 2009.

The potential for lengthy debate in the CMP is still significant given the level of optionality in the draft paper. For example, as regards the smooth transition between the first and second commitment periods, three primary options are put forward. Option 1 requires each party to provisionally apply the amendment to the Kyoto Protocol from 1 January 2013 pending its formal entry into force, whilst Option 2 allows the parties to elect to do so, and Option 3 allows the commitments and responsibilities contained in the amendment to be complied with, rather than the amendment itself.

A further example, regarding access to the flexible mechanisms by parties not signing up to a second commitment period, denies such parties the ability to participate in the flexible mechanisms, or alternatively allows them to participate, with further decisions needing to be made for each possible allowance type, including potentially the JI mechanism.

A spin-off group, comprising members from all regional groups will now conduct a legal review of the text and report to the CMP President if any changes are required. It was emphasised that this group will not reopen any substantive discussions.

The key outstanding issues, which have not changed in the past few days, continue to be the level of Annex I Parties' ambitions, operational aspects of a second commitment period under the Kyoto Protocol, the length of that commitment period, access to the flexible mechanisms for parties who do not sign up to a second commitment period, and the carry-over of AAUs.

By way of background to the AAU carry-over issue, the debate concerns the fact that under the cap-and-trade system established by the Convention, Annex I Parties can only emit up to the level of their allocation of AAUs. If a country reduces their emissions, this may leave excess AAUs which can be traded to allow another Annex I Party to emit in excess of their commitments. The issue arises due to the natural reduction of industry in Russia, the Ukraine and Poland, such that collectively they currently hold an estimated 12.6 billion excess AAUs. As these excess AAUs do not represent intentional, proactively achieved emissions reductions, many people have labelled those AAUs "hot air" due to their lack of environmental integrity. As a result, there is a push to stop AAUs being carried over from the first to the second commitment period under the Kyoto Protocol. Understandably, this is strongly opposed by the aforementioned countries (amongst others) which hold substantial excess AAUs that represent a potential future source of income.

Given the lack of agreement regarding carry-over, a new route forward is being utilised under which informal negotiations are taking place to convince countries not to buy surplus AAUs in order to meet their commitments under the Convention. Thus far, we understand that Australia, Switzerland, Norway and now Japan have all agreed not to trade AAUs. In the AWG-KP discussions, the EU therefore noted that while the carry-over of AAUs is an important issue, the sting has been taken out of it as there will be limited demand for AAUs between 2013 and 2020.

Whilst this is, prima facie, potentially an elegant solution, it overlooks the fact that AAUs can potentially be converted into Emissions Reduction Units ("ERUs") with a view to sale into the **EU** Emissions Trading Scheme ("**EU ETS**"). If the market for AAUs disappears, it will be necessary for the European Commission to control the conversion of AAUs into ERUs in order to protect the EU ETS market. A vote on the ban of ERUs is on the agenda for the EU's Climate Change Committee on 13 December. No doubt the outcome of these COP negotiations will weigh heavily on that vote.

AWG-LCA Whilst the AWG-KP was closing, discussions as to long-term finance continued in the AWG-LCA and its closing plenary was postponed Friday. As previously mentioned, any issues that cannot be finalised within the working group will need, upon its closure, to be redistributed to other work streams. As most of these will likely be transferred to the AWG-DP, the closing plenary session of that work stream has also been postponed to Friday, immediately following the close of the AWG-LCA.

COP A further plenary stocktaking session was held in the evening. With the AWG-KP closed, all eyes turned to Chair Tayeb, who indicated the AWG-LCA's consultation process should be concluded that evening.

The delegates from Brazil and Norway reported that their ministerial outreach programme continues, intended to further reduce the differences of opinion on the numerous square brackets remaining in the AWG-KP outcome paper. As reported yesterday, similar outreach programmes have been established to consider long-term finance, reporting guidelines, loss and damage, the composition of the CTCN Advisory Board, and reporting obligations by parties outside of the Kyoto Protocol. These groups all reported a generally positive outlook, without any substantive progress worthy of note.

Conclusions Previous COPs have often overrun and if the Ad Hoc Working Groups are anything to go by, this conference is likely to follow in that tradition. With the conference's timetable currently approximately two days behind schedule and a multitude of issues remaining on the table, the delegates have their work cut out.

On a positive note, the developing countries began to come forward with their own pledges yesterday, with the Dominican Republic committing to an unconditional 25% emission reduction below 2010 levels by 2030 in absolute terms.

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Day 12 & 13 of the Conference

Introduction The plenary sessions of the AWG-LCA and AWG-DP finally closed in the late afternoon of Friday 7 December 2012, leaving many issues to be put to the COP for resolution.¹ With the COP meeting only opening for discussions at 11:30pm on Friday night, COP President Al-Attiyah announced a suspension of talks until Saturday morning.

When the talks were reconvened, the COP President released draft texts for the AWG-KP, AWG-LCA and AWG-DP for discussion. The closing day of the conference had its usual share of excitement with numerous clarifying statements, expressions of concern and an acrimonious procedural objection from Russia that involved the delegate's name plate being repeatedly slammed on the table. Despite this, with the Qatari hosts playing a robust role, the parties finally achieved a deal of sorts in the shape of "The Doha Climate Gateway".

Definitions of terms used in this and our previous daily Doha conference reports can be found at the link in the left-hand margin.

The Doha Conference: Concluding Weekend At the opening ceremony of the high-level segment on Day 9 of the conference, UN Secretary General Ban Ki-moon listed five key deliverables for the conference. Broadly, these were:

1. the adoption of a ratifiable second commitment period of the Kyoto Protocol;
2. progress on long-term climate finance to mobilize US \$100 billion per year by 2020;
3. fully equipping the GCF and Climate Technology Centre and Network in order to support developing countries' adaptation and mitigation efforts;
4. a demonstration that negotiations for a global and legally binding instrument remain on track for signature in 2015; and
5. closing the gap between the parties' mitigation pledges and the target of preventing a rise in global temperatures of more than 2°C.

(1) The adoption of a ratifiable second commitment period of the Kyoto Protocol

Undoubtedly the main success of the conference was the agreement of an amendment to the Kyoto Protocol that formally establishes emissions targets, albeit weak ones, under a second commitment period and means that the CDM survives to fight another day. This second commitment period will run from 1 January 2013 (pending adoption of the relevant instruments by the relevant parties) until 31 December 2020 (i.e. eight years, rather than the shorter five year period argued for by most developing countries).

Canada, Japan, the Russian Federation and New Zealand² will not be participating in the second commitment period, although this has been known for some time. Whilst the second commitment period will now only cover 14% of global emissions, the Convention requires countries that do not participate to nevertheless take on nationally equivalent measures.

As noted in our earlier reports, one of the most difficult challenges to overcome before a second commitment period could be agreed was the carry-over of surplus AAUs from the first commitment period. It was decided that a party's AAUs which have not been retired will be carried over into the second commitment period and added to that party's assigned amount. Procedurally, such "carried over" AAUs will be transferred to a "previous period surplus reserve" in the country's national registry ("**Reserve Account**"). AAUs held in the Reserve Account can be used by a country to fulfil their compliance obligations during the second commitment period, but only to the extent that their assigned amount for that commitment period would otherwise be insufficient. AAUs may also be traded between different countries' Reserve Accounts, however, despite loud opposition from the Russian delegate, it was decided that only Annex I Parties signing up to the second commitment period, and taking on QELROs, will be eligible to transfer or acquire AAUs. In addition, the number of AAUs which may be purchased by an individual party is limited to 2% of its assigned amount for the first commitment period.

Further, the EU, Switzerland, Norway, New Zealand and Japan announced that they will no longer purchase AAUs in order to meet their commitments. These two measures will erode the market for AAUs and improve the environmental integrity of the Kyoto Protocol.

Similar steps were also taken as regards ERUs and CERs held in a party's national registry that have not been retired or cancelled under the first commitment period. These units can also be carried over (although only up to a maximum of 2.5% of the party's assigned amount) and transferred or acquired by those Annex I Parties participating in a second commitment period and subject to a QELRO. Parties will only be able to use CERs to fulfil their compliance obligations under the second commitment period upon ratification of the amendment to the Kyoto Protocol.

Non-participants in the second commitment period will therefore be unable to transfer or acquire CERs valid for the second commitment period, although they will be permitted to continue to invest in the CDM as a primary participant. This may prove to further deflate the price of CERs as it will continue to permit investment in supply, whilst removing demand.³

This will effectively bar the Russian Federation, Japan, Canada and New Zealand from transferring or acquiring CERs from 31 December 2012. As New Zealand was quick to point out in a press release, they will, however, still have access to the units for compliance purposes until the end of the first commitment period's "true-up" period in 2015.

Finally as regards emissions units, it was agreed that the SBSTA will develop a new market mechanism ("**NMM**") under the framework of various approaches ("**FVA**") which may produce credits that could, in addition to CERs and ERUs, be used to meet commitments under the Kyoto Protocol. Although most of the detail of this NMM was left to be decided at a later date, key features of the new proposed mechanism were at least agreed. These are that it should (a) recognise mitigation across broad segments of the economy, including sectoral and/or project-based, (b) include the periodic issuance of units based on mitigation below a threshold, (c) return a share of proceeds to cover administrative expenses and assist developing country parties meet the costs of adaptation, and (d) facilitate the effective participation of private and public entities. It is hoped that a decision can be reached in a year's time in Warsaw at COP19 following the SBSTA report to enable a prompt start for the mechanism.

This decision is significant as it would formally link the Kyoto Protocol's mitigation mechanism to the Convention, potentially allowing countries that have never ratified the Kyoto Protocol, such as the U.S., to participate in mitigation efforts under the Convention.

The Adaptation Fund will continue to be financed by 2% of the proceeds from CERs issued, plus additional financing will be gained by diverting 2% of the proceeds arising from (a) the first international transfers of AAUs, and (b) the issuance of ERUs when converted from AAUs or Removal Units ("**RMUs**"). The 2% levy will continue to be inapplicable to CDM projects in least developed country parties.

Improvements to the CDM and JI mechanisms As regards the CDM, although many changes were recommended and debated, ultimately little was achieved in terms of improving its functionality and effectiveness. A "guidance decision" was adopted with few substantive changes but nevertheless requesting the SBI to conduct a full review of the mechanism in 2013 and recommend changes to the CDM at COP19/CMP9. This review will start on 25 March 2013. The SBSTA will also consider CCS projects, with a view to reporting at COP 22.

The authorisation scope of accredited designated operational entities was also extended to carry out sector-specific verification functions, and their period of accreditation was extended from three to five years. It will also now be possible

to establish regional collaboration centres in order to increase the distribution of CDM projects. Plans to establish a “buy-back” stabilization fund for CERs were dropped, as were proposals to reduce the 21 year lifespan of projects to 10 years.

Jl received similar treatment with the SBI also tasked to prepare recommendations, including draft revised joint implementation guidelines, for consideration at COP 19/CMP 9. That review should specifically consider the following attributes as “key” to characterising the future operation of the Jl, (a) a single unified track for Jl projects, (b) closely aligned or unified accreditation procedures between the Jl and CDM that take into account differences in the respective modalities and procedures, and (c) an appeals process under the authority of, and accountable to, the CMP against decisions of the JISC.

Little progress was made as regards REDD+, although a work programme will be launched by both the SBI and SBSTA aiming to scale-up and make the provision of finance more effective for market and non-market approaches. For the first time, agreement was reached that forestry projects must take into account non-emissions issues, such as biodiversity and the rights of indigenous people.

(2) Long-term climate finance to mobilize US \$100 billion per year by 2020 As we have reported over the past two weeks, this was one of the most hotly debated items in Doha with developing countries complaining bitterly from the outset about the alleged failure of Annex I Parties to put up fast-start finance on time and pressing hard for interim “scale-up” commitments for the period prior to 2020. Ultimately, however, no agreement was reached on this issue. On the connected issue of setting up a mechanism or fund to compensate developing countries for loss and damage associated with climate change, the term “fund” was opposed by the U.S., but agreement was eventually reached on the development of “institutional arrangements such as an international mechanism” at COP 19 in order to deal with loss and damage.

There continues to be broad dissatisfaction with the refusal of developed countries to set out a road map of the route towards their target of US \$100 billion by 2020, although this is was not a surprising outcome given the tough economic climate faced by many Annex I Parties. There is unlikely to be meaningful progress in this area now until high-level ministerial talks on the subject take place in 2014.

(3) Equipping the GCF and Climate Technology Centre and Network in order to support developing countries’ adaptation and mitigation efforts The COP formally approved Songdao, Republic of Korea, as the GCF’s host nation, and announced that the GCF will be accountable to, and developed under the guidance of, the COP. Hand-in-hand with this decision came a request for the Standing Committee and the Board of the GCF to develop arrangements for how this should function.

The Climate Technology Centre and Network (“**CTCN**”) was also more fully formed, with the United Nations Environment Programme (“**UNEP**”) selected

as the host of the Climate Technology Centre for the next five years and the Advisory Board of the CTCN established. UNEP was tasked first and foremost with assisting the CTCN to formally begin work, including appointing a director of the Climate Technology Centre.

The Technology Executive Committee (“**TEC**”) was requested to continue its consultations with stakeholders under (and outside) the Convention, with a view to reporting at COP 19. A joint report on progress will also be produced by the TEC and CTCN.

(4) Demonstrating that negotiations for a global and legally binding instrument remain on track for signature in 2015 This minimum objective was achieved but, frankly, little else: negotiations towards a 2015 agreement remain at an embryonic stage. With the AWG-KP and AWG-LCA work streams complete, the three broad negotiating tracks have narrowed to one, the AWG-DP. This will assist to focus negotiations towards a global and legally binding instrument. In order to avoid dilution of such negotiations resulting from the inclusion of some overflow from the closure of the AWG-LCA, the AWG-DP has itself split into two further work streams, one to forge an agreement in 2015, and another to assess potential methods to increase ambition before 2020, and an outline work plan was agreed. The current plans are for the AWG-DP workstreams to meet twice each year until 2015.

Connie Hedegaard, the European Union’s Commissioner for Climate Action, labelled the Doha Climate Gateway a “modest but essential step forward”, but with the key question of the precise legal nature of the “protocol, another legal instrument or an agreed outcome with legal force” still unresolved, it may be just as well that UN Secretary Ban Ki-moon has announced his intention to convene a meeting of world leaders in 2014 to discuss climate change.

(5) Closing the gap between the parties’ mitigation pledges and the target of preventing a rise in global temperatures of more than 2°C An overriding theme of recent conferences has been continued complaints by developing nations and NGOs of the lack of ambition, and with no expectations going into Doha, this conference was no exception. The EU stood ready to honour its commitment of a 30% reduction compared to 1990 levels if this was matched by other parties, but with Australia offering a target of merely 0.5%, the EU’s commitment remained at 20% and there was no significant movement by Annex I Parties on their existing reduction commitments.

All the conference was able to agree was that there should be a re-examination of emission reduction pledges by all parties in 2014, including the QELROs that have been set by the 37 parties signing up to the second commitment period. No movement in levels of ambition should be expected in the meantime and parties’ positions in 2014 are likely to be intimately linked to the progress made in seeking to agree the detail of the NMM.

Conclusion Opinions on the level of success achieved in Doha are mixed. If one measures success against Ban Ki-moon’s five objectives, not even that modest

list was achieved. An agreement on the Kyoto Protocol's second commitment period is undoubtedly a significant success, albeit demand under the second commitment period will remain weak. Whilst there is no road map towards the US \$100 billion target to be raised per year by 2020, some parties continue to pledge large sums towards climate finance and steps were taken to make these donations more transparent. Equally, the GCF and CTCN are able to move forwards, albeit slowly, with hosts decided upon and management in place or soon to be in place. As to whether the AWG-DP is on track to reach a binding agreement in 2015, the most that can really be said is that the parties have agreed to keep talking: the negotiations are "on track" in only this most basic sense. As to closing the gap between mitigation pledges and scientific needs, by common consensus this is indisputably the area in which least was achieved.

Fred Boltz, senior vice president for international policy at Conservation International, spoke for many developing countries and NGOs when he said that "*Nobody expected a major breakthrough...but there has been virtually no meaningful progress.*" Others will however see the successful conclusion of a second commitment period as an important success that means market mechanisms will remain at the heart of future discussions.

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1. Some sources identify as many as 53 outstanding issues.
 2. Although New Zealand will take on a QERLO in the second commitment period.
 3. CER prices are widely reported to have already dropped 88% over 2012.