



ADAPTATION FUND

AFB/B.41/9
14 September 2023

Adaptation Fund Board
Forty-first meeting
Bonn, Germany, 10–13 October 2023

Agenda item 10 c) (iii) and (iv)

**ARRANGEMENTS FOR THE TRANSITION OF THE
ADAPTATION FUND FROM THE KYOTO PROTOCOL TO THE
PARIS AGREEMENT**

I. Background

1. In Katowice, Poland in December 2018, it was decided that the Adaptation Fund (the Fund) shall serve the Paris Agreement under the guidance of, and be accountable to, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) with respect to all matters relating to the Paris Agreement, effective 1 January 2019, and that the Fund shall exclusively serve the Paris Agreement once the share of proceeds under Article 6, paragraph 4, of the Paris Agreement becomes available to the Adaptation Fund (the Fund). The relevant decisions are as follows:

The CMA, [. . .]

1. **Decides that the Adaptation Fund shall serve the Paris Agreement under the guidance of, and be accountable to, the CMA with respect to all matters relating to the Paris Agreement, effective 1 January 2019, subject to the decision on this matter made by the CMP;**
2. *Recommends that the CMP decide that the Adaptation Fund will continue to be financed by the activities under Articles 6, 12 and 17 of the Kyoto Protocol;*
3. *Also recommends to the CMP that the Adaptation Fund shall exclusively serve the Paris Agreement once the share of proceeds under Article 6, paragraph 4, of the Paris Agreement becomes available;*
4. *Invites the CMP to ensure that developing country Parties and developed country Parties that are Parties to the Paris Agreement are eligible for membership on the Adaptation Fund Board;*
5. **Decides that, when the Adaptation Fund serves the Paris Agreement, it shall be financed from the share of proceeds from the mechanism established by Article 6, paragraph 4, of the Paris Agreement and from a variety of voluntary public and private sources; [. . .]**

(Decision 13/CMA.1)

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP), [. . .]

1. *Takes note of decision 1/CMA.1, whereby the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) decided that the Adaptation Fund shall serve the Paris Agreement under the guidance of, and be accountable to, the CMA with respect to all matters relating to the Paris Agreement, effective 1 January 2019;*
2. **Decides that the Adaptation Fund shall exclusively serve the Paris Agreement and shall no longer serve the Kyoto Protocol once the share of proceeds under Article 6, paragraph 4, of the Paris Agreement becomes available;**
3. **Also decides, pursuant to paragraph 2 above, that the Adaptation Fund shall continue to receive the share of proceeds, if available, from activities under Articles 6, 12 and 17 of the Kyoto Protocol;**
4. **Further decides to ensure that developing country Parties and developed country Parties that are Parties to the Paris Agreement are eligible for membership on the Adaptation Fund Board; [. . .]**

(Decision 1/CMP.14)

2. At the Glasgow Climate Change Conference in November 2021, the CMP 16 and the CMA 3 decided to confirm that (i) developing country Parties to the Paris Agreement that are particularly vulnerable to the adverse effects of climate change are eligible for funding from the Adaptation Fund (the Fund); and (ii) Parties to the Paris Agreement are eligible for membership on the Adaptation Fund Board (the Board).¹

3. At the Sharm el-Sheikh Climate Change Conference in November 2022, a number of decisions relating to and/or referring to the Adaptation Fund were made by the CMP 17, CMA 4 and COP at its twenty-seventh session (COP 27). These include: CMP 17 decisions on *the Report of the Adaptation Fund Board for 2022*,² *fourth review of the Adaptation Fund*,³ and *Guidance relating to the Clean Development Mechanism (CDM)*⁴; CMA 4 decisions on *Matters relating to the Adaptation Fund, Rules*,⁵ *Modalities and Procedures for the Mechanism Established by Article 6.4 of the Paris Agreement*,⁶ *Matters Relating to the Work Programme Under the Framework for Non-Market Approaches Referred to in Article 6.8 of Paris Agreement*,⁷ *Matters relating to the Least Developed Countries*,⁸ and *Sharm el-Sheikh Implementation Plan*.⁹

4. At its fortieth meeting in March 2023, the Board considered Adaptation Fund related decisions taken by the CMP 17 and CMA 4 and document AFB/B.40/8 and its annex and decided:

(a) To request the secretariat to;

- (i) Commission an independent review of the Environmental and Social Policy of the Adaptation Fund (ESP) with a view to updating the ESP;
- (ii) Prepare a proposal for an update of the ESP as necessary in consultation with relevant stakeholders of the Adaptation Fund;
- (iii) Present the output referred to in paragraphs (a)(i) and (a)(ii) at its forty-first meeting for the Board's consideration;

(b) To request the secretariat to prepare a document with options for a policy on safeguarding against sexual exploitation and abuse and sexual harassment (SEAH) and present it at its forty-first meeting for the Board's consideration;

(c) To request the secretariat to continue consultations with the secretariat of the United Nations Framework Convention on Climate Change, the trustee and any other relevant stakeholders with a view to the timely preparation of the arrangements for the transition of the Adaptation Fund from the Kyoto Protocol to the Paris Agreement, as per decision 1/CMP.14, paragraph 2, and report on the status of the work to the Board at its forty-first meeting;

¹ [Decision 3/CMP.16](#), paras. 6 and 7 and decision 13/CMA.3, paras. 7 and 8.

² Decision 4/CMP.17.

³ Decision 5/CMP.17.

⁴ Decision 2/CMP.17.

⁵ Decision 18/CMA.4.

⁶ Decision 7/CMA.4.

⁷ Decision 8/CMA.4.

⁸ Decision 11/CMA.4.

⁹ Decision 1/CMA.4.

(d) To request the secretariat and the trustee to continue consultations with the secretariat of the United Nations Framework Convention on Climate Change and any other relevant stakeholders with a view to the timely development of a strategy on monetization of Article 6, paragraph 4, emission reductions (A6.4ERs) and to report on the status of the work to the Board at its forty-first meeting.

(Decision B.40/80)

5. In response to Decision B.40/80, paragraph (c), the secretariat has continued consultations with the secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), the trustee and other relevant stakeholders with a view to the timely preparation of the arrangements for the transition of the Fund from the Kyoto Protocol to the Paris Agreement, as per decision 1/CMP.14, paragraph 2. In response to Decision B.40/80, paragraph (d), the secretariat and the trustee has continued consultations with the secretariat of the UNFCCC with a view to the timely development of a strategy on monetization of Article 6, paragraph 4, emission reductions (A6.4ERs).

6. This document is prepared with a view to reporting to the Board on the status of the work in accordance with Decision B.40/80, paragraphs (c) and (d) and is not intended to influence or prejudge any future decisions by the Parties related to the Fund or its Board.

II. Arrangements for the Fund's transition from the Kyoto Protocol to Paris Agreement

7. In accordance with decisions 13/CMA.1 and 1/CMP.14, the Fund is still in transitional period during which the Fund serves both the Kyoto Protocol and the Paris Agreement. During the transitional period, the Fund and its Board remained under the authority of the CMP, while they remain under the guidance and accountable to the CMA with respect to all matters relating to the Paris Agreement.

8. Decision 1/CMP.14, paragraph 2, states that the Adaptation Fund shall exclusively serve the Paris Agreement and shall no longer serve the Kyoto Protocol once the share of proceeds under the Article 6.4 of the Paris Agreement becomes available. In this regard, the development of the Paris Agreement Art.6.4 mechanism is closely linked to the Fund's transition from the Kyoto Protocol to the Paris Agreement.

9. With respect to the matter of Adaptation Fund Board membership, CMA4 reiterated decision CMP16, paragraph 7, which confirmed that Parties to the Paris Agreement are eligible for membership on the Board. It also requested the Subsidiary Body for Implementation (SBI) to continue its consideration of matters relating to membership of the Board, as needed, in view of the Adaptation Fund's transition to exclusively serving the Paris Agreement.¹⁰ At its 58th session in June 2023, the SBI agreed to the Chair's proposal to defer consideration of the matters relating

¹⁰ Decision 18/CMA.4, paras. 17–18.

to the Adaptation Fund including the matter of the Adaptation Fund Board membership to its 59th session (December 2023).

10. The arrangements for the Fund's transition to the Paris Agreement would involve, among others, the amendments to the following instruments of the Fund:

- 1) Terms and Conditions of the trustee services to be provided by the World Bank as the interim trustee (T&Cs) (last amended in 2019);
- 2) Institutional arrangement (MoU) with GEF for secretariat services to the Board (last amended in 2019);
- 3) Rules of the Procedure of the Adaptation Fund Board;
- 4) Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund (last amended in October 2022);
- 5) Strategic Priorities, Policies, and Guidelines of the Adaptation Fund (SPPG) (last amended in October 2022)

1) *Terms and Conditions of the trustee services to be provided by the World Bank as the interim trustee*

11. The terms and conditions of the trustee services (T&Cs) to be provided by the World Bank as the interim trustee were developed in close consultation among the Adaptation Fund Board and the World Bank, then approved by way of decisions of the CMP and the World Bank respectively. The T&Cs were first adopted by decision 1/CMP.4 and agreement by the World Bank in 2009, and have been since amended four times, by the same approach.¹¹ At the time of the original CMP decision in 2009 (1/CMP.4), the Board had not yet been conferred with legal personality and could therefore not enter into a contract or other legal arrangement with the World Bank.

12. The current T&Cs¹² was amended and adopted in 2019, and unless otherwise agreed in the same manner, i.e., by CMP decision and concurrence of the World Bank, or terminated in accordance with the T&Cs, the T&Cs will remain effective. The T&Cs and any amendments to the T&Cs become effective and constitute an agreement between the CMP and the World Bank upon decisions by the CMP and the World Bank to approve and accept the T&Cs or any amendments to the same.

13. The current T&Cs provide authorization to the Trustee to act as an agent of the CMP to monetize carbon assets that have been allocated to the Share of Proceeds for the Adaptation Fund at the Clean Development Mechanism. Under the T&Cs, the Board provides guidance to the Trustee on day-to-day activities of the Fund, e.g. on the process used by the Trustee for

¹¹ Amendment of the T&Cs were adopted by CMP by decisions 5/CMP.6, 1/CMP.9, 1/CMP.10 and 3/CMP.15 (2019).

¹² Annex I to the addendum to the 2019 report of the Adaptation Fund Board (FCCC/KP/CMP/2019/4/Add.1–FCCC/PA/CMA/2019/2/Add.1, annex). The latest T&Cs is available at <https://www.adaptation-fund.org/generic/terms-and-conditions-of-services-to-be-provided-by-the-wb-as-trustee-for-the-af/>.

monetization of carbon assets (CERs), processing donations from Parties, transferring funds to Implementing Entities, reporting, and other services. In this respect, authorization to transfer CERs from the Adaptation Fund Share of Proceeds at the Clean Development Mechanism (CDM) to buyers of the CERs derives from the arrangement with the CMP (the Terms and Conditions), not from instructions, direction or additional guidance from the Adaptation Fund Board. Insofar as the Fund Share of Proceeds are considered assets of the CMP, any decision by the CMP vis-à-vis the Adaptation Fund would need to consider how these assets would be transferred, disposed of, or otherwise handled by the CMP.

14. The trustee is of the view that if a Share of Proceeds from Paris Agreement carbon assets are allocated to the Adaptation Fund and the Parties and Adaptation Fund Board request that the Trustee also act as an agent to monetize these carbon assets, such authorization will need to be provided to the Trustee by the appropriate body. In addition, if the procedures, regulatory and other implications of monetizing such assets remain unknown, it would not be possible to include them in a revised T&Cs until this due diligence has been undertaken. Prior to the monetization of CERs, the Trustee undertook detailed due diligence on the tax, regulatory and other implications of CER monetization by IBRD; similar due diligence was performed with respect to monetization of AAUs and ERUs when such assets were added to the AF's Share of Proceeds. Guided by the need for a detailed due diligence and experience with current Share of Proceeds from CDM experience, the Trustee will be able to conduct such due diligence on the implications of monetizing new carbon assets only when further details are available on the nature and characteristics of these new carbon assets.

15. Regarding the disposal of remaining AF carbon assets (CERs in the CDM Share of Proceeds), the CMP 17 made the following decision, but the CDM Executive Board has not started the work yet and may start this work in 2024 in the view of the secretariat of the UNFCCC.

*The CMP 17,
[. .]*

11. Requests the Executive Board, in coordination with the Supervisory Body and taking into account the timelines for implementing the mechanism registry and any relevant future decisions of the CMP and the CMA, to

- (a) Develop and implement a procedure for project participants and Parties holding eligible certified emission reductions in the clean development mechanism registry, **as well as the Trustee of the Adaptation Fund (For transfers of eligible certified emission reductions from the Adaptation Fund account)**, to request the transfer of such certified emission reductions to the mechanism registry, noting that such project participants, Parties **and the Trustee of the Adaptation Fund** shall provide, in their transfer requests:*
- (b) Develop and implement a procedure that includes the following steps:*
 - (i) Providing to the host Party written notice of the request for transfer;*

- (ii) *Effecting the transfer if no written objection from the host Party is received within a time frame to be specified by the Executive Board;*

(Decision 2/CMP.17)

16. In this regard, new carbon assets under Article 6, paragraph 4, emission reduction (A6.4ERs) are 'not available' yet, and an established mechanism for the disposal of the remaining Adaptation Fund's carbon assets under CDM is not yet developed. It would be, therefore, important to take note of the implication with respect to: (i) continuation of the current authority from the CMP to permit the Trustee to act as agent of the CMP for the monetization of the Fund's CERs, and (ii) establishing a new authority from the CMA for the trustee to monetize any new Fund's carbon assets arising from the Paris Agreement.

17. Accordingly, the trustee suggests a two-phases approach to prepare for the Fund's transition to the Paris Agreement, in order to ensure the continuity of operations supported by the trustee:

- **Continue consultation among the trustee, the Board Secretariat and the UNFCCC Secretariat on the timing of availability of A6.4ERs and their nature:** this will ensure that the trustee continues to stay engaged upfront to support its due diligence required for the monetization of the new assets.
- **Agree on the new T&Cs with the Board and their submission to the CMA for adoption and simultaneous decision by the CMP to terminate the current T&Cs:** this step can start following the notification of the availability of A6.4ERs (the trigger to exclusively serve the Paris Agreement) to the Board and the Trustee by the UNFCCC Secretariat and the adoption of the mechanism for the disposal of the Adaptation Fund's carbon assets under the CDM. Simultaneously, the trustee will revise the monetization strategy, which will be implemented pursuant to the new T&Cs, to take into account the nature and market developments around the new A6.4ERs assets as well as the monetization of the carbon assets under the CDM should this continue to be required.

18. CMA 4 decided that the Adaptation Fund Board and its support structure shall develop and implement a strategy on monetizing A6.4ERs in the share of proceeds for adaptation account held by the Adaptation Fund in the mechanism registry and inform the state of monetization annually to the CMA.¹³ The trustee is of the view that the existing monetization strategy¹⁴ can be revised simultaneously when preparing the new T&Cs, and the new monetization strategy will be implemented pursuant to new T&Cs, to take into account the nature and market developments around the new A6.4ERs assets as well as the monetization of the carbon assets under the CDM should this continue to be required.

¹³ Decision 7/CMA.4, Annex I, para.60.

¹⁴ Available at <https://www.adaptation-fund.org/document/new-guidelines-for-the-monetization-of-carbon-assets/>

19. The current T&Cs are contained in Annex 1 to this document for easy reference, and the comments from the trustee on these matters are contained in the Addendum to this document (AFB/B.41/9/Add.1).

2) *Institutional arrangement (MoU) with GEF for secretariat services to the Board (last amended in 2019)*

20. By decision 1/CMP.3, the CMP invited the Global Environment Facility (GEF) to provide secretariat services to the Adaptation Fund Board on an interim basis. The form of the arrangement was an MoU which is often used to denote a firm, but not legally binding, commitment between two or more organizations.¹⁵ The MoU was finalized upon mutual agreement by the CMP and the Council of the GEF, and it became effective upon adoption by the CMP and the Council of the GEF. Amendments to the MoU will need to be mutually agreed upon by the CMP and the Council, and the Adaptation Fund Board can recommend to the CMP any amendments to the MoU. Since its first adoption in 2009, the MoU was extended through decisions 4/CMP.8, 2/CMP10 and 2/CMP.12. The latest MoU was amended in 2019 (Decision 3/CMP.15), and unless otherwise agreed in the same manner, i.e., by CMP decision and concurrence of the GEF Council), the MoU will remain effective.

21. The current MoU has provided effective legal agreement for secretariat services. During the transitional period, the CMP and GEF Council would remain as the signing parties to the MoU, and CMA does not need to be a signing party to the MoU.

22. When the MoU was amended in 2019, Decision 13/CMA.1 and Decision 1/CMP.14 related to the Fund's transition from the Kyoto Protocol to the Paris Agreement were already incorporated in its preamble and Article 1. For the Fund's transition to the Paris Agreement, the new MoU between the GEF and CMA can be prepared by the AFB secretariat in consultation with the GEF secretariat before the 'trigger' occurs, and it will be first submitted to the Board for consideration and approval, and then submitted to the CMA and GEF Council for their respective adoption.

23. If the existing arrangement for the secretariat services is maintain after the Fund exclusively, the current MoU unlikely requires major amendments except replacing the signing party from the CMP to the CMA. The current MoU is contained in Annex 2 to this document.

3) *Rules of the Procedure of the Adaptation Fund Board*

24. The rules of procedure (RoP) of the Board was established based upon [Decision 1/CMP.3](#) which includes integral features of the Fund: operating entity of Fund; Board's functions, composition, membership, quorum, decision-making, and chairmanship; frequency of meetings; observers; transparency; secretariat; trustee; monetization; access to finding; institutional arrangements; and review. The RoP was adopted by decision 1/CMP.4 and its amendment was adopted by decision 1/CMP.5.

¹⁵ FCCC/KP/CMP/2008/11/Add.2, Annex II.

25. The Board considered the Rules of Procedure as part of the mandate from the CMP 14 (Decision 1/CMP.14) at its thirty-third, additional meeting (33.b) and the thirty-fourth meeting in 2019, and noted that many provisions of the Rules of Procedure could be unaffected by the transitional period, while some provisions are linked to future decisions by the CMP and/or the CMA related to the matter of Adaptation Fund Board membership. As mentioned above, the issue of the Board membership will be considered at SBI 59 (November-December 2023). Accordingly, the Board concluded that rather than presenting partial revisions of the Rules of Procedure to the CMP in 2019 and reported to the CMP 15 on what it has considered by the Board in terms of the RoP.

26. To facilitate the Board discussion related to the Rules of Procedure in the context of preparing the arrangements for the Fund's transition to the Paris Agreement, the secretariat highlighted provisions of the RoP which would need to be amended for the transition as contained in the Annex 3 to this document. The highlighted provisions do not represent the exhaustive provisions which need to be amended, but only the illustrative ones, and other provisions that are not highlighted may be amended following the future Board discussions and decisions as well as the decisions by the CMP and/or the CMA.

27. The Rules of Procedure with highlights of the provisions which may need amendments for the transition of the Fund to the Paris Agreement is contained in Annex 3 to this document.

4) *Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund (OPG)*

28. The OPG was first developed in 2009 in accordance with decision 1/CMP.3 and 1/CMP.4 and based upon the Strategic Priorities, Policies, and Guidelines of the Adaptation Fund (SPPG) (later contained as Annex I to the OPG). The adoption of the OPG was taken note by the CMP by decision 4/CMP.5. The OPG was last amended in October 2022 in response to the mandates arising from decisions 3/CMP.16, paragraphs 6 and 7 and 13/CMA.3, paragraphs 7 and 8. The amendments were made by the Board (Decision B.39/66), primarily for, among others, reflecting decisions 3/CMP.16 and 13/CMA.3 regarding eligible country Parties to access funding from the Fund and the eligible Board membership that the Parties to the Paris Agreement are eligible for Board membership.

29. The amendment to the OPG can be made by the Board through its decision and does not require adoption or decision by the CMP. The current OPG is available on the Fund's [website](#).

5) *Strategic Priorities, Policies, and Guidelines of the Adaptation Fund (SPPG)*

30. The SPPG (Annex 1 to the OPG) was last amended in October 2022 together with the OPG in response to decisions 3/CMP.16 and 13/CMA.3 regarding eligible country Parties to access funding from the Fund and the eligible Board membership that the Parties to the Paris

Agreement are eligible for Board membership. The SPPG was amended by the Board in October 2022 (Decision B.39/66) and was adopted by the CMP 17.¹⁶

31. Amendments to the SPPG in the context of the Fund's transition to serving the Paris Agreement will follow the similar procedural steps: the amendments to the SPPG will need to be decided by the Board, and the Board will need to invite the CMP and CMA to take any action on, as they deem appropriate, the amendments to the SPPG as approved by the Board.

32. The current SPPG (OPG Annex 1) is available on the Fund's [website](#).

III. Recommendation

33. Having considered document AFB/B.41/19 and its annexes and addendum, the Adaptation Fund Board (the Board) may want to consider and decide:

to request the secretariat:

a) To request the secretariat;

(i) To continue consultations with the secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), the trustee and any other relevant stakeholders with a view to the timely preparation of the arrangements for the transition of the Adaptation Fund from the Kyoto Protocol to the Paris Agreement, as per decision 1/CMP.14, paragraph 2, and report on the status of the work to the Board at its forty-second meeting;

(ii) To prepare draft amendments to the Rules of Procedure, the Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund, and the Strategic Priorities, Policies and guidelines in the context of the transition of the Adaptation Fund from the Kyoto Protocol to the Paris Agreement and report on the status of the work to the Board at its forty-second meeting;

b) To request the secretariat and the trustee to continue consultations with the secretariat of the UNFCCC and any other relevant stakeholders with a view to the timely development of a new terms and conditions for the trustee services and strategy on monetization of Article 6, paragraph 4, emission reductions (A6.4ERs) and to report on the status of the work to the Board at its forty-second meeting.

¹⁶ Decision 4/CMP.17, para. 10.



ADAPTATION FUND

Annex 1: Terms and Conditions of Services to Be Provided by the
International Bank for Reconstruction and Development as
Trustee for the Adaptation Fund

Annex I: Amendment of the Terms and Conditions of Trustee Services to be Provided by the World Bank as an Interim Trustee of the Fund

Amended and restated terms and conditions of services to be provided by the International Bank for Reconstruction and Development as trustee for the Adaptation Fund

I. Recitals

- (a) A clean development mechanism (CDM) was established under Article 12 of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (the Convention) (the Kyoto Protocol).
- (b) The Conference of the Parties decided in its decision 10/CP.7 that an adaptation fund (the Adaptation Fund) shall be established to finance concrete adaptation projects and programmes in developing country Parties that are Parties to the Kyoto Protocol, as well as activities identified in decision 5/CP.7, paragraph 8.
- (c) The decision was further endorsed by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) through its decision 28/CMP.1.
- (d) In decision 1/CMP.3, the CMP decided that the Adaptation Fund shall finance concrete adaptation projects and programmes that are country driven and are based on the needs, views and priorities of eligible Parties, and that the Adaptation Fund Board shall be established as the operating entity of the Adaptation Fund.
- (e) The CMP, in its decision 1/CMP.3, invited the International Bank for Reconstruction and Development (the World Bank) to serve as the trustee for the Adaptation Fund (the World Bank in such capacity, the Trustee) on an interim basis, and requested the Adaptation Fund Board to present the necessary legal arrangements to be concluded between the CMP and the trustee, for adoption by the CMP at its fourth session.
- (f) The CMP and the World Bank concluded the legal arrangements necessary for the World Bank to serve as Trustee on an interim basis by way of adopting and accepting the terms and conditions of services to be provided by the International Bank for Reconstruction and Development as trustee for the Adaptation Fund (the Terms and Conditions) as contained in the appendix to annex III to decision 1/CMP.4.
- (g) The Terms and Conditions were amended four times to extend the term of the Trustee's services thereunder on an interim basis, as set out in decision 5/CMP.6, decision 1/CMP.9, decision 1/CMP.10 and decision 2/CMP.12.
- (h) The CMP, in its decision 1/CMP.9, requested the Adaptation Fund Board to develop and approve the legal arrangements with the trustee regarding the services for the 2 per cent share of proceeds levied in accordance with decision 1/CMP.8, paragraph 21, for approval by the CMP.
- (i) The Adaptation Fund Board has developed and approved the legal arrangements with the Trustee for approval by the CMP, which are proposed to be concluded between the CMP and the Trustee by amending and restating the Terms and Conditions.
- (j) The CMP and the World Bank wish to amend and restate the Terms and Conditions as follows.

II. Terms and conditions

A. Role and responsibilities of the Trustee

1. The World Bank shall act as the Trustee on an interim basis in accordance with the Terms and Conditions set forth herein.
2. The Trustee shall comply with the principles and modalities for operations stipulated in the relevant decisions of the CMP and decisions of the Adaptation Fund Board. The Trustee shall be closely consulted in the development of decisions, taken by the CMP or the Adaptation Fund Board after the effective date of the Terms and Conditions, which relate in any way to the functions of the Trustee performed or to be performed, and the Terms and Conditions stipulated below shall be applicable. The Trustee shall perform its functions under the Terms and Conditions in accordance with the applicable provisions of the World Bank's Articles of Agreement, by-laws, policies and procedures.
3. The CMP hereby: (1) confirms its designation, under its decision 1/CMP.3, of the Adaptation Fund Board as its designee and delegatee in respect of the Adaptation Fund, acting under the authority and guidance of the CMP; and (2) imbues the Adaptation Fund Board with the capacity, power and authority to render decisions and provide instructions, directions and guidance to the Trustee hereunder and to cause to be effectuated the sale or disposal, for the purpose of monetization (Sale), of certified emission reductions (CERs), assigned amount units (AAUs) or emission reduction units (ERUs) collected as the share of proceeds for the Adaptation Fund (any such CERs, AAUs or ERUs, hereinafter referred to individually or collectively as the Share of Proceeds), pursuant to paragraphs 24, 25, 26, 27 and 28 below.
4. The Trustee, in the performance of its functions under the Terms and Conditions, shall be accountable to the Adaptation Fund Board.
5. Without prejudice to any other provisions of the Terms and Conditions, the Trustee shall, in performing its functions under the Terms and Conditions, act upon decisions, instructions, directions or guidance of the CMP or the Adaptation Fund Board (or such other person designated in writing by the Adaptation Fund Board for that purpose (Authorized Designee)) only if such decisions, instructions, directions or guidance are provided to the Trustee in writing. The Trustee shall not be responsible for inquiring or investigating if any decisions, instructions, directions or guidance of the Adaptation Fund Board or, as the case may be, any Authorized Designees, do not contravene an existing decision or act of the CMP, and shall have no liability for relying in good faith on any written decision, instruction, direction or guidance of the CMP, Adaptation Fund Board or any Authorized Designees, without further inquiry or investigation on its part or otherwise for any actions taken, or omitted to be taken, in good faith.
6. The CMP acknowledges that the Trustee may disclose information obtained by it in connection with its functions under the Terms and Conditions, if such disclosure is required or otherwise necessary in carrying out the services and activities set out herein, in accordance with the World Bank's policies and procedures.
7. The Trustee shall establish a trust fund for the Adaptation Fund (the Trust Fund), and shall hold in trust, as a legal owner, and administer the funds, assets and receipts, which constitute the Trust Fund, on behalf of the Adaptation Fund supervised and managed by the Adaptation Fund Board.
8. For the purpose of the monetization of the Share of Proceeds for the Adaptation Fund, the Trustee, in its capacity as agent of the CMP, is hereby authorized by the CMP to administer Sales of the Share of Proceeds under the instructions, direction and guidance of the Adaptation Fund Board consistent with its responsibility for the monetization of the Share of Proceeds, pursuant to paragraphs 24, 25, 26, 27 and 28 below.
9. The Trustee shall be responsible only for performing those duties and responsibilities specifically and expressly set forth in the Terms and Conditions and shall not be subject to any other duties or responsibilities (express or implied), including, without limitation, any

duties or obligations that might otherwise apply to a fiduciary or trustee under general principles of equity, trust or fiduciary obligations and/or any other legal or equitable principles. To the extent that Sales of the Share of Proceeds are conducted by the Trustee pursuant to paragraphs 24, 25, 26, 27 and 28 below, the Trustee shall not be responsible for the legality, validity or enforceability of any such Sales of the Share of Proceeds, the value obtained from such Sales of the Share of Proceeds (including any reduction in the value of the CERs, AAUs or the ERUs from the time they are credited to the CDM Account (as defined in paragraph 24 below) to the time such Sales are consummated) or any expenses or liabilities incurred in connection with such Sales.

10. The Trustee shall not be liable for any failure to carry out its obligations under the Terms and Conditions where such failure is a result of a Force Majeure Event and, for so long as such circumstances continue, shall be relieved of its obligations under the Terms and Conditions which it has been prevented from fulfilling as a result of that Force Majeure Event without liability; provided that the Trustee shall, notwithstanding that it is relieved from its obligations hereunder, take all reasonable and practical steps to minimize any loss and/or disruption resulting from any such Force Majeure Event. For the purpose of this paragraph, “Force Majeure Event” means any event beyond the reasonable control of the person affected including, without limitation, labor dispute, act of God, war, act or circumstance of terrorism, riot, civil commotion, malicious damage, accident, breakdown of essential computer software, hardware or system failure, fire, flood and/or storm and other unforeseen circumstances materially and adversely affecting the performance of the functions of the Trustee under the Terms and Conditions.

11. The CMP acknowledges that the World Bank shall have the right to engage in any of the types of activities described in the Terms and Conditions for its own account or for the account of clients other than the Adaptation Fund whether acting as trustee, adviser or in any other capacity vis-à-vis such clients. The CMP agrees that the World Bank, in carrying out such activities for its own account or for the account of others, may decide to adopt approaches and courses of actions, which differ from the approaches and courses of action that the Trustee decides to take in performing the services for the Adaptation Fund described in the Terms and Conditions. In engaging in such activities for its own account or for the account of others, the World Bank will put in place measures designed to avoid or mitigate conflicts of interest arising from its functions under the Terms and Conditions relating to the Sale of the Share of Proceeds for the Adaptation Fund.

12. If a decision by the CMP or the Adaptation Fund Board after the effective date of the Terms and Conditions relates to the functions of the Trustee performed or to be performed under the Terms and Conditions, such a decision shall be developed in close consultation with the Trustee. In the absence of such consultation with and the agreement of the Trustee, the Trustee shall not be bound by any decision of the CMP or the Adaptation Fund Board, to the extent that such a decision relates to the functions of the Trustee performed or to be performed under the Terms and Conditions.

13. The CMP agrees that the Trustee shall be fully indemnified, out of the assets held for the Adaptation Fund, including the Trust Fund resources, for any liabilities, claims, losses, costs and expenses, including attorneys’ fees and expenses, incurred by the Trustee in connection with or in any way arising out of its activities as Trustee, including but not limited to any activities of the Trustee in connection with the Sale or the facilitation of the Sale of the Share of Proceeds. Such indemnity shall not include any liabilities, claims, losses, costs or expenses incurred by the Trustee as a direct result of its own gross negligence or willful misconduct.

14. The privileges and immunities accorded to the World Bank shall apply to the property, assets, archives, operations and transactions of the Trust Fund. Nothing in the Terms and Conditions shall be considered a waiver of any privileges or immunities of the World Bank under its Articles of Agreement or any applicable law, all of which are expressly reserved.

15. The CMP agrees that the Trustee shall be reimbursed annually from the assets held for the Adaptation Fund, including the Trust Fund resources, for the fees, costs and expenses incurred by it in connection with performing its functions under the Terms and Conditions, including, without limitation, the costs and expenses incurred in connection with the

establishment and administration of the Trust Fund, the Sale of the Share of Proceeds, and any and all services provided hereunder, including attorneys' fees and expenses and external auditors' costs, costs of insurance policies and relevant service providers' fees. For this purpose, the Trustee shall submit to the Adaptation Fund Board a proposal for mutual agreement for the services and activities to be provided by the Trustee and estimated fees, costs and expenses to carry out such services and activities for the initial and/or upcoming fiscal year, as applicable. Upon approval by the Adaptation Fund Board of such a proposal, the Trustee shall deduct and transfer the amount of the estimated fees, costs and expenses to its own account from the Trust Fund resources or such other assets held for the Adaptation Fund; provided that the amount of the fees, costs and expenses transferred may be subject to an end of year adjustment based on actual costs and expenses incurred, as such an arrangement may be agreed between the Adaptation Fund Board and the Trustee in connection with the aforementioned proposal.

16. In order to enable the Trustee to carry out its functions enumerated in the Terms and Conditions, the Trustee shall be entitled to attend any meetings of the Adaptation Fund Board and, as an observer, any meetings of the CMP which may concern the operations and activities of the Adaptation Fund. Further, the CMP hereby requests the secretariat servicing the Adaptation Fund Board in accordance with decision 1/CMP.3, and the secretariat of the Convention (the UNFCCC secretariat), to cooperate fully with the Trustee.

B. Administration of the Trust Fund

17. The Trustee shall receive and hold in the Trust Fund any proceeds from the Sale of the Share of Proceeds conducted pursuant to paragraphs 24, 25, 26, 27 and 28 below. If requested by the Adaptation Fund Board, the Trustee may accept, on terms mutually agreed between the Trustee and the Adaptation Fund Board, contributions from donors to support the operations of the Adaptation Fund. For the avoidance of doubt, no Share of Proceeds shall be held in the Trust Fund.

18. Subject to paragraphs 2 and 12 above, the Trustee shall administer the funds, assets and receipts of the Trust Fund only for the purpose of, and in accordance with, the Terms and Conditions and the relevant decisions of the CMP and the Adaptation Fund Board.

19. In accordance with decision 1/CMP.3, paragraph 21, and in conformity with the administrative and investment arrangements of the Trustee, the Trustee shall hold the funds, assets and receipts that constitute the Trust Fund separate and apart from the funds of the World Bank. The Trustee shall establish and maintain separate records and accounts to identify the resources of the Trust Fund, the commitments financed out of the Trust Fund, and the receipts and transfers of funds in the Trust Fund.

20. The Trustee shall invest the funds held in the Trust Fund, pending their transfer under paragraphs 15 above and 22 below, in accordance with the Trustee's policies and procedures for the investment of trust funds administered by the World Bank, including commingling of the resources of the Trust Fund for administrative and investment purposes with other trust fund assets maintained by the World Bank. The commingling of Trust Fund resources for administrative and investment purposes should not affect the amount of resources from proceeds of monetization of the Share of Proceeds available in the Trust Fund for transfer of funds for Adaptation Fund operations, activities, projects and programmes. The Trustee shall credit all income from such investment to the Trust Fund to be used for the same purposes as other funds held in the Trust Fund. The CMP acknowledges that no warranty is given by the Trustee as to the performance or profitability of the investment of the funds held in the Trust Fund.

21. The funds held in the Trust Fund may be freely exchanged by the Trustee into other currencies as may facilitate their administration and transfer.

22. The Trustee shall, subject to the availability of resources held in the Trust Fund, record commitments and make transfers of funds from the Trust Fund in the manner agreed between the Trustee and the Adaptation Fund Board, and only at, and in accordance with, the written direction provided to the Trustee by the Adaptation Fund Board or any Authorized Designee.

Upon the transfer of funds, the Trustee shall not have any responsibility for the use of the Trust Fund funds transferred and activities carried out therewith, including but not limited to any responsibility with respect to supervising, monitoring, reporting on or verifying activities carried out with the Trust Fund funds transferred by the Trustee herein.

23. The Trustee shall prepare and furnish the Adaptation Fund Board with financial reports of the Trust Fund annually (or at any other such frequency agreed between the Trustee and the Adaptation Fund Board), and provide records and accounts of the Trust Fund for audit by its external auditors annually (or at any other such frequency agreed between the Trustee and the Adaptation Fund Board), in accordance with the policies and procedures of the Trustee. Furthermore, the Trustee shall prepare and furnish the Adaptation Fund Board with reports on the Sale of the Share of Proceeds for the Adaptation Fund and on the status of commitments and transfers of Trust Fund funds annually (or at any other such frequency agreed between the Trustee and the Adaptation Fund Board).

C. Sales of Share of Proceeds

24. The CMP hereby authorizes the Sale of the Share of Proceeds from the account established and maintained at the CDM registry for the Adaptation Fund to hold and transfer the Share of Proceeds to assist in meeting the costs of adaptation in accordance with Article 12, paragraph 8, of the Kyoto Protocol (the CDM Account) in the manner set forth hereunder.

25. The Sale of the Share of Proceeds from the CDM Account shall be administered under the instructions, direction and guidance of the Adaptation Fund Board consistent with its responsibility to supervise and manage the Adaptation Fund and for the monetization of the Share of Proceeds.

26. Pursuant to the authority provided under paragraph 3 above, the Adaptation Fund Board may cause to be entered into any and all contracts necessary for the Sale of the Share of Proceeds from the CDM Account by granting to the Trustee any necessary power of attorney on behalf of the CMP, so that the Trustee may execute contracts of Sale with the relevant third-party Share of Proceeds purchasers and such other contracts necessary in connection with the Sale or the facilitation of the Sale of the Share of Proceeds, at the direction of the Adaptation Fund Board pursuant to paragraph 28 below.

27. Pursuant to the authority provided under paragraph 8 above, and in furtherance of paragraphs 24, 25 and 26 above, the Trustee may, at the direction of the Adaptation Fund Board pursuant to paragraph 28 below: (1) cause the transfer of the title to the Share of Proceeds to the relevant third-party purchasers, or the cancellation of the Share of Proceeds, upon receipt of payment in respect of the transfer or cancellation; (2) enter into arrangements with the CDM Registry Administrator to effectuate such transfers or cancellations of the Share of Proceeds; (3) engage with relevant service providers for the purposes of execution, clearance, settlement and other logistic matters in connection with the Sale or the facilitation of the Sale of the Share of Proceeds; and (4) take other such actions as necessary to effectuate the Sale of the Share of Proceeds for the benefit of the Adaptation Fund.

28. Sale of the Share of Proceeds and transfer of title or cancellation of the Share of Proceeds in respect of such Sale pursuant to paragraphs 24, 25, 26 and 27 above shall be effected by the Trustee only in accordance with the guidelines agreed in writing between the Trustee and the Adaptation Fund Board.

D. Dispute resolution: notices

29. The CMP and the Trustee shall, to the extent possible, strive to resolve promptly and amicably questions of interpretation and application of the Terms and Conditions and settle any disputes, controversy or claim arising out of or relating to the Terms and Conditions.

30. Any dispute, controversy or claim arising out of or relating to the Terms and Conditions, which has not been settled by agreement between the CMP and the Trustee, shall be submitted to arbitration in accordance with the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) in force on the effective date of the

Terms and Conditions, and the following provisions: (1) the appointing authority shall be the Secretary-General of the Permanent Court of Arbitration; and (2) the language of the arbitral proceedings shall be English.

31. Any arbitral award under paragraph 30 above shall be final and binding upon the CMP and the Trustee. The provisions set forth in paragraphs 29 and 30 above shall be in lieu of any other procedure for the settlement of disputes between the CMP and the Trustee.

32. Any notice or request required or permitted to be given or made under the Terms and Conditions and any other agreement between any of the parties contemplated by the Terms and Conditions shall be in writing. Any such notice or request shall be deemed to have been duly given or made once it has been delivered by hand, mail, facsimile or, if so designated by the parties, by other electronic means, to the World Bank or the UNFCCC secretariat, in the case of the CMP, to which it is required or permitted to be given or made at such party's address designated by notice to the World Bank or in the case of the CMP, the UNFCCC Secretariat, giving such notice or making such a request. Deliveries made by facsimile or other electronic means shall also be confirmed by mail.

E. Amendment and termination

33. Any amendment to the Terms and Conditions shall become effective only upon approval and acceptance by the CMP and the World Bank.

34. The CMP may at any time terminate the appointment of the Trustee as trustee servicing the Adaptation Fund under the Terms and Conditions. The Trustee's role as trustee servicing the Adaptation Fund shall be terminated three months after receipt by the Trustee of the notice in writing of the termination of the appointment.

35. The Trustee may at any time terminate its role as trustee servicing the Adaptation Fund by giving the CMP notice in writing no less than three months prior to any session of the CMP. The Trustee's role as trustee servicing the Adaptation Fund shall be terminated immediately after the session of the CMP which immediately follows the notice by the Trustee. In the event that no session of the CMP is held within 12 months of the Trustee giving notice, however, the Trustee's role shall be terminated 12 months after the Trustee has given notice.

36. Following termination of the Trustee's role as trustee servicing the Adaptation Fund pursuant to paragraphs 34 or, 35 above, the Trustee shall carry on no business for the Adaptation Fund except for the purpose of winding up its affairs. The Trustee shall take all necessary action for winding up its affairs in an expeditious manner, and for meeting the commitments already made by the Trustee and the transfer of any remaining funds, assets and receipts in the Trust Fund, as directed by the Adaptation Fund Board. The CMP hereby mandates that in such circumstances the Adaptation Fund Board shall provide such direction to the Trustee without undue delay. All of the powers and rights of the Trustee under the Terms and Conditions, including the right to be reimbursed for the fees, costs and expenses incurred under paragraph 15 above, shall continue until the affairs of the Trustee shall have been wound up.

F. Effectiveness

37. The Terms and Conditions or any amendments to the same shall become effective and constitute an agreement between the CMP and the World Bank upon decisions by the CMP and the World Bank to approve and accept the Terms and Conditions or any amendments to the same.



ADAPTATION FUND

Annex 2: Memorandum of Understanding between
the Conference of the Parties Serving as the Meeting of the
Parties to the Kyoto Protocol and the Council of the Global
Environment Facility regarding Secretariat Services to
the Adaptation Fund Board

**AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE
CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO
THE KYOTO PROTOCOL AND THE COUNCIL OF THE GLOBAL ENVIRONMENT
FACILITY REGARDING SECRETARIAT SERVICES
TO THE ADAPTATION FUND BOARD**

I. Preamble

The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (hereinafter the CMP) having decided (decision 5/CMP.2) to establish the Adaptation Fund of the Kyoto Protocol (hereinafter the Fund) and having further decided (decision 1/CMP.3) that the operating entity of the Fund shall be the Adaptation Fund Board (hereinafter the Board) established to supervise and manage the Fund, and that the Board should develop and approve draft legal and administrative arrangements for secretariat services and the trustee for approval by the CMP (decision 1/CMP.3, paragraph 5 (j)), and having invited the Global Environment Facility (hereinafter the GEF) to provide secretariat services to the Board, on an interim basis,

The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) having decided that the Adaptation Fund shall serve the Paris Agreement under the guidance of, and be accountable to, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement with respect to all matters relating to the Paris Agreement, effective 1 January 2019, subject to the decision on this matter made by the CMP (decision 13/CMA.1),

The CMP having decided that the Adaptation Fund shall exclusively serve the Paris Agreement and shall no longer serve the Kyoto Protocol once the share of proceeds under Article 6, paragraph 4, of the Paris Agreement becomes available (decision 1/CMP.14),

Recognizing the willingness of the GEF to provide secretariat services to the Board (hereinafter the secretariat) on an interim basis,

Having consulted with each other and taking into account the relevant aspects of their governance structures, as reflected in their constituent instruments, The CMP and the Council of the GEF (hereinafter the Council) have reached the following understanding in accordance with the recommendation of the Board:

II. Purpose

1. The purpose of the present Memorandum of Understanding (hereinafter the MOU) is to make provisions for the relationship between the CMP and the Council and to fulfil Article 12 of the Kyoto Protocol and decisions 1/CMP.3, 1/CMP.14, and 13/CMA.1 in connection with the provision of secretariat services as the secretariat.

III. Secretariat services

2. The secretariat shall, under the guidance and instructions of the Board, provide the following services to the Board to support and facilitate the work of the Board:

- (a) As a dedicated team of officials, provide secretariat services to the Board in a functionally independent and effective manner;
- (b) Manage the daily operations of the Fund and report to the Board;
- (c) Assist the Board in developing strategies, policies and guidelines for the Fund;
- (d) Ensure timely implementation of the decisions of the Board;
- (e) With respect to the day to day functioning of the Fund, act as liaison between the Board and Parties and implementing and executing entities;
- (f) Make arrangements for the meetings of the Board, including issuance of invitations and preparation of documents and reports of meetings, and provide a secretary of the Board meeting;
- (g) Develop the work programme and annual administrative budget of the Fund and submit them for approval by the Board

- (h) Ensure the implementation of the operational policies and guidelines of the Fund developed by the Board through, inter alia, the development of a project cycle based on criteria to be adopted by the Board;
 - (i) Operationalize the project cycle by:
 - (i) Undertaking initial review and screening of project proposals to assess conformity with guidelines approved by the Board;
 - (ii) Presenting project proposals for Board approval;
 - (iii) Monitoring implementation of progress;
 - (iv) Periodically reporting to the Board on portfolio performance;
 - (j) Coordinate the formulation and monitor the implementation of projects, ensuring liaison with other bodies as required;
 - (k) Liaise, as appropriate, with the secretariats of other relevant international bodies;
 - (l) Provide the trustee with all relevant information to enable it to carry out its responsibilities, consistent with decisions of the CMP and the CMA and the decisions of the Board;
 - (m) Provide services to ensure and facilitate proper communication with Parties;
 - (n) Perform any other functions assigned to it by the Board.
3. The head of the secretariat responsible for rendering the services shall be accountable to the Board.

IV. Amendments

4. Any amendments to the present MOU will be mutually agreed upon by the CMP and the Council. The Board may recommend to the CMP any amendments to the MOU.

V. Interpretation

5. If differences arise in the interpretation of the present MOU, the Council and the CMP or the Board, as appropriate, will consult each other and reach a mutually agreed solution.

VI. Entry into effect

6. The present MOU will come into effect upon adoption by the CMP and the Council. Either party may withdraw from this MOU at any time by notification addressed to the other party. The withdrawal will take effect six months after the notification.

VII. Review

7. The present MOU will be reviewed in accordance with decisions of the CMP and the CMA. Following that review, this MOU may be modified to reflect any decisions mutually agreed by the CMP and by the Council.

need of further guidance from CMP. Therefore, **this is in no way to prejudice any future discussions or decisions on relevant matters.**

II. Provisions that are closely linked with anticipated CMP decisions

2. CMP decision to be made at CMP15 **on the eligibility for Board membership**, in December 2019 and other future CMP decisions **may** affect the following sections of the RoP (not as an exhaustive list) and it may be prudent to determine the revision of the sections after the relevant SBI consideration and CMP decisions are made:

- Section II [**Definitions**], paragraph 2:

2. *For the purpose of these rules;*

[...]

(c) “Member” means a representative elected by the CMP as a member of the Adaptation Fund Board, accorded the right to vote;

(d) “Alternate” means a representative elected by the CMP as an alternate for Each member

[...]

- Section III [**Board**], paragraphs 3-9;
- Section IV [**Officers**], paragraph 10-11 which are related to the ‘election of the Chair and Vice-Chair’;
- Section XIV [**Termination of Board Membership**], paragraph 52-54: It is unclear whether the CMA need to be added to the CMP in paragraphs 52-53 or not.

Other unclear issues

3. **Section XVIII [Amendments to Rules of Procedure], paragraph 64:** Currently it is unclear whether this would need to be revised. This depends on whether amendments to RoP need to be approved not only by CMP but also by CMA. If CMA does not need to be added in this paragraph, the revision of paragraph 64 is not necessary. It is also unclear whether the revision needs to be approved by the CMA if the revision of RoP is related to the matters of Paris Agreement. In addition, there may be issues which are not easy to distinguish between only CMP matter and only CMA matter.

4. **Section XIX [Overriding Authority of the Kyoto Protocol, paragraph 65]:** Currently it is unclear whether there would be a need to add “*In the event of any conflict between any provisions of these rules and any provisions of the Paris Agreement, the Paris Agreement shall prevail*” to the current provision.

III. Provisions that are not closely linked with anticipated CMP decisions and that may be revised for updates in line with Decisions 1/CMP.14 and 13/1

5. **Section II [Definitions], paragraph 2:** Possible revision may include those of ‘Fund,’ ‘Board,’ ‘Member’ and ‘Alternate,’ ‘Parties.’

- Subparagraph (b) “**Board**”: “under the guidance of, and be accountable to the CMA with respect to all matters relating to the Paris Agreement, effective 1 January 2019 pursuant to decisions 13/CMA.1 and 1/CMP.14” could be added.
- An addition of a standalone subparagraph of ‘**the definition of Paris Agreement**’ after subparagraph (m):
 - For instance, “Agreement” means the Paris Agreement adopted under the United Nations Framework Convention on Climate Change;
 - (m) “Protocol” means the Kyoto Protocol to the United Nations Framework Convention on Climate Change;
- Subparagraph (n) “**Parties**”: Addition of ‘the Parties to the Paris Agreement’

6. **Section IV [Officers], paragraphs 15:** Paragraph 15 is related to ‘**the Chair’s Report to CMP.**’ Here, “and to the CMA on matters relating to the Paris Agreement” could be added.
7. **Section VI, paragraphs 18 which is related to the ‘place of the Board meeting’:** Here, “in conjunction with sessions of the CMP” could be updated to “in conjunction with sessions of the CMP and CMA.”



ADAPTATION FUND

Annex 3: The Rules of Procedure of the Adaptation Fund Board

Rules of procedure of the Adaptation Fund Board

I. SCOPE

1. These rules of procedure shall apply to the conduct of the business of the Adaptation Fund Board, in accordance with decision 1/CMP.3 of the third session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP). These rules become effective on their adoption by the CMP.

II. DEFINITIONS

2. For the purpose of these rules:
 - (a) "Fund" means the Adaptation Fund pursuant to decision 10/CP.7 of the seventh session of the Conference of the Parties;
 - (b) "Board" means the Adaptation Fund Board, established by decision 1/CMP.3 of the third session of the CMP as the operating entity of the Adaptation Fund with the mandate to supervise and manage the Adaptation Fund under the authority and guidance of the CMP;
 - (c) "Member" means a representative elected by the CMP as a member of the Adaptation Fund Board, accorded the right to vote;
 - (d) "Alternate" means a representative elected by the CMP as an alternate for each member;
 - (e) "Meeting" means any meeting of the Adaptation Fund Board;
 - (f) "Chair" means the Board member elected as Chair of the Adaptation Fund Board, according to paragraph 10 of these rules;
 - (g) "Vice-Chair" means the Board member elected as Vice-Chair of the Adaptation Fund Board, according to paragraph 10 of these rules;
 - (h) "Secretariat" is a body appointed by the CMP to provide secretariat services to the Board, consistent with decision 1/CMP.3, paragraphs 3, 18, 19 and 31;
 - (i) "Trustee" means the trustee for the Adaptation Fund;
 - (j) "Implementing entities" means the national legal entities and multilateral organizations that have been identified ex ante by the Board as meeting the criteria adopted by the Board, in accordance with decision 1/CMP.3, paragraph 5 (c), to access funding to implement concrete adaptation projects and programmes supported by the Fund;
 - (k) "Executing entities" are organizations that execute adaptation projects and programmes supported by the Fund under the oversight of implementing entities;
 - (l) "UNFCCC" means the United Nations Framework Convention on Climate Change;
 - (m) "Protocol" means the Kyoto Protocol to the United Nations Framework Convention on Climate Change;

- (n) “Parties” means Parties to the Kyoto Protocol;
- (o) “Annex I Parties” means Parties included in Annex I to the Convention, as may be amended, or Parties which have made a notification under Article 4, paragraph 2(g), of the Convention;
- (p) “Non-Annex I Parties” means Parties not included in Annex I to the Convention;
- (q) “Secretary” means the person in charge of providing support services and logistics to the Adaptation Fund Board meetings;
- (r) “Head of secretariat” means the head of the entity responsible for rendering secretariat services to the Adaptation Fund Board.

III. BOARD

3. The Board shall comprise 16 members representing Parties, formally elected at a session of the CMP on the Adaptation Fund as follows:

- (a) Two representatives from each of the five United Nations regional groups;
- (b) One representative of the small island developing States;
- (c) One representative of the least developed country Parties;
- (d) Two other representatives from Annex I Parties;
- (e) Two other representatives from non-Annex I Parties.

4. The election of each member is to be accompanied by the election of an alternate following the same principles as set out in paragraph 3 above.

5. The member and alternate shall each serve for a term of two years and shall be eligible to serve a maximum of two consecutive terms. The term of office of a member, or an alternate, shall start at the first meeting of the Board in the calendar year following his or her election and shall end immediately before the first meeting of the Board in the calendar year in which the term ends.

6. In the absence of a member, or when requested by a member in writing, his or her alternate will act for the member, including by voting in the member’s stead.

7. If a member or an alternate resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, a new member or alternate shall be elected in accordance with decision 1/CMP.3, paragraph 8.

8. Notwithstanding paragraph 7, if a member or an alternate resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, the Adaptation Fund Board may decide, bearing in mind the proximity of the next session of the CMP, to appoint another member, or an alternate member, from the same constituency to replace the said member for the remainder of that member’s mandate. The Adaptation Fund Board shall request the relevant constituency to nominate the new member, or the new alternate.

9. Except as may be expressly provided otherwise in these rules, any reference in these rules to a member shall be deemed to include his or her alternate, when such alternate acts for such member.

IV. OFFICERS

10. The Board shall elect the Chair and Vice-Chair from among its members, with one being from an Annex I Party and the other being from a non-Annex I Party. The term of office of the Chair and Vice-Chair shall be one year, starting at the first meeting of the Board in each year. The office of Chair and Vice-Chair shall alternate annually between a member from an Annex I Party and a member from a non-Annex I Party.
11. If the Chair is temporarily unable to fulfil the obligations of the office, the Vice-Chair shall in the interim assume the obligations and authorities of the Chair. In the absence of the Chair and the Vice-Chair at a particular meeting, any other member designated by the Board shall temporarily serve as the Chair of that meeting.
12. If the Chair or Vice-Chair is unable to complete the term of office, the Board shall elect a replacement to complete the term of office.
13. The Chair shall, inter alia, declare the opening and closing of the meeting, ensure the observance of these rules, accord the right to speak, put questions to the vote and announce decisions. The Chair shall rule on points of order and, subject to these rules, shall have complete control of the proceedings and over the maintenance of order, including adjournment or suspension.
14. The Chair shall propose to the Board chairs and vice-chairs from among the members and alternates for specific working groups and committees, as necessary.
15. The Chair, or any member designated by the Chair, shall report to the CMP on behalf of the Board.
16. The Chair shall advocate and seek support for the Fund and the work of the Board. The Chair shall represent the Board at external meetings and shall report back to the Board on those meetings.

V. SECRETARIAT

17. The secretariat, being a dedicated team of officials to render secretariat services to the Adaptation Fund Board, shall:
 - (a) Make the necessary arrangements for the meetings of the Board, including ensuring that announcements of the meetings are posted on the Adaptation Fund and UNFCCC websites, issuing invitations, preparing meeting documents and the final report, which will include decisions of the meeting, and shall post all documents on the website of the Adaptation Fund;
 - (b) Designate a member of the dedicated team of officials to serve as Secretary of the Adaptation Fund Board meetings to provide support services and logistics;
 - (c) Keep meeting records and arrange for the custody and preservation of documents of the meetings in the archives of the entity designated as the secretariat to the Adaptation Fund Board;
 - (d) Generally perform all other functions that the Board may request.

VI. MEETINGS

18. The Board shall meet at least twice every year or as frequently as necessary to enable it to discharge its responsibilities. The meetings of the Board shall take place in the country of the seat of the UNFCCC secretariat, except when meeting in conjunction with sessions of the CMP or with the sessions of subsidiary bodies under the UNFCCC, in which case the Board meeting may take place in the country or at the venue of the relevant UNFCCC meeting.

19. Unless the Board decides otherwise in accordance with paragraph 20, meetings shall be open to members, alternates and observers as referred to in paragraphs 31–32. Observers shall inform the secretariat of the composition of their delegation four weeks prior to the first day of any scheduled meeting.

20. The Board may declare any of its meetings, or segments thereof, closed; these shall then be open to members, alternates and the representatives of the secretariat and the trustee. The Board may invite any of the representatives referred to in paragraphs 31–32 to attend such meetings.

21. At each meeting, the Board shall set the date and duration for the next meeting.

22. The secretariat shall notify all members, alternates and observers of the dates and venue of the meetings and circulate a formal invitation and provisional agenda for any meeting at least six weeks before the first day of the meeting.

23. A simple majority of the members of the Board must be present at a meeting to constitute a quorum.

A quorum shall be verified by the Chair at the beginning of the meeting and at the time of the adoption of the decision.

24. Before the end of each meeting, the Chair shall present a draft report of the meeting, containing draft conclusions and decisions of the meeting, for consideration and approval by the Board. The Chair shall ascertain the existence of a quorum before adopting the draft report of the meeting on the understanding that the Chair will finalize the text, taking into account the amendments proposed during the meeting.

25. Any written records of the Board or recordings of proceedings shall be kept by the secretariat on behalf of the Board in accordance with paragraph 17 (c) and applicable rules and regulations. The secretariat shall make available to any Board member or alternate, at his or her request, copies of any records or recordings kept by the secretariat on behalf of the Board.

VII. CONFIDENTIALITY AND CONFLICT OF INTEREST

26. Information obtained from Adaptation Fund project participants marked as proprietary and/or confidential shall not be disclosed without the written consent of the provider of the information, except as required by national law.

27. Members and alternates have a duty not to disclose such confidential and/or proprietary information, unless required by applicable national law. This duty remains an obligation after the member's term expires.

28. Each member and alternate member shall take, and agree to respect, a written oath of service before assuming his or her service. The oath of service shall be witnessed by the Chair of the Adaptation Fund Board, and in the case of the Chair, by the Vice Chair of the Adaptation Fund Board. It shall read as follows:

“I solemnly declare that I will perform my duties and exercise my authority as member or alternate of the Adaptation Fund Board honourably, faithfully, impartially and conscientiously.

“I further solemnly declare that, subject to my responsibilities within the Adaptation Fund Board, I shall not disclose, even after the termination of my functions, any information marked confidential coming to my knowledge by reason of my duties in the Adaptation Fund Board.

“I shall disclose immediately to the Adaptation Fund Board any interest in any matter under discussion before the Adaptation Fund Board which may constitute a conflict of interest or which might be incompatible with the requirements of independence and impartiality expected of a member or alternate of the Adaptation Fund Board and I shall refrain from participating in the work of the Adaptation Fund Board in relation to such matter.”

29. At each meeting, members and alternates must declare any conflicts of interest they may have in relation to any items on the agenda.

30. Members and alternates shall be bound by the rules of procedure of the Adaptation Fund Board, and shall recuse themselves from all related deliberations and decision-making should any personal and/or financial interest arise in any aspect of a project activity or a body representing a project for approval to the Board. Members and alternates have an obligation to promptly disclose any such situation.

VIII. OBSERVERS

31. Except where otherwise decided by the Board, meetings shall be open for attendance, as observers, to representatives of UNFCCC Parties, the UNFCCC secretariat and UNFCCC accredited observers. Such observers may attend without the right to vote.

32. The secretariat shall, upon the request of the Board, notify any individual or entity, whether national or international, governmental or non-governmental, qualified in a field related to the work of the Fund, of any meeting so that it may be represented by an observer.

33. Observers may, upon the invitation of the Chair and if there is no objection from any of the members present, participate without the right to vote in the proceedings of any meeting in matters of direct concern to the body or agency, which they represent.

34. Observers may, upon invitation of the Chair and if there is no objection from the members present, make presentations relating to matters under consideration by the Board.

IX. PROCEDURES FOR PUBLIC COMMUNICATION

35. The secretariat shall acknowledge receipt of unsolicited communications addressed to the Chair and make them available to the Chair and the Board via e-mail or fax. The Chair, with the support of the secretary of the Board, shall initiate action, including consultation with the Board, as needed, and answer unsolicited communications on behalf of the Board, as appropriate.

36. Unsolicited communications may be taken into consideration at the Board's next meeting if received before the document submission deadline (four weeks prior to the meeting). Any unsolicited communication received after this deadline would normally be considered at a subsequent meeting. At the discretion of the Chair, a communication may be brought forward to the Board.

37. If a member or alternate of the Board, in that capacity, receives an unsolicited communication, he or she shall forward it to the secretariat, copying the sender of the unsolicited communication, for processing as per the above. The same shall apply for submissions received by members of panels, committees or working groups.

X. AGENDA

38. The Chair, assisted by the secretariat, shall draft the provisional agenda for each regular meeting.

The secretariat shall indicate the administrative and financial implications of all substantive agenda items submitted to the meeting. The provisional agenda, together with the notice of the meeting and other relevant documents, shall be transmitted to all those invited to the meeting in accordance with paragraphs 22 and 43 of these rules.

39. The Board shall, at the beginning of each meeting, adopt the agenda for the meeting.

40. Any item on the agenda of any meeting, consideration of which has not been completed at the meeting, shall automatically be included in the agenda of the next meeting unless otherwise decided by the Board.

XI. TRAVEL

41. As soon as the Trust Fund for the Adaptation Fund is established, eligible members and alternates of the Board shall have their full costs of travel and daily subsistence allowance (DSA), including full transit costs, at the standard United Nations DSA rate, provided under the budget of the Board and secretariat.

42. As soon as the Trust Fund for the Adaptation Fund is established, travel for Board members and alternates shall be arranged according to United Nations rules.

XII. TRANSMITTAL OF DOCUMENTS

43. The secretariat shall transmit the documentation related to items on the provisional agenda to all those invited to the meeting at least four weeks before the first day of the meeting scheduled. In exceptional circumstances, the Chair may instruct the secretariat to transmit a document after the deadline.

XIII. DECISION-MAKING AND VOTING

44. Decisions of the Board shall be taken by consensus whenever possible.

45. If all efforts to reach a consensus have been exhausted and no agreement has been reached, decisions shall be taken by a two-thirds majority of the members present at the meeting on the basis of one member, one vote.

46. An alternate may cast a vote only if acting for the member in accordance with paragraph 6.

47. The Chair shall ascertain whether consensus has been reached. The Chair shall declare that a consensus does not exist if there is a stated objection to the proposed decision under consideration by a member or alternate acting for a member.

48. After ascertaining the existence of a quorum, the Chair shall announce the start of voting, after which no one shall be permitted to intervene until the results of the vote have been announced, unless an issue is raised in connection with the process of voting.

49. Voting shall be by roll-call, which shall be taken in alphabetical order of the names of the members, beginning with the member whose name is drawn by lot by the Chair.

50. The name of each member shall be called in all roll-calls, and he or she shall indicate the vote ('yes' or 'no') or abstention.

51. Votes cast by each member participating in a roll-call shall be recorded in the report of the meeting.

XIV. TERMINATION OF BOARD MEMBERSHIP

52. The Board may propose to the **CMP** the termination of the membership of any member or alternate for cause including, inter alia, breach of the conflict of interest provision, breach of the confidentiality provisions, or failure to attend two consecutive meetings of the Board without proper justification.

53. The Board shall recommend to the **CMP** the termination of the membership of a member or an alternate only after the member or alternate has been given the opportunity of a hearing by the Board in a meeting.

54. Any motion calling for the termination of the membership of a member or alternate shall be decided in accordance with the voting rules in section XIII above. When the motion concerns the termination of the office of a Chair, the Vice-Chair shall act as Chair until the voting has been conducted and its result announced.

XV. COMMITTEES AND WORKING GROUPS

55. The Board may establish committees, panels and working groups, if required, to provide, inter alia, expert advice, to assist the Adaptation Fund Board in the performance of its functions.

XVI. INTERSESSIONAL DECISIONS

56. Decisions without meetings may occur on an extraordinary basis when, in the judgement of the Chair and the Vice-Chair, a decision must be taken by the Board that should not be postponed until the next meeting of the Board. The secretariat, with the approval of the Chair, shall transmit to each member and alternate a proposed decision with an invitation to approve the decision on a no-objection basis.

57. Each member's comments on the proposed decision shall be sent to the secretariat during such period as the secretariat may prescribe, provided that such period is no less than two weeks.

58. At the expiration of the period prescribed for comments, the decision shall be approved unless there is an objection. If a proposed decision has financial implications, approval of the decision will require replies from at least two-thirds of the members. If there is an objection

raised by any member to any proposed decision that cannot be resolved, the Chair shall include consideration of the proposed decision as an item on the agenda for the next meeting.

59. Any intersessional decision shall be deemed to have been taken at the headquarters of the UNFCCC secretariat. The secretariat shall inform members and alternates about the decision and post all intersessional decisions on the Adaptation Fund website.

XVII. LANGUAGES

60. The working language for the Board shall be English. Simultaneous interpretation shall be provided during its meetings in all of the official United Nations languages that correspond to the actual language requirements of the members and alternates present at that meeting.

61. Late meetings, committees and working groups will be held in English when interpretation is not available.

62. Documents for the meetings will be provided in English only.

63. The full text of all reports including decisions taken by the Board shall be made publicly available via the Adaptation Fund website in all six official languages of the United Nations.

XVIII. AMENDMENTS TO RULES OF PROCEDURE

64. These rules of procedure may be amended according to paragraphs 44–51 above and, to be effective, must be formally approved by the **CMP**.

XIX. OVERRIDING AUTHORITY OF THE KYOTO PROTOCOL

65. In the event of any conflict between any provisions of these rules and any provisions of the Kyoto Protocol, the Kyoto Protocol shall prevail.