

# CLIMATE CHANGE AND CARBON MARKET INITIATIVES BILL, 2022

## Arrangement of Sections

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### Section

<b>PART I - PRELIMINARY</b>	<b>4</b>
1. Short title and commencement.....	4
2. Interpretation. ....	4
3. Application of Act.....	5
4. Objectives of Act.....	5
<b>PART II - ADMINISTRATION OF ACT</b>	<b>6</b>
MINISTERIAL ADMINISTRATION OF ACT	6
5. Ministerial responsibility for administration of Act. ....	6
APPOINTMENT AND FUNCTIONS OF MANAGEMENT COMPANIES	6
6. Minister to appoint a management company.....	6
7. Functions of a management company.....	6
8. Budgeting of funds generated by a management company.....	7
APPOINTMENT AND FUNCTIONS OF ADVISORY COUNCIL	7
9. Prime Minister to appoint advisory council.....	7
10. Functions of Council.....	8
<b>PART III – FUNDAMENTAL PRINCIPLES GOVERNING TRADE IN CARBON MARKETS</b>	<b>8</b>
11. Additionality, measurability, permanence, etc.....	8
12. Prohibition against double counting.....	9
13. Verification and validation.....	9
14. Provision of social and environmental benefits.....	9
15. Share of proceeds and cancellation rates.....	9
16. Minister may make regulations to further the fundamental principles governing trade in carbon markets.....	9
<b>PART IV – OBLIGATIONS OF THE BAHAMAS UNDER THE PARIS AGREEMENT</b>	<b>10</b>
17. Communication and maintenance of successive nationally determined contributions.....	10
18. Domestic mitigation measures, adaptation plan and other obligations of The Bahamas under the Paris Agreement.....	10

**PART V – CREATION AND IMPLEMENTATION OF INITIATIVES TO  
REDUCE EMISSIONS** **11**

---

- 19. Prime Minister may create and implement initiatives and incentives to comply with Paris Agreement. .... 11
- 20. Fundamental principles governing trade in carbon markets..... 11
- 21. General rules applicable to established projects and activities..... 12

**PART VI - OPTIONS FOR PARTICIPATION IN THE CARBON  
MARKET IN THE BAHAMAS** **12**

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- 22. Options for participation in a program..... 12
- 23. Bilateral or multilateral trading with other countries..... 12
- 24. Trading with private party entities..... 12
- 25. Voluntary trading..... 12
- 26. Stipulations for agreements entered into under this Part..... 12

**PART VII - ESTABLISHMENT OF THE NATIONAL EMISSIONS  
REGISTRY** **13**

---

- 27. Establishment of National Emissions Registry..... 13
- 28. Functions of Registrar..... 13

**PART VIII – MISCELLANEOUS** **14**

---

- 29. Confidentiality..... 14
- 30. Regulations..... 14

**SECOND SCHEDULE** **36**

---

- 1. Constitution of Council..... 36
- 2. Tenure of members..... 36
- 3. Resignation and removal of members..... 36
- 4. Meetings of Council..... 37
- 5. Reports of Council..... 37

**OBJECTS AND REASONS** **38**

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## **CLIMATE CHANGE AND CARBON MARKET INITIATIVES BILL, 2022**

### **A BILL FOR AN ACT TO GIVE EFFECT TO THE PARIS AGREEMENT, TO AID IN THE GLOBAL RESPONSE TO THE THREAT OF CLIMATE CHANGE AND TO CREATE AND IMPLEMENT INITIATIVES TO OFFSET CARBON EMISSIONS**

#### **Enacted by the Parliament of The Bahamas**

**WHEREAS** The Bahamas has ratified the United Nations Framework Convention on Climate Change (“the UNFCCC”) adopted on 9<sup>th</sup> May, 1992, which entered into force March, 1994, with the objective to achieve a stabilization of the concentration of greenhouse gases in the atmosphere at a level that prevents dangerous anthropogenic interference in the climate system;

**AND WHEREAS** The Bahamas has ratified the Paris Agreement on the 22<sup>nd</sup> August, 2016 (“the Agreement”), which entered into force on 4 November, 2016, aimed at strengthening the global response to the threat of climate change, by pursuing efforts to limit global temperatures, greenhouse gas emissions from human activity and to setting emission reduction targets;

**AND WHEREAS** in adopting and implementing the provisions of the Paris Agreement, the common but differentiated responsibilities, respective capabilities and flexibility provisions acknowledged under the UNFCCC for small island developing states to address climate change shall be considered;

**AND WHEREAS** The Bahamas is committed to participate in both the cooperative approaches to carbon mitigation defined in Articles 6.2 and 6.4 of the Paris Agreement and the associated guidance documents issued pursuant thereto and in voluntary carbon markets:

**NOW THEREFOR:**

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## PART I - PRELIMINARY

### 1. Short title and commencement.

- (1) This Act may be cited as the Climate Change and Carbon Market Initiatives Act, 2022.
- (2) This Act shall come into operation on such day as the Prime Minister may, by notice published in the Gazette, appoint.

### 2. Interpretation.

In this Act —

**“carbon credit”** means a saleable verified emission reduction or removal credit, or other carbon mitigation measure recognized under the standards of the Paris Agreement, which is equivalent to one tonne of carbon dioxide (or carbon dioxide equivalent), which can be counted towards an individual, company, country or organization’s greenhouse gas mitigation targets;

**“carbon trading”** means the process of buying or selling certified emission reduction credits;

**“climate change”** means a change in the state of the climate that can be identified by changes in the mean or the variability of its properties, and that persists for an extended period, typically decades or longer, whereby such change maybe due to natural internal processes or external forcings, or to persistent anthropogenic changes in the composition of the atmosphere or in land use;

**“greenhouse gases” or “GHGs”** —

- (a) means the atmospheric gases responsible for causing global warming that leads to climate change; and
- (b) includes carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrogen triflouride (NF<sub>3</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulphur hexafluoride (SF<sub>6</sub>);

**“internationally transferred mitigation outcomes” or “ITMO”** means a carbon credit resulting from a cooperative approach as defined under Article 6.2 of the Paris Agreement;

**“Nationally Determined Contributions” or “NDC”** means national plans and pledges made by a Party to meet the universal goal of maintaining global temperature increases to well below 2 degrees Celsius above pre-industrial levels, while aiming for 1.5 degrees Celsius to avoid the worst impacts of climate change;

**“Party”** means a Party to the Paris Agreement;

**“Paris Agreement”** means the legally binding international treaty on climate change, adopted by 196 Parties at COP 21 in Paris, on 12 December, 2015 and which entered into force on 4 November, 2016 and any successor agreement and related guidance and set out in the *First Schedule*;

**“sovereign wealth fund”** means any state owned investment fund established under any other law;

**“UNFCCC”** means the United Nations Framework Convention on Climate Change.

### **3. Application of Act.**

This Act shall apply to carbon credits in respect of anything done in, on, above or below the land and airspace of The Bahamas, including —

- (a) its internal waters, territorial waters and exclusive economic zone;
- (b) the seabed and subsoil underlying these waters;
- (c) its continental, coastal and marine ecosystems and related water;
- (d) its forests,

and such carbon credits are deemed for the purposes of this Act to be the property of The Bahamas.

### **4. Objectives of Act.**

The objectives of this Act are —

- (a) to enable the Government to create incentives and implement initiatives to support the overall global target of greenhouse gas emissions reduction consistent with its Nationally Determined Contributions;
- (b) to ensure compliance by The Bahamas of its obligations under the Paris Agreement, taking into consideration the common but differentiated responsibilities, respective capabilities and flexibility provisions acknowledged under the UNFCCC for small island developing states to address climate change; and
- (c) to enable the establishment of a market in The Bahamas to trade in carbon credits.

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## **PART II - ADMINISTRATION OF ACT**

### **MINISTERIAL ADMINISTRATION OF ACT**

#### **5. Ministerial responsibility for administration of Act.**

Responsibility for the administration of this Act shall be separated, with distinct responsibilities, in —

- (a) the Prime Minister, who shall have responsibility for the overall general oversight of the administration of this Act;
- (b) the minister with responsibility for finance (hereinafter referred to as “the Minister of Finance”), who shall have responsibility for the financial administration of this Act and ensuring that all levies associated with the trade of carbon credits are paid;
- (c) the minister with responsibility for the environment and natural resources (hereinafter referred to as “the Minister of the Environment”), who shall have responsibility for the reporting obligations to the UNFCCC under this Act.

### **APPOINTMENT AND FUNCTIONS OF MANAGEMENT COMPANIES**

#### **6. Minister to appoint a management company.**

- (1) For the purposes of this Act, the Minister of Finance may enter into a management contract with a reputable company to perform any of the functions specified in section 7 in accordance with internationally recognized standards or as guided by the principles of the Paris Agreement, on such terms and conditions as may be approved by the Minister of Finance.
- (2) A management company shall have expertise and be qualified in the environmental field and financial markets.
- (3) The Minister of Finance may in writing modify the terms and conditions of a management contract, as may be necessary and agreed to by the parties.
- (4) Nothing in subsection (1) shall prohibit the Minister from entering into more than one management contract, provided that no more than one management company shall be appointed to manage or sell the same class or type of carbon credits.

#### **7. Functions of a management company.**

In carrying out its responsibility under section 6 the functions of a management company shall be one or more of the following —

- (a) to validate and verify both quantitatively and qualitatively any project that may be accredited as a carbon asset in accordance with internationally recognized standards or as guided by the principles of the Paris Agreement;
- (b) to record carbon assets using approved methodologies for spatial mapping, density analysis and carbon stock;
- (c) to record annual fluctuations to the quality and quantification of carbon assets;
- (d) to identify and solicit any individual, company, country or organization to engage in the carbon market regime of The Bahamas or to have their carbon assets managed under the company's management portfolio;
- (e) to manage all financial products or vehicles related to carbon assets in The Bahamas, including the digital asset market;
- (f) to operate on behalf of The Bahamas in the national and international regulated and licensed financial markets;
- (g) such other functions as are specified in the management contract.

**8. Budgeting of funds generated by a management company.**

- (1) A management company shall establish a budget to cover the cost of any program established under this Act.
- (2) The funds generated by a management company may be utilized to meet the expenses and fees in respect of or connected to any carbon transactions, and any surplus funds or carbon credits therefrom shall be deposited into either —
  - (a) a sub-fund of the sovereign wealth fund; or
  - (b) a special purpose entity, established solely for such purpose.

**APPOINTMENT AND FUNCTIONS OF ADVISORY COUNCIL**

**9. Prime Minister to appoint advisory council.**

- (1) The Prime Minister shall appoint an advisory council consisting of no more than seven persons including a chairperson and a secretary, comprised of representatives from among government, the private sector, civil society, including but not limited to, representatives of national, international, research and scientific organizations (hereinafter referred to as the "Council") —
  - (a) to serve as a technical advisory body to a management company; and

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- (b) to provide technical advice and recommendations to the Prime Minister on —
    - (i) the trade of carbon assets in The Bahamas; and
    - (ii) the management of carbon assets in The Bahamas.
  - (2) The *Second Schedule* shall have effect with respect to the constitution and procedures of the Council.

## **10. Functions of Council.**

In carrying out its responsibilities under section 9, the Council shall —

- (a) provide transparent and accountable reporting on the matter of carbon sales and emission status;
- (b) consult with local and international experts on the measurement, reporting and verification of carbon assets, as standards and requirements evolve over time;
- (c) take into consideration developments in climate change with respect to —
  - (i) the national emission rate;
  - (ii) the quantity of verified, saleable carbon assets;
  - (iii) the removal or addition of any carbon assets;
  - (iv) the changes in the global carbon markets which would impact the trade of carbon assets;
  - (v) the changes in any global agreement which may regulate, restrict or alter the process of identification, trade, verification, or management of identified carbon assets; and
  - (vi) a request for the purchase of carbon assets.

## **PART III – FUNDAMENTAL PRINCIPLES GOVERNING TRADE IN CARBON MARKETS**

### **11. Additionality, measurability, permanence, etc.**

The administration of this Act and any regulations made thereunder, shall be in keeping with the fundamental principles enshrined in the Paris Agreement namely —

- (a) all transactions in carbon trading as carried out under this Act must result in the additional effect of a reduction of greenhouse gas emissions;

- (b) all mitigation outcomes which are reported under the requirements of this Act are to be accounted for in tonnes of carbon dioxide equivalent;
- (c) all carbon offset projects should ensure that emissions are kept out of the atmosphere for a reasonable length of time;
- (d) all emission reductions must be carefully recorded and documented for every offset scheme, utilizing appropriate accounting terms, corresponding adjustments, and location of offset as required by the UNFCCC and other standard bodies.

**12. Prohibition against double counting.**

- (1) This Act prohibits the double counting of carbon assets such that no two countries or actors (including a private individual, company or organization) may count the same emission reductions towards their emission reduction commitments.
- (2) Participants shall apply corresponding adjustments to ensure that there is no increase in net emissions.

**13. Verification and validation.**

This Act prohibits the trade of carbon offsets without a reliable and independent auditor undertaking a validation of each project before it starts and to verify each result.

**14. Provision of social and environmental benefits.**

A project undertaken pursuant to this Act shall where possible, minimize or avoid any negative environmental, economic or social impact.

**15. Share of proceeds and cancellation rates.**

In keeping with the Paris Agreement, The Bahamas shall undertake best practices regarding share of proceeds and cancellation rates for overall global mitigation.

**16. Minister may make regulations to further the fundamental principles governing trade in carbon markets.**

The Prime Minister may make regulations in furtherance of the fundamental principles governing trade in carbon markets as agreed under the UNFCCC.

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## **PART IV – OBLIGATIONS OF THE BAHAMAS UNDER THE PARIS AGREEMENT**

### **17. Communication and maintenance of successive nationally determined contributions.**

Pursuant to Article 3 of the Paris Agreement, The Bahamas prepared and communicated its intended NDC to the UNFCCC in November, 2015 and has undertaken to maintain successive NDCs.

### **18. Domestic mitigation measures, adaptation plan and other obligations of The Bahamas under the Paris Agreement.**

- (1) Pursuant to Articles 4, 7, 9, 10 and 11 of the Paris Agreement, the Prime Minister shall cause —
  - (a) domestic mitigation measures with the aim that each successive NDC be progressive and reflect higher ambitions to be pursued;
  - (b) mitigation measures, with the aim that mechanisms be identified to support assistance of financial or technical provisions under the Agreement in accordance with Articles 9, 10, and 11 to for the inclusion of higher ambitions in the NDCs to be prepared;
  - (c) domestic mitigation measures with the aim of fulfilling the requirements and obligations under Article 4 of the Agreement to be pursued;
  - (d) the identification of adaptation goals and development of a National Adaptation plan consistent with Article 7 of the Agreement to be undertaken;
  - (e) a suitable mechanism for the acceptance of climate finance and the necessary plans, policies and reports which would cause such funding to be received, to be developed;
  - (f) a mechanism to accept climate finance and make possible technology transfers which would provide assistance to the country in meeting its mitigation and adaptation goals, to be developed;
  - (g) institutional arrangements to support capacity building activities through the various ministries and through regional, bilateral and multilateral approaches, to be developed.
- (2) The Prime Minister may direct in writing the appropriate minsters to cause to be carried out any of the matters specified in paragraphs (a) – (f) of subsection (1).

## **PART V – CREATION AND IMPLEMENTATION OF INITIATIVES TO REDUCE EMISSIONS**

### **19. Prime Minister may create and implement initiatives and incentives to comply with Paris Agreement.**

- (1) In an effort to further the goals of the Paris Agreement, the Prime Minister may create and implement initiatives and incentives, inclusive of market based mechanisms, to encourage achievement of the objectives of the Paris Agreement through activities by —
  - (a) private international entities;
  - (b) parties to the Paris Agreement; and
  - (c) private local entities.
- (2) In carrying out any initiative or incentive created and implemented pursuant to subsection (1), The Bahamas shall be guided by the core principles governing trade in carbon credits as specified in Part III.
- (3) Pursuant to subsection (1), the Prime Minister may in accordance with regulations, create and implement initiatives —
  - (a) to reduce emissions;
  - (b) to authorize the trade in carbon credits;
  - (c) to ensure the appropriate allocation of carbon credits.
- (4) The Minister shall issue a permit to any person or entity that participates in an initiative implemented pursuant to this section and such permit shall require that any activity undertaken pursuant to this Act shall be in accordance with Part III and the objectives of the Paris Agreement.
- (5) For the purposes of this section, an initiative may include —
  - (a) a program, which is a set of projects linked to one another, in a sequential manner to attain a combined national benefit, as related to the objectives of this Act;
  - (b) a public or private project, which has a specific objective as related to this Act, and is performed and managed for a fixed period with a particular start and end date;
  - (c) an activity, which is a component of work that is performed as part of a project, and is related to the objectives of this Act.

### **20. Fundamental principles governing trade in carbon markets.**

The fundamental principles specified in Part III shall apply to any program, project or activity implemented under this Act to authorize trade in carbon credits.

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**21. General rules applicable to established projects and activities.**

The Prime Minister may make regulations prescribing the general rules applicable to any established program, project or activity implemented under the provisions of this Act.

**PART VI - OPTIONS FOR PARTICIPATION IN THE  
CARBON MARKET IN THE BAHAMAS**

**22. Options for participation in a program.**

- (1) There shall be three options for participation in an initiative authorizing trade in carbon credits pursuant to section 29(1)(b), namely, participation —
  - (a) as a result of a bilateral or multilateral trading agreement;
  - (b) as a result of trading with a private entity;
  - (c) in a voluntary carbon market.
- (2) The Prime Minister may make regulations to govern the participation in an initiative by any means provided for under subsection (1).

**23. Bilateral or multilateral trading with other countries.**

The Prime Minister may enter into a bilateral or multilateral agreement with another approved country to trade carbon for emission reductions and removals (hereinafter called “internationally transferred mitigation outcomes” (ITMOs)).

**24. Trading with private party entities.**

The Prime Minister may, with the approval of the Cabinet, enter into an agreement with a private entity to offset carbon emissions.

**25. Voluntary trading.**

The Prime Minister may, with the approval of the Cabinet, enter into any agreement to trade in a carbon market established or overseen by an internationally recognized entity, approved by a recognized credible international body.

**26. Stipulations for agreements entered into under this Part.**

- (1) An agreement entered into under this Part must aim to —
  - (a) promote the mitigation of greenhouse gas emissions while fostering sustainable development; or

- (b) incentivize and facilitate participation in the mitigation of greenhouse gas emissions by authorized public and private entities.
- (2) Any agreement entered into pursuant to this Part shall be administered by a management company and registered in accordance with Part VII.
- (3) The Minister of the Environment shall include in the national reporting mechanism to the UNFCCC any emission reduction resulting from agreements entered into under this Part.

## **PART VII - ESTABLISHMENT OF THE NATIONAL EMISSIONS REGISTRY**

### **27. Establishment of National Emissions Registry.**

- (1) A national registry shall be established for the purposes of this Act (hereinafter referred to as “the National Emissions Registry”).
- (2) The Prime Minister shall appoint a registrar who shall have the responsibility for the day to day management of the Registry.
- (3) The National Emission Registry shall be appointed as the Designated Operating Entity under Article 6 of the Paris Agreement.
- (4) The Registrar shall be assisted by such numbers of persons as the Minister may appoint.

### **28. Functions of Registrar.**

- (1) The Registrar shall cause to be maintained a register of —
  - (a) the initiatives implemented to reduce GHG emissions in The Bahamas;
  - (b) the permits granted to participate in an initiative under this Act;
  - (c) the emission allowance and the GHG reduction units;
  - (d) the number of carbon credits issued or recognized by The Bahamas;
  - (e) the number of carbon credits issued to promoters of emission reduction projects and programs;
  - (f) the issuance of emission allocations carbon credits and any carbon credits issued or recognized by The Bahamas from a national GHG registry account;
  - (g) the transfer of emission allocations, carbon credits and any carbon credits issued or recognized by The Bahamas from a national GHG registry account;

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- (h) the cancellation of emission allocations, carbon credits and any other carbon credits issued or recognized by the The Bahamas from a national GHG registry account; and
  - (i) the addition of emission allocations, carbon credits and any other carbon credits issued or recognized by the The Bahamas from a national GHG registry account.
- (2) In carrying out his functions under subsection (1), the Registrar shall implement such methods and style of record keeping as the Registrar considers appropriate.
- (3) The Registrar shall —
- (a) comply with any obligations as is required of the Registrar in accordance with the Paris Agreement;
  - (b) implement measures to ensure the confidentiality of the information it collects; and
  - (c) submit to the Minister of the Environment periodically or as may be requested by the Minister, a report of the information maintained in accordance with subsection (1).

## **PART VIII – MISCELLANEOUS**

### **29. Confidentiality.**

- (1) Any person carrying out functions on behalf of the Government pursuant to this Act who obtains information in any form as a result of his duties under this Act, shall not communicate or disclose any information classified as confidential to an unauthorized person.
- (2) Any person who communicates any information in breach of subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to a term of imprisonment not exceeding one year or to both such fine and imprisonment.
- (3) Nothing in this section shall prohibit a person from disclosing information to another person so far as it is required or permitted under this Act or any written law.

### **30. Regulations.**

- (1) The Prime Minister may make regulations generally to carry out the objectives and provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, may make regulations —
  - (a) for the forms and notices to be used in connection with any of the matters specified in this Act;

- (b) prescribing anything authorised or required by this Act to be prescribed;
  - (c) requiring the reporting of emissions by a particular class of persons;
  - (d) prescribing the forms in respect of the application and grant of permits;
  - (e) in furtherance of the fundamental principles of the UNFCCC, the Paris Agreement and the rules and guidance for implementation issued thereto;
  - (f) requiring any person or class of persons to provide any information or to make a return containing that information, that may be required to ensure compliance with this Act;
  - (g) to prescribe any restrictions or procedures governing any initiative to reduce carbon emissions;
  - (h) to prescribe the procedures governing any initiative to authorise trade in carbon markets;
  - (i) to prescribe the procedures governing any initiative to identify allocations of emissions credits;
  - (j) to form institutional arrangements to support capacity building;
  - (k) governing any bilateral or multilateral agreement to be made under this Act;
  - (l) governing the trade of carbon assets with a private entity.
- (2) The Prime Minister may make regulations after consultation with, and with the approval of the Minister of the Environment —
- (a) for outlining the National Adaptation Plan;
  - (b) prescribing any thing authorised or required by this Act to be prescribed.
- (3) The Prime Minister may make regulations after consultation with, and with the approval of the Minister of Finance (if not the Prime Minister) —
- (a) for the forms and notices to be used in connection with any of the matters specified in this Act;
  - (b) for a suitable mechanism for the acceptance of climate finance and the necessary plans, policies or reports which would cause the funding to be received and for technology transfers which would provide assistance to the country in meeting its mitigation and adaptation goals;
  - (c) prescribing any thing authorised or required by this Act to be prescribed.

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## FIRST SCHEDULE

(section 2)

### PARIS AGREEMENT

*The Parties to this Agreement,*

*Being Parties to the United Nations Framework Convention on Climate Change, hereinafter referred to as "the Convention",*

*Pursuant to the Durban Platform for Enhanced Action established by decision 1/CP.17 of the Conference of the Parties to the Convention at its seventeenth session,*

*In pursuit of the objective of the Convention, and being guided by its principles, including the principle of equity and common but differentiated responsibilities and respective capabilities, in the light of different national circumstances,*

*Recognizing the need for an effective and progressive response to the urgent threat of climate change on the basis of the best available scientific knowledge,*

*Also recognizing the specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, as provided for in the Convention,*

*Taking full account of the specific needs and special situations of the least developed countries with regard to funding and transfer of technology,*

*Recognizing that Parties may be affected not only by climate change, but also by the impacts of the measures taken in response to it,*

*Emphasizing the intrinsic relationship that climate change actions, responses and impacts have with equitable access to sustainable development and eradication of poverty,*

*Recognizing the fundamental priority of safeguarding food security and ending hunger, and the particular vulnerabilities of food production systems to the adverse impacts of climate change,*

*Taking into account the imperatives of a just transition of the workforce and the creation of decent work and quality jobs in accordance with nationally defined development priorities,*

*Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of*

indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,

*Recognizing* the importance of the conservation and enhancement, as appropriate, of sinks and reservoirs of the greenhouse gases referred to in the Convention,

*Noting* the importance of ensuring the integrity of all ecosystems, including oceans, and the protection of biodiversity, recognized by some cultures as Mother Earth, and noting the importance for some of the concept of "climate justice", when taking action to address climate change, Affirming the importance of education, training, public awareness, public participation, public access to information and cooperation at all levels on the matters addressed in this Agreement,

*Recognizing* the importance of the engagements of all levels of government and various actors, in accordance with respective national legislations of Parties, in addressing climate change,

*Also recognizing* that sustainable lifestyles and sustainable patterns of consumption and production, with developed country Parties taking the lead, play an important role in addressing climate change,

Have agreed as follows:

#### Article 1

For the purpose of this Agreement, the definitions contained in Article 1 of the Convention shall apply. In addition:

- (a) "Convention" means the United Nations Framework Convention on Climate Change, adopted in New York on 9 May 1992;
- (b) "Conference of the Parties" means the Conference of the Parties to the Convention;
- (c) "Party" means a Party to this Agreement.

#### Article 2

1. This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

- (a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the

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risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.

2. This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

### Article 3

As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.

### Article 4

1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.

2. Each Party shall prepare, communicate and maintain successive nationally determined contributions that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.

3. Each Party's successive nationally determined contribution will represent a progression beyond the Party's then current nationally determined contribution and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

4. Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.

5. Support shall be provided to developing country Parties for the implementation of this Article, in accordance with Articles 9, 10 and 11, recognizing that enhanced support for developing country Parties will allow for higher ambition in their actions.

6. The least developed countries and small island developing States may prepare and communicate strategies, plans and actions for low greenhouse gas emissions development reflecting their special circumstances.

7. Mitigation co-benefits resulting from Parties' adaptation actions and/or economic diversification plans can contribute to mitigation outcomes under this Article.

8. In communicating their nationally determined contributions, all Parties shall provide the information necessary for clarity, transparency and understanding in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement.

9. Each Party shall communicate a nationally determined contribution every five years in accordance with decision 1/CP.21 and any relevant decisions of the Conference of the Parties serving as the meeting of the Parties to this Agreement and be informed by the outcomes of the global stocktake referred to in Article 14.

10. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall consider common time frames for nationally determined contributions at its first session.

11. A Party may at any time adjust its existing nationally determined contribution with a view to enhancing its level of ambition, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

12. Nationally determined contributions communicated by Parties shall be recorded in a public registry maintained by the secretariat.

13. Parties shall account for their nationally determined contributions. In accounting for anthropogenic emissions and removals corresponding to their nationally determined contributions, Parties shall promote environmental integrity, transparency, accuracy, completeness, comparability and consistency, and ensure the avoidance of double counting, in accordance with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

14. In the context of their nationally determined contributions, when recognizing and implementing mitigation actions with respect to anthropogenic emissions and removals, Parties should take into account, as appropriate, existing methods and guidance under the Convention, in the light of the provisions of paragraph 13 of this Article.

15. Parties shall take into consideration in the implementation of this Agreement the concerns of Parties with economies most affected by the impacts of response measures, particularly developing country Parties.

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16. Parties, including regional economic integration organizations and their member States, that have reached an agreement to act jointly under paragraph 2 of this Article shall notify the secretariat of the terms of that agreement, including the emission level allocated to each Party within the relevant time period, when they communicate their nationally determined contributions. The secretariat shall in turn inform the Parties and signatories to the Convention of the terms of that agreement.

17. Each party to such an agreement shall be responsible for its emission level as set out in the agreement referred to in paragraph 16 of this Article in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.

18. If Parties acting jointly do so in the framework of, and together with, a regional economic integration organization which is itself a Party to this Agreement, each member State of that regional economic integration organization individually, and together with the regional economic integration organization, shall be responsible for its emission level as set out in the agreement communicated under paragraph 16 of this Article in accordance with paragraphs 13 and 14 of this Article and Articles 13 and 15.

19. All Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of Article 2 taking into account their common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.

#### Article 5

1. Parties should take action to conserve and enhance, as appropriate, sinks and reservoirs of greenhouse gases as referred to in Article 4, paragraph 1 (d), of the Convention, including forests.

2. Parties are encouraged to take action to implement and support, including through results-based payments, the existing framework as set out in related guidance and decisions already agreed under the Convention for: policy approaches and positive incentives for activities relating to reducing emissions from deforestation and forest degradation, and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries; and alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests, while reaffirming the importance of incentivizing, as appropriate, non-carbon benefits associated with such approaches.

#### Article 6

1. Parties recognize that some Parties choose to pursue voluntary cooperation in the implementation of their nationally determined contributions to allow for higher ambition in their mitigation and adaptation actions and to promote sustainable development and environmental integrity.

2. Parties shall, where engaging on a voluntary basis in cooperative approaches that involve the use of internationally transferred mitigation outcomes towards nationally determined contributions, promote sustainable development and ensure environmental integrity and transparency, including in governance, and shall apply robust accounting to ensure, inter alia, the avoidance of double counting, consistent with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. The use of internationally transferred mitigation outcomes to achieve nationally determined contributions under this Agreement shall be voluntary and authorized by participating Parties.

4. A mechanism to contribute to the mitigation of greenhouse gas emissions and support sustainable development is hereby established under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement for use by Parties on a voluntary basis. It shall be supervised by a body designated by the Conference of the Parties serving as the meeting of the Parties to this Agreement, and shall aim:

(a) To promote the mitigation of greenhouse gas emissions while fostering sustainable development;

(b) To incentivize and facilitate participation in the mitigation of greenhouse gas emissions by public and private entities authorized by a Party;

(c) To contribute to the reduction of emission levels in the host Party, which will benefit from mitigation activities resulting in emission reductions that can also be used by another Party to fulfil its nationally determined contribution; and

(d) To deliver an overall mitigation in global emissions.

5. Emission reductions resulting from the mechanism referred to in paragraph 4 of this Article shall not be used to demonstrate achievement of the host Party's nationally determined contribution if used by another Party to demonstrate achievement of its nationally determined contribution.

6. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall ensure that a share of the proceeds from activities under the mechanism referred to in paragraph 4 of this Article is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.

7. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall adopt rules, modalities and procedures for the mechanism referred to in paragraph 4 of this Article at its first session.

8. Parties recognize the importance of integrated, holistic and balanced non-market approaches being available to Parties to assist in the implementation of their nationally

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determined contributions, in the context of sustainable development and poverty eradication, in a coordinated and effective manner, including through, inter alia, mitigation, adaptation, finance, technology transfer and capacity building, as appropriate. These approaches shall aim to:

- (a) Promote mitigation and adaptation ambition;
- (b) Enhance public and private sector participation in the implementation of nationally determined contributions; and
- (c) Enable opportunities for coordination across instruments and relevant institutional arrangements.

9. A framework for non-market approaches to sustainable development is hereby defined to promote the non-market approaches referred to in paragraph 8 of this Article.

#### Article 7

1. Parties hereby establish the global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal referred to in Article 2.

2. Parties recognize that adaptation is a global challenge faced by all with local, subnational, national, regional and international dimensions, and that it is a key component of and makes a contribution to the long-term global response to climate change to protect people, livelihoods and ecosystems, taking into account the urgent and immediate needs of those developing country Parties that are particularly vulnerable to the adverse effects of climate change.

3. The adaptation efforts of developing country Parties shall be recognized, in accordance with the modalities to be adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement at its first session.

4. Parties recognize that the current need for adaptation is significant and that greater levels of mitigation can reduce the need for additional adaptation efforts, and that greater adaptation needs can involve greater adaptation costs.

5. Parties acknowledge that adaptation action should follow a country-driven, gender-responsive, participatory and fully transparent approach, taking into consideration vulnerable groups, communities and ecosystems, and should be based on and guided by the best available science and, as appropriate, traditional knowledge, knowledge of indigenous peoples and local knowledge systems, with a view to integrating adaptation into relevant socioeconomic and environmental policies and actions, where appropriate.

6. Parties recognize the importance of support for and international cooperation on

adaptation efforts and the importance of taking into account the needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change.

7. Parties should strengthen their cooperation on enhancing action on adaptation, taking into account the Cancun Adaptation Framework, including with regard to:

(a) Sharing information, good practices, experiences and lessons learned, including, as appropriate, as these relate to science, planning, policies and implementation in relation to adaptation actions;

(b) Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties;

(c) Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making;

(d) Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices; and

(e) Improving the effectiveness and durability of adaptation actions.

8. United Nations specialized organizations and agencies are encouraged to support the efforts of Parties to implement the actions referred to in paragraph 7 of this Article, taking into account the provisions of paragraph 5 of this Article.

9. Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include:

(a) The implementation of adaptation actions, undertakings and/or efforts;

(b) The process to formulate and implement national adaptation plans;

(c) The assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems;

(d) Monitoring and evaluating and learning from adaptation plans, policies, programmes and actions; and

(e) Building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources.

10. Each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs,

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plans and actions, without creating any additional burden for developing country Parties.

11. The adaptation communication referred to in paragraph 10 of this Article shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a nationally determined contribution as referred to in Article 4, paragraph 2, and/or a national communication.

12. The adaptation communications referred to in paragraph 10 of this Article shall be recorded in a public registry maintained by the secretariat.

13. Continuous and enhanced international support shall be provided to developing country Parties for the implementation of paragraphs 7, 9, 10 and 11 of this Article, in accordance with the provisions of Articles 9, 10 and 11.

14. The global stocktake referred to in Article 14 shall, inter alia:

(a) Recognize adaptation efforts of developing country Parties;

(b) Enhance the implementation of adaptation action taking into account the adaptation communication referred to in paragraph 10 of this Article;

(c) Review the adequacy and effectiveness of adaptation and support provided for adaptation; and

(d) Review the overall progress made in achieving the global goal on adaptation referred to in paragraph 1 of this Article.

## Article 8

1. Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage.

2. The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement and may be enhanced and strengthened, as determined by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.

4. Accordingly, areas of cooperation and facilitation to enhance understanding, action and support may include:

- (a) Early warning systems;
- (b) Emergency preparedness;
- (c) Slow onset events;
- (d) Events that may involve irreversible and permanent loss and damage;
- (e) Comprehensive risk assessment and management;
- (f) Risk insurance facilities, climate risk pooling and other insurance solutions;
- (g) Non-economic losses; and
- (h) Resilience of communities, livelihoods and ecosystems.

5. The Warsaw International Mechanism shall collaborate with existing bodies and expert groups under the Agreement, as well as relevant organizations and expert bodies outside the Agreement.

#### Article 9

1. Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.

2. Other Parties are encouraged to provide or continue to provide such support voluntarily.

3. As part of a global effort, developed country Parties should continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds, through a variety of actions, including supporting country-driven strategies, and taking into account the needs and priorities of developing country Parties. Such mobilization of climate finance should represent a progression beyond previous efforts.

4. The provision of scaled-up financial resources should aim to achieve a balance between adaptation and mitigation, taking into account country-driven strategies, and the priorities and needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change and have significant capacity constraints, such as the least developed countries and small island developing States, considering the need for public and grant-based resources for adaptation.

5. Developed country Parties shall biennially communicate indicative quantitative and qualitative information related to paragraphs 1 and 3 of this Article, as applicable, including, as available, projected levels of public financial resources to be provided to developing country Parties. Other Parties providing resources are encouraged to

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communicate biennially such information on a voluntary basis.

6. The global stocktake referred to in Article 14 shall take into account the relevant information provided by developed country Parties and/or Agreement bodies on efforts related to climate finance.

7. Developed country Parties shall provide transparent and consistent information on support for developing country Parties provided and mobilized through public interventions biennially in accordance with the modalities, procedures and guidelines to be adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement, at its first session, as stipulated in Article 13, paragraph 13. Other Parties are encouraged to do so.

8. The Financial Mechanism of the Convention, including its operating entities, shall serve as the financial mechanism of this Agreement.

9. The institutions serving this Agreement, including the operating entities of the Financial Mechanism of the Convention, shall aim to ensure efficient access to financial resources through simplified approval procedures and enhanced readiness support for developing country Parties, in particular for the least developed countries and small island developing States, in the context of their national climate strategies and plans.

#### Article 10

1. Parties share a long-term vision on the importance of fully realizing technology development and transfer in order to improve resilience to climate change and to reduce greenhouse gas emissions.

2. Parties, noting the importance of technology for the implementation of mitigation and adaptation actions under this Agreement and recognizing existing technology deployment and dissemination efforts, shall strengthen cooperative action on technology development and transfer.

3. The Technology Mechanism established under the Convention shall serve this Agreement.

4. A technology framework is hereby established to provide overarching guidance to the work of the Technology Mechanism in promoting and facilitating enhanced action on technology development and transfer in order to support the implementation of this Agreement, in pursuit of the long-term vision referred to in paragraph 1 of this Article.

5. Accelerating, encouraging and enabling innovation is critical for an effective, long-term global response to climate change and promoting economic growth and sustainable development. Such effort shall be, as appropriate, supported, including by the Technology Mechanism and, through financial means, by the Financial Mechanism of the Convention, for collaborative approaches to research and development, and

facilitating access to technology, in particular for early stages of the technology cycle, to developing country Parties.

6. Support, including financial support, shall be provided to developing country Parties for the implementation of this Article, including for strengthening cooperative action on technology development and transfer at different stages of the technology cycle, with a view to achieving a balance between support for mitigation and adaptation. The global stocktake referred to in Article 14 shall take into account available information on efforts related to support on technology development and transfer for developing country Parties.

#### Article 11

1. Capacity-building under this Agreement should enhance the capacity and ability of developing country Parties, in particular countries with the least capacity, such as the least developed countries, and those that are particularly vulnerable to the adverse effects of climate change, such as small island developing States, to take effective climate change action, including, inter alia, to implement adaptation and mitigation actions, and should facilitate technology development, dissemination and deployment, access to climate finance, relevant aspects of education, training and public awareness, and the transparent, timely and accurate communication of information.

2. Capacity-building should be country-driven, based on and responsive to national needs, and foster country ownership of Parties, in particular, for developing country Parties, including at the national, subnational and local levels. Capacity-building should be guided by lessons learned, including those from capacity-building activities under the Convention, and should be an effective, iterative process that is participatory, cross-cutting and gender-responsive.

3. All Parties should cooperate to enhance the capacity of developing country Parties to implement this Agreement. Developed country Parties should enhance support for capacity-building actions in developing country Parties.

4. All Parties enhancing the capacity of developing country Parties to implement this Agreement, including through regional, bilateral and multilateral approaches, shall regularly communicate on these actions or measures on capacity building. Developing country Parties should regularly communicate progress made on implementing capacity-building plans, policies, actions or measures to implement this Agreement.

5. Capacity-building activities shall be enhanced through appropriate institutional arrangements to support the implementation of this Agreement, including the appropriate institutional arrangements established under the Convention that serve this Agreement. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall, at its first session, consider and adopt a decision on the initial institutional arrangements for capacity-building.

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## Article 12

Parties shall cooperate in taking measures, as appropriate, to enhance climate change education, training, public awareness, public participation and public access to information, recognizing the importance of these steps with respect to enhancing actions under this Agreement.

## Article 13

1. In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established.

2. The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.

3. The transparency framework shall build on and enhance the transparency arrangements under the Convention, recognizing the special circumstances of the least developed countries and small island developing States, and be implemented in a facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty, and avoid placing undue burden on Parties.

4. The transparency arrangements under the Convention, including national communications, biennial reports and biennial update reports, international assessment and review and international consultation and analysis, shall form part of the experience drawn upon for the development of the modalities, procedures and guidelines under paragraph 13 of this Article.

5. The purpose of the framework for transparency of action is to provide a clear understanding of climate change action in the light of the objective of the Convention as set out in its Article 2, including clarity and tracking of progress towards achieving Parties' individual nationally determined contributions under Article 4, and Parties' adaptation actions under Article 7, including good practices, priorities, needs and gaps, to inform the global stocktake under Article 14.

6. The purpose of the framework for transparency of support is to provide clarity on support provided and received by relevant individual Parties in the context of climate change actions under Articles 4, 7, 9, 10 and 11, and, to the extent possible, to provide a full overview of aggregate financial support provided, to inform the global stocktake under Article 14.

7. Each Party shall regularly provide the following information:

(a) A national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice methodologies

accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties serving as the meeting of the Parties to this Agreement; and

(b) Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4.

8. Each Party should also provide information related to climate change impacts and adaptation under Article 7, as appropriate.

9. Developed country Parties shall, and other Parties that provide support should, provide information on financial, technology transfer and capacity-building support provided to developing country Parties under Articles 9, 10 and 11.

10. Developing country Parties should provide information on financial, technology transfer and capacity-building support needed and received under Articles 9, 10 and 11.

11. Information submitted by each Party under paragraphs 7 and 9 of this Article shall undergo a technical expert review, in accordance with decision 1/CP.21. For those developing country Parties that need it in the light of their capacities, the review process shall include assistance in identifying capacity-building needs. In addition, each Party shall participate in a facilitative, multilateral consideration of progress with respect to efforts under Article 9, and its respective implementation and achievement of its nationally determined contribution.

12. The technical expert review under this paragraph shall consist of a consideration of the Party's support provided, as relevant, and its implementation and achievement of its nationally determined contribution. The review shall also identify areas of improvement for the Party, and include a review of the consistency of the information with the modalities, procedures and guidelines referred to in paragraph 13 of this Article, taking into account the flexibility accorded to the Party under paragraph 2 of this Article. The review shall pay particular attention to the respective national capabilities and circumstances of developing country Parties.

13. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall, at its first session, building on experience from the arrangements related to transparency under the Convention, and elaborating on the provisions in this Article, adopt common modalities, procedures and guidelines, as appropriate, for the transparency of action and support.

14. Support shall be provided to developing countries for the implementation of this Article.

15. Support shall also be provided for the building of transparency-related capacity of developing country Parties on a continuous basis.

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#### Article 14

1. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the "global stocktake"). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science.
2. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall undertake its first global stocktake in 2023 and every five years thereafter unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Agreement.
3. The outcome of the global stocktake shall inform Parties in updating and enhancing, in a nationally determined manner, their actions and support in accordance with the relevant provisions of this Agreement, as well as in enhancing international cooperation for climate action.

#### Article 15

1. A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.
2. The mechanism referred to in paragraph 1 of this Article shall consist of a committee that shall be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The committee shall pay particular attention to the respective national capabilities and circumstances of Parties.
3. The committee shall operate under the modalities and procedures adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement at its first session and report annually to the Conference of the Parties serving as the meeting of the Parties to this Agreement.

#### Article 16

1. The Conference of the Parties, the supreme body of the Convention, shall serve as the meeting of the Parties to this Agreement.
2. Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings of any session of the Conference of the Parties serving as the meeting of the Parties to this Agreement. When the Conference of the Parties serves as the meeting of the Parties to this Agreement, decisions under this Agreement shall be taken only by those that are Parties to this Agreement.
3. When the Conference of the Parties serves as the meeting of the Parties to this

Agreement, any member of the Bureau of the Conference of the Parties representing a Party to the Convention but, at that time, not a Party to this Agreement, shall be replaced by an additional member to be elected by and from amongst the Parties to this Agreement.

4. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall keep under regular review the implementation of this Agreement and shall make, within its mandate, the decisions necessary to promote its effective implementation. It shall perform the functions assigned to it by this Agreement and shall:

(a) Establish such subsidiary bodies as deemed necessary for the implementation of this Agreement; and

(b) Exercise such other functions as may be required for the implementation of this Agreement.

5. The rules of procedure of the Conference of the Parties and the financial procedures applied under the Convention shall be applied *mutatis mutandis* under this Agreement, except as may be otherwise decided by consensus by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

6. The first session of the Conference of the Parties serving as the meeting of the Parties to this Agreement shall be convened by the secretariat in conjunction with the first session of the Conference of the Parties that is scheduled after the date of entry into force of this Agreement. Subsequent ordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Agreement shall be held in conjunction with ordinary sessions of the Conference of the Parties, unless otherwise decided by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

7. Extraordinary sessions of the Conference of the Parties serving as the meeting of the Parties to this Agreement shall be held at such other times as may be deemed necessary by the Conference of the Parties serving as the meeting of the Parties to this Agreement or at the written request of any Party, provided that, within six months of the request being communicated to the Parties by the secretariat, it is supported by at least one third of the Parties.

8. The United Nations and its specialized agencies and the International Atomic Energy Agency, as well as any State member thereof or observers thereto not party to the Convention, may be represented at sessions of the Conference of the Parties serving as the meeting of the Parties to this Agreement as observers. Any body or agency, whether national or international, governmental or non-governmental, which is qualified in matters covered by this Agreement and which has informed the secretariat of its wish to be represented at a session of the Conference of the Parties serving as the meeting of the Parties to this Agreement as an observer, may be so admitted unless at least one third of the Parties present object. The admission and participation of

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observers shall be subject to the rules of procedure referred to in paragraph 5 of this Article.

#### Article 17

1. The secretariat established by Article 8 of the Convention shall serve as the secretariat of this Agreement.
2. Article 8, paragraph 2, of the Convention on the functions of the secretariat, and Article 8, paragraph 3, of the Convention, on the arrangements made for the functioning of the secretariat, shall apply *mutatis mutandis* to this Agreement. The secretariat shall, in addition, exercise the functions assigned to it under this Agreement and by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

#### Article 18

1. The Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation established by Articles 9 and 10 of the Convention shall serve, respectively, as the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Agreement. The provisions of the Convention relating to the functioning of these two bodies shall apply *mutatis mutandis* to this Agreement. Sessions of the meetings of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of this Agreement shall be held in conjunction with the meetings of, respectively, the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation of the Convention.
2. Parties to the Convention that are not Parties to this Agreement may participate as observers in the proceedings of any session of the subsidiary bodies. When the subsidiary bodies serve as the subsidiary bodies of this Agreement, decisions under this Agreement shall be taken only by those that are Parties to this Agreement.
3. When the subsidiary bodies established by Articles 9 and 10 of the Convention exercise their functions with regard to matters concerning this Agreement, any member of the bureaux of those subsidiary bodies representing a Party to the Convention but, at that time, not a Party to this Agreement, shall be replaced by an additional member to be elected by and from amongst the Parties to this Agreement.

#### Article 19

1. Subsidiary bodies or other institutional arrangements established by or under the Convention, other than those referred to in this Agreement, shall serve this Agreement upon a decision of the Conference of the Parties serving as the meeting of the Parties to

this Agreement. The Conference of the Parties serving as the meeting of the Parties to this Agreement shall specify the functions to be exercised by such subsidiary bodies or arrangements.

2. The Conference of the Parties serving as the meeting of the Parties to this Agreement may provide further guidance to such subsidiary bodies and institutional arrangements.

#### Article 20

1. This Agreement shall be open for signature and subject to ratification, acceptance or approval by States and regional economic integration organizations that are Parties to the Convention. It shall be open for signature at the United Nations Headquarters in New York from 22 April 2016 to 21 April 2017. Thereafter, this Agreement shall be open for accession from the day following the date on which it is closed for signature. Instruments of ratification, acceptance, approval or accession shall be deposited with the Depositary.

2. Any regional economic integration organization that becomes a Party to this Agreement without any of its member States being a Party shall be bound by all the obligations under this Agreement. In the case of regional economic integration organizations with one or more member States that are Parties to this Agreement, the organization and its member States shall decide on their respective responsibilities for the performance of their obligations under this Agreement. In such cases, the organization and the member States shall not be entitled to exercise rights under this Agreement concurrently.

3. In their instruments of ratification, acceptance, approval or accession, regional economic integration organizations shall declare the extent of their competence with respect to the matters governed by this Agreement. These organizations shall also inform the Depositary, who shall in turn inform the Parties, of any substantial modification in the extent of their competence.

#### Article 21

1. This Agreement shall enter into force on the thirtieth day after the date on which at least 55 Parties to the Convention accounting in total for at least an estimated 55 per cent of the total global greenhouse gas emissions have deposited their instruments of ratification, acceptance, approval or accession.

2. Solely for the limited purpose of paragraph 1 of this Article, "total global greenhouse gas emissions" means the most up-to-date amount communicated on or before the date of adoption of this Agreement by the Parties to the Convention.

3. For each State or regional economic integration organization that ratifies,

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accepts or approves this Agreement or accedes thereto after the conditions set out in paragraph 1 of this Article for entry into force have been fulfilled, this Agreement shall enter into force on the thirtieth day after the date of deposit by such State or regional economic integration organization of its instrument of ratification, acceptance, approval or accession.

4. For the purposes of paragraph 1 of this Article, any instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by its member States.

#### Article 22

The provisions of Article 15 of the Convention on the adoption of amendments to the Convention shall apply *mutatis mutandis* to this Agreement.

#### Article 23

1. The provisions of Article 16 of the Convention on the adoption and amendment of annexes to the Convention shall apply *mutatis mutandis* to this Agreement.

2. Annexes to this Agreement shall form an integral part thereof and, unless otherwise expressly provided for, a reference to this Agreement constitutes at the same time a reference to any annexes thereto. Such annexes shall be restricted to lists, forms and any other material of a descriptive nature that is of a scientific, technical, procedural or administrative character.

#### Article 24

The provisions of Article 14 of the Convention on settlement of disputes shall apply *mutatis mutandis* to this Agreement.

#### Article 25

1. Each Party shall have one vote, except as provided for in paragraph 2 of this Article.

2. Regional economic integration organizations, in matters within their competence, shall exercise their right to vote with a number of votes equal to the number of their member States that are Parties to this Agreement. Such an organization shall not exercise its right to vote if any of its member States exercises its right, and vice versa.

#### Article 26

The Secretary-General of the United Nations shall be the Depositary of this

Agreement.

Article 27

No reservations may be made to this Agreement.

Article 28

1. At any time after three years from the date on which this Agreement has entered into force for a Party, that Party may withdraw from this Agreement by giving written notification to the Depositary.
2. Any such withdrawal shall take effect upon expiry of one year from the date of receipt by the Depositary of the notification of withdrawal, or on such later date as may be specified in the notification of withdrawal.
3. Any Party that withdraws from the Convention shall be considered as also having withdrawn from this Agreement.

Article 29

The original of this Agreement, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

DONE at Paris this twelfth day of December two thousand and fifteen.

IN WITNESS WHEREOF, the undersigned, being duly authorized to that effect, have signed this Agreement.

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## SECOND SCHEDULE

(section 9)

### 1. Constitution of Council.

- (1) A person appointed to the Council pursuant to subsection (1) shall possess knowledge, technical skills or experience in one or more of the following areas —
  - (a) ecological science,
  - (b) biodiversity conservation;
  - (c) carbon markets;
  - (d) law;
  - (e) finance investment management with international experience;
  - (f) measurement, reporting and verification methods as required by the UNFCCC; or
  - (g) such other area of expertise as the Prime Minister determines necessary.
- (2) The Prime Minister may grant the payment of an honorarium to a member of the Council.

### 2. Tenure of members.

- (1) A member of the Council shall hold office for such period, not exceeding three years, as the Prime Minister may direct in the instrument appointing such member, but such member shall be eligible for re-appointment.
- (2) In making the initial appointments to the Council the Prime Minister shall vary the length of the term of appointment for Council members so the end of the period of appointment does not occur in the same year for all members.
- (3) The Prime Minister shall in determining a term of appointment or reappointment, seek to ensure that no more than three of the existing members' terms of appointment expire in any one year.

### 3. Resignation and removal of members.

- (1) A member of the Council may be removed from office by the Prime Minister if the member —
  - (a) is incapable of performing the functions of office by reason of mental or physical incapacity;
  - (b) is guilty of misconduct under any Act, or regulations governing the public service;

- (c) has committed a financial offence;
  - (d) has committed an offence punishable by imprisonment; or
  - (e) has been absent from three consecutive meetings of the Council without acceptance of an apology by the Council.
- (2) The removal of a member of the Council under this section shall take effect immediately upon the decision of the Prime Minister and the member shall be advised in writing of the removal.
- (3) A member of the Council may at any time resign from office by notice in writing to the Prime Minister which shall take effect on the date specified by the notice.

#### **4. Meetings of Council.**

- (1) The Council shall meet no less than two times in each quarter of the year.
- (2) Four members shall constitute a quorum.
- (3) The Chairman shall preside over meetings of the Council, but where the Chairman is unable to preside, the members present and forming a quorum may appoint a member to preside over the meeting.
- (4) The decision of the Council shall be by a majority of members present and in the event of an equality of votes, the Chairman or in his absence, the member presiding shall have a second or casting vote.
- (5) The Secretary shall maintain all records of the Council.
- (6) The Council may regulate its own procedure for the conduct of its business.

#### **5. Reports of Council.**

- (1) The Council shall submit to the Prime Minister by the 31<sup>st</sup> day of March in every year, an annual report detailing —
  - (a) the national emission rate for the preceding year;
  - (b) the quantity of verified, saleable carbon assets during the preceding year;
  - (c) the removal or addition of any carbon assets during the preceding year;
  - (d) the changes in the global carbon markets which impacted the trade of carbon assets during the preceding year;
- (2) The Chairman shall report to the Prime Minister on the matters of the Council after each meeting and whenever the Prime Minister so requests.

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## OBJECTS AND REASONS

This Bill seeks to give effect to the Paris Agreement to aid in the global response to the threat of climate change and to create and implement initiatives to offset carbon emissions.

Part I of the Bill provides for the preliminary provisions of the Bill. Clause 1 of the Bill provides for the commencement of the Act. Clause 2 of the Bill provides for the interpretation of words used throughout the Bill and clause 4 of the Bill provides for the objectives of the Act, namely to —

- (a) to enable the Government to create incentives and implement initiatives to support the overall global target of greenhouse gas emissions reduction consistent with its Nationally Determined Contributions;
- (b) to ensure compliance by The Bahamas of its obligations under the Paris Agreement taking into consideration the common but differentiated responsibilities, respective capabilities and flexibility provisions acknowledged under the UNFCCC for small island developing states to address climate change; and
- (c) to enable the establishment of a market in The Bahamas to trade in carbon credits.

Part II of the Bill provides for the administration of the Act, namely —

- (a) the shared ministerial responsibility of the Prime Minister, the Minister of Finance and the Minister responsible for the environment and natural resources;
- (b) the appointment of a management company, the functions of which will be those functions specified in clause 7; and
- (c) the appointment and functions of an advisory council, which shall have responsibility for serving as a technical advisory body to a management company.

Part III of the Bill provides for the fundamental principles governing the trade in carbon markets, namely —

- (a) the concept of additionally which requires that all transactions in carbon trading as carried out under this Act must result in the additional effect of a reduction of greenhouse gas emissions;
- (b) the measurability of all mitigation incomes which are reported under the requirements of this Act are to be accounted for in tonnes of carbon dioxide equivalent;
- (c) the permanence of emission reduction;
- (d) the careful recording of all reductions;

- (e) the prohibition against double counting;
- (f) the requirement for verification and validation of projects by a reliable and independent auditor prior to the trade of carbon offsets;
- (g) the requirement that projects should aim to aid the environment rather than cause harm; and
- (h) the compliance with best international practices with regard to the share of proceeds and cancellation rates.

Part IV of the Bill sets out the obligations of The Bahamas under Articles 4, 7, 9, 10 and 11 of the Paris Agreement namely, *inter alia* —

- (a) the communication and maintenance of successive determined contributions;
- (b) the implementation of domestic mitigation measures; and
- (c) the development of an adaptation plan.

Part V of the Bill provides for the creation and the implementation of incentives to reduce emissions. Clause 19 of the Bill empowers the Prime Minister to create and implement initiatives and incentives to comply with the Paris Agreement. Clause 20 of the Bill provides for the fundamental principles governing trade in carbon markets.

Part VI of the Bill provides for the various options for participation in the carbon market in The Bahamas. This Part addresses the three options available, namely, participation —

- (a) as a result of a bilateral or multilateral trading agreement;
- (b) as a result of trading with a private entity; and
- (c) in a voluntary carbon market.

Part VII of the Bill provides for the establishment of the National Emissions Registry and the appointment of a Registrar. The Registrar shall have the functions as set out in clause 28 of the Bill.

Part VIII of the Bill provides for certain miscellaneous provisions. Clause 29 of the Bill provides for confidentiality by persons carrying out functions under the Act on behalf of the Government. Clause 30 of the Bill provides for the extensive regulation making power of the Prime Minister.