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Item 6 (f) of the provisional agenda

Procedural matters

Request submitted by Annex V country Parties regarding the mandate and scope of the Convention

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Note by the secretariat

Summary

In March 2014, Armenia submitted a request to the Executive Secretary on behalf of Annex V countries, seeking clarification on “the mandate and scope of the Convention regarding land degradation and the subsequent legal aspects for its implementation in the territories, which are not related to arid, semi-arid, and dry sub-humid areas”.

The Bureau of the Conference of the Parties (COP) addressed this matter at its meetings in September 2014 and June 2015, decided to include this item in the provisional agenda of COP 12 and requested the secretariat to prepare an elaborated paper with possible options to address the concern of Annex V countries.

The report prepared by the secretariat is included in the present document for consideration by the Parties at COP 12 and any action it deems appropriate.

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I. Introduction and background information

1. In March 2014, the secretariat received a communication from Armenia on behalf of Central and Eastern Europe (Annex V), requesting the Executive Secretary to seek clarifications from the United Nations Office of Legal Affairs (OLA) on the “mandate and scope of the Convention regarding land degradation and the subsequent legal aspects for its implementation of the territories, which are not related to arid, semi-arid, and dry-sub-humid areas”. The same communication was transmitted to the OLA through an Interoffice Memorandum later in March 2014.
2. In its response dated 10 April 2014, the OLA stated that “OLA does not respond to questions from individual State Parties to a Treaty Body unless the relevant inter-governmental organ of that Body takes a decision in a formal meeting setting out the question(s)” and that “should Parties seek OLA’s assistance in interpreting the UNCCD’s¹ mandate and scope then the relevant inter-governmental organ of the UNCCD would have to formally adopt a decision setting out the questions which the Parties wish OLA to address”.
3. In May 2014, the communication from Armenia and the OLA response were brought to the attention of the Bureau of the Conference of the Parties (COP) by its President with a note stating that “unless the Bureau has an objection to the approach, the [COP] President will request OLA to provide legal advice about the question asked by Armenia on behalf of Annex V”. The Bureau members were invited to offer the views of their respective regions on the proposed approach.
4. Comments were received from four regional groups and responses indicated that there was no consensus among the regions, with some supporting the request of Annex V and others noting that the COP is the only governing body with the mandate to address such matters.
5. The matter was further discussed during the second inter-sessional meeting of the Bureau of the COP, held in Bonn on 3 September 2014. As a result of the deliberations of the Bureau of the COP, the President recommended that “the secretariat should prepare an elaborated paper with possible options to address the concern of Annex V countries”.
6. At its last meeting in Milan, Italy on 16 June 2015, the Bureau of the COP reviewed the documentation prepared by the secretariat in this regard, and: (a) decided to include an item entitled “Request submitted by Annex V country Parties on the scope and mandate of the Convention” in the provisional agenda of COP 12;² (b) requested the secretariat to undertake a review of past COP decisions, with a view to identifying the type of decisions for which the text proposed in paragraph 9 below would be appropriate and could apply, and inform Parties accordingly for further consideration of the matter.
7. The outcomes of the review mentioned in paragraph 6 above and the identified clusters of COP decisions are included in the annex to this document for consideration by the Parties at COP 12.

¹ United Nations Convention to Combat Desertification.

² In line with rules 9 and 10 (e) of the rules of procedure of the COP.

II. Conclusions and recommendations

8. In view of the above, it appears that the concern expressed by Annex V countries is factual rather than legal in nature. Therefore, Parties may address this concern at COP 12 by using appropriate language at decision-making level.

9. Accordingly, the secretariat should be mandated to add the following language in draft decisions for the five clusters of decisions identified in the annex:

“Decides that the present decision applies to affected country Parties, as defined in article 1 paragraphs (h) and (i) of the Convention, as well as other country Parties that have identified themselves as experiencing drought and land degradation, at their discretion.”

Annex

Review of the decisions taken at the tenth and eleventh sessions of the Conference of the Parties with a view of identifying the type of decisions for which standard language would apply

1. Following the review undertaken according to the deliberation of the Bureau of the Conference of Parties (COP), the secretariat has identified the following five broad decision clusters where the proposed text could be added:

- Cluster I: *“Calling on affected country Parties to implement obligations pertaining to action programme formulation, alignment and implementation”*
- Cluster II: *“Calling on affected country Parties to implement obligations pertaining to the communication of information and the preparation of national reports”*
- Cluster III: *“Reference to dryland or arid, semi-arid and dry sub-humid areas”*
- Cluster IV: *“Calling on affected country Parties to actively access and use financial resources”*
- Cluster V: *“Possible decisions to be taken at future COPs, with particular regard to additional obligations from the post-2015 development framework”*

2. In the table below, for each decision cluster, a number of examples are provided of the relevant paragraphs identifying the cluster and potentially justifying the addition of the proposed language at the end of the decision.

Table

Cluster of decisions by the Conference of the Parties for which standard language would apply

<i>Cluster of decisions</i>	<i>Relevant COP 10 or COP 11 decisions</i>
Cluster I Calling on affected country Parties to implement obligations pertaining to action programme formulation, alignment and implementation	Decision 2/COP.10: Paragraph 2. Urges <u>affected country Parties</u> and Regional Implementation Annexes to intensify their efforts to align their national, subregional and regional action programmes with The Strategy; Decision 2/COP.11: Paragraph 6. Further encourages affected country Parties to use the national action programme (NAP) alignment process, including its added value and documented benefits such as geo-referenced data, as a means to raise the awareness of policymakers.

<i>Cluster of decisions</i>	<i>Relevant COP 10 or COP 11 decisions</i>
<p>Cluster II</p> <p>Calling on affected country Parties to implement obligations pertaining to the communication of information and the preparation of national reports</p>	<p>Decision 19/COP.10: Paragraph 14. Invites <u>affected country Parties</u> to use, within their existing capacity and needs, the provisionally accepted set of impact indicators and the metrics/proxies proposed to measure them for the 2012–2013 reporting and review process;</p> <p>Decision 22/COP.11: Paragraph 4. For the purpose of reporting on progress indicators, <u>affected Parties are required to delineate affected areas</u> according to the text of the Convention.</p>
<p>Cluster III</p> <p>Reference to dryland or arid, semi-arid and dry sub-humid areas</p>	<p>Decision 9/COP.10: Paragraph 3. Requests the Executive Secretary to continue advocating international cooperation on sustainable management of the land and water resources in <u>drylands</u>;</p> <p>Decision 3/COP.11: Paragraph 2 (b) Establish links between national, subregional and regional action programmes and other regional environmental agreements, processes and institutions, including those focused on land management in <u>drylands</u> and other desertification/land degradation and drought (DLDD)-related issues;</p> <p>Decision 8/COP.11: Paragraph 1. Decides to establish an intergovernmental working group to: (1) establish a science-based definition of land degradation <u>neutrality in arid, semi-arid and dry sub-humid areas</u>; (2) develop options relating to <u>arid, semi-arid and dry sub-humid areas</u> that Parties might consider should they strive to achieve land degradation neutrality;</p> <p>Decision 11/COP.11: Paragraph 4. Also invites the Global Environment Facility, during its sixth replenishment period, to support national-level capacity development for affected country Parties, as appropriate, to take coordinated action at the national, regional and international level to monitor globally land degradation and restore degraded lands in <u>arid, semi-arid and dry sub-humid areas, if requested</u> and among other activities.</p> <p>Decision 14/COP.11: Paragraph 11. Also invites all country Parties, in the context of public-private partnerships, to support private sector investment in sustainable land management in <u>drylands</u>, taking into account national policies;</p>

<i>Cluster of decisions</i>	<i>Relevant COP 10 or COP 11 decisions</i>
Cluster IV Calling on affected country Parties to actively access and use financial resource	<p>Decision 13/COP.10: Paragraph 15. Invites <u>affected country Parties</u>, with support from the Global Mechanism, to increase their efforts to establish integrated investment frameworks;</p> <p>Decision 14/COP.11: Paragraph 1. Invites <u>affected country Parties</u> to step up their efforts in submitting project proposals, including those that promote synergistic implementation of the Rio conventions at the national, subregional and regional levels;</p> <p>Paragraph 3. Invites <u>affected country Parties</u> to step up their efforts to commit resources from their public budgets and also encourage private investment for the implementation of NAPs;</p> <p>Paragraph 5. Invites developed country Parties and multilateral institutions to increase the adequacy, timeliness and predictability of the resources provided to <u>affected country Parties</u>.</p>
Cluster V Possible decisions to be adopted at future COPs, with particular regard to additional obligations from the post-2015 development framework	<p>From document ICCD/COP(12)/4, including the report by the Intersessional Working Group (IWG)</p> <p><u>Affected country Parties</u> are invited to:</p> <ul style="list-style-type: none"> • Transform the land degradation neutrality (LDN) target into an effective vehicle for financing large-scale implementation by creating incentives, mobilizing resources and leveraging investments that address DLDD issues; <p>Developed country Parties are invited to:</p> <ul style="list-style-type: none"> • Provide the scientific, technical and financial assistance to help <u>affected country Parties</u> to prioritize the setting of national LDN targets and create the enabling environment for their implementation and monitoring. <p><u>Affected country Parties</u> are invited to:</p> <ul style="list-style-type: none"> • Formulate voluntary targets to achieve LDN according to their specific national circumstances and development priorities, and taking into account the list of options for operationalizing LDN at the national level as outlined by the IWG; • Use the progress indicators adopted in decision 22/COP.11 to monitor, evaluate and communicate progress towards achieving the LDN target; • Explore options on how to integrate the LDN target with their NAPs and/or their national sustainable development plans and priorities.