

MINISTRY PAPER No. 40/19

**2018 General and Selective Capital Increases of the
International Bank for Reconstruction and Development (IBRD)****PURPOSE**

1. The House of Representatives is being asked to approve Jamaica's contribution to the General Capital Increase (GCI) and Selective Capital Increase (SCI) of the International Bank for Reconstruction and Development (IBRD) which were adopted by the Board of Governors of the Bank in accordance with Resolution No. 663 entitled "2018 General Capital Increase" and Resolution No. 664 entitled "2018 Selective Capital Increase". Consequently, Jamaica, as a member of the IBRD, would be required to subscribe to 311 shares of the GCI and 163 shares of the SCI with paid-in amounts totalling **US\$8,683,307.30** becoming payable by the Government of Jamaica (GOJ) over the next five (5) years. The minimum annual paid-in amount is **US\$1,500,699.40** for the IBRD GCI and **US\$235,962.06** for the IBRD SCI respectively. The total annual contribution is **US\$1,736,661.46**.

BACKGROUND

2. There has been increased focus and attention on financial resilience, corporate governance and transparency in the operations of multilateral entities globally. The World Bank group has also embarked on a strategic vision for the future which focuses on institutional and financial reforms intended to restructure its operations and strengthen its financial capacity.

3. It is within this context and in an effort to rebalance shareholding and voting power among its members, that the IBRD has proposed an increase in the Bank's authorized capital stock. In its Report on "Sustainable Financing for Sustainable Development (DC2018-0002)", the IBRD notes that it expects to benefit from an overall paid-in capital increase of US\$7.5 billion as well as a US\$52.6 billion increase in callable capital. **It should be noted that a Resolution in respect of the International Finance Corporation (IFC) GCI had been circulated along with the aforementioned Resolutions in respect of the IBRD GCI and SCI however, the IFC Resolution at October 1, 2018 had not been approved and an extension has been granted to September 2019 for the receipt of votes on the IFC Resolution. The IFC is expected to benefit from US\$5.5 billion in paid-in capital once the Resolution is approved.**

4. The subscription period for both the IBRD GCI and SCI are aligned and therefore members will have five (5) years from the date of adoption of the IBRD GCI and SCI Resolutions within which to subscribe to the shares proposed for allocation to them under the GCI and SCI. An extension of one (1) additional year would require the approval of the President of the IBRD and an extension for a second additional year would require the approval of the IBRD's Executive Directors.

ISSUE

5. The justification for the proposed increase in the capital stock of the IBRD is that the World Bank group continues to contribute to national development in the midst of the fiscal challenges being experienced by the developing countries of the world. This relationship between the Bank and its Borrowing Member Countries (BMCs) has been established through various loan agreements, associated legislative arrangements and grant funding. In Jamaica, several sectors, including agriculture and education have benefitted from loans and grants from the IBRD over the years. This support is aligned with Jamaica's continued contribution to the Bank including the last General Capital increase of 2010 for which Jamaica completed payments in 2017. The GOJ was in receipt of approximately **US\$496,279,500.00** in loans and grants and provided the IBRD **US\$4,987,050.80** in GCI payment over the period 2011-2017. Support has been provided by the IBRD through, inter-alia, the Early Childhood Development Project, the Inner City Basic Services for the Poor Project, the Rural Economic Development Initiative (REDI) Project and the Social Protection Project which bolstered the Jamaica Programme of Advancement through Health and Education (PATH) Conditional Cash Transfer Programme.

ANALYSIS

6. The IBRD GCI and SCI are critical elements in the aid machinery for the strategic provision of resources to the Caribbean and the other developing regions of the world and represent a strong partnership between BMCs and Multilateral Financial Institutions. The World Bank Group in 2017 reported that its commitment towards helping developing countries to alleviate poverty and boost opportunity reached nearly \$59.0 billion in loans, grants, equity investments and guarantees in its Fiscal Year (FY) 2017 (July 1, 2016 - June 30, 2017). The IBRD also provided development knowledge to countries combined with financing and risk management products which were estimated at \$22.6 billion for the aforementioned period. This reflects the Bank's careful attention to ensuring continued strong capital adequacy ratios and prudent financial management going into the future while responding to client countries' most pressing development challenges in an effective way.

FINANCIAL ASSISTANCE PROGRAMMES

7. Jamaica has benefitted significantly from loans and grants from the IBRD. Over the years funding has been provided to various institutions, most recently through a loan managed by the Development Bank of Jamaica (DBJ) to aid in the Access to Finance for Micro, Small and Medium Enterprises Project; and a grant to the Ministry of Industry, Commerce, Agriculture and Fisheries (MICAF) for Promoting Community-Based Climate Resilience in the Fisheries Sector. In the past, the Bank has also provided assistance towards education transformation, climate change and agriculture including sustainable development of social capital. The GOJ and the IBRD are currently collaborating in the area of Disaster Risk Management in Jamaica as well as the development of the Second Rural Economic Development Initiative (REDI II) Project.

REQUIRED PAYMENTS AND SCHEDULE

8. Jamaica as a member of the IBRD is required to subscribe to 311 shares of the GCI and 163 shares of the SCI over a five (5) year period starting from the date of adoption of the

IBRD GCI Resolution in October 2018 to September 2023. The total value of the GCI for Jamaica is **US\$37,517,485**, of which a 20% portion will be paid-in capital of **US\$7,503,497**. Of the 20%, an amount of **US\$750,349.70** which is equivalent to 2% of **US\$37,517,485** is payable in United States Dollars while the remaining 18% which is equivalent to **US\$6,753,147.30** is payable in the member's national currency (Jamaica Dollar) or a freely convertible currency. The remaining 80% or **US\$30,013,988** is categorized as a callable portion and does not require any immediate monetary contribution.

9. The IBRD SCI for Jamaica is valued at **US\$19,663,505** of which 6% will be paid-in capital of **US\$1,179,810.30**. Of the 6%, an amount of **US\$117,981.03** which is equivalent to 0.6% of **US\$19,663,505** is payable in United States Dollars while the remaining 5.4% which is equivalent to **US\$1,061,829.27** is payable in the member's national currency (Jamaica Dollar) or a freely convertible currency. The remaining 94% or **US\$18,483,694.70** is categorized as a callable portion and does not require any immediate monetary contribution.

10. Each payment should consist of **cash only** and the **option of utilizing Promissory Notes is not available** as the Bank requires the paid-in portion for its annual operations.

11. Whereas the GOJ has up to five (5) years to subscribe to all IBRD GCI and SCI shares, it is advised that Jamaica evenly spread its subscription contribution over a five (5) year payment cycle in order to avoid the GOJ having to make disproportionate payments in any one financial year. In light of the foregoing, the GCI and SCI could therefore be contributed annually as follows: *(see previously referenced Annex 1)*:

- **GCI - US\$1,500,699.40**; and
- **SCI - US\$235,962.06**.

The total annual contribution would be **US\$1,736,661.46**.

The first payment of US\$1,736,661.46 would become due in October 2019 with subsequent annual payments due on or before October 1, each year with the final instalment to be paid by **September 30, 2023**.

FISCAL IMPLICATIONS

12. Over the next five (5) years, the GOJ will be required to honour the aforementioned membership obligations to which Jamaica will have agreed. The MOFPS will be required to ensure that the appropriate allocations are included in the relevant Estimates of Expenditure for FY 2019/20 through FY 2023/24.

LEGAL OPINION

13. The Attorney General's Chambers (AGC) was consulted regarding the legal implications involved in effecting the GCI and SCI of the IBRD and IFC (latter not yet approved by the Board of Governors), respectively. The AGC reviewed the Articles of Agreement of the IBRD and noted in its letter dated August 7, 2018 to the MOFPS that the Agreement is incorporated into Jamaica's domestic law by the **Bretton Woods Agreements Act**.

14. The following comments were also provided by the AGC in its August 7th letter:

- The Bretton Woods Agreement Act governs *inter alia* Jamaica's membership to the IBRD by virtue of the aforementioned Agreement which is outlined under the

schedule to that Act. Article II, Section 2 (b) of the IBRD Agreement contemplates increases in the authorised capital stock of the IBRD and requires a three-fourths majority of the voting power to effect an increase.

- Whereas the AGC has indicated that as stipulated by Article II Section 3 (c) of the Bank Agreement, Jamaica is not legally obligated to subscribe to any increase in capital of the IBRD, the Minister of Finance and the Public Service as Governor of the IBRD for Jamaica has voted in favour of the Resolution which has been adopted.
- Jamaica has five (5) years from the date of the GCI Resolution to subscribe to the shares and may customize its own schedule. If Jamaica subscribes to the shares, an Instrument of Subscription, a Memorandum of Law and copies of Jamaica's relevant authorising legislation will be required.
- Section four (4) of the Bretton Woods Agreements Act authorises the Minister with responsibility for finance to pay for the account of Jamaica amounts payable from time to time under *inter alia* the Bank Agreement provided that the Bank of Jamaica may pay from its own funds such amounts after taking into account any agreement between the GOJ and the IBRD.

RECOMMENDATION/CONSIDERATION

15. The House of Representatives is asked to consider and note the following:

- The issues leading to the General and Selective Capital Increases of the International Bank for Reconstruction and Development;
- Jamaica's membership obligations;
- Jamaica's vote in favour of IBRD Resolution 663 "General Capital Increase and 664 "Selective Capital Increase.
- The MOFPS will ensure that the appropriate allocations are included in the relevant financial years to honour the GOJ's obligations.

16. In light of the above, the House of Representatives is asked to agree that:

- a) Jamaica's contribution be made to the IBRD GCI and SCI in accordance with the proposed payment schedule at Annex 1;
- b) The respective Instruments of Contribution for the IBRD GCI and SCI be signed by the Minister of Finance and the Public Service for submission to the IBRD; and
- c) A copy of the relevant Extract/Excerpt from the House of Representatives be submitted, in due course, to the IBRD along with the respective Instruments of Contribution and Memorandum of Law, to affirm that all the procedures have been put in place to effect Jamaica's subscription.



Nigel Clarke, DPhil., MP

Minister of Finance and the Public Service

June 28, 2019

Annex 1

International Bank for Reconstruction and Development- Proposed Annual Subscription Payments for General and Selective Capital Increases 2019-2023

YEARS	OCTOBER 1, 2019	OCTOBER 1, 2020	OCTOBER 1, 2021	OCTOBER 1, 2022	SEPTEMBER 30, 2023	TOTAL
Proposed GOJ Payment GCI	US\$1,500,699.40	US\$1,500,699.40	US\$1,500,699.40	US\$1,500,699.40	US\$1,500,699.40	US\$7,503,497.00
Proposed GOJ Payment SGI	US\$235,962.06	US\$235,962.06	US\$235,962.06	US\$235,962.06	US\$235,962.06	US\$1,179,810.30
Total	US\$1,736,661.46	US\$1,736,661.46	US\$1,736,661.46	US\$1,736,661.46	US\$1,736,661.46	US\$8,683,307.30



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Reference No: **004-AP573**

ATTORNEY GENERAL'S CHAMBERS

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August 7, 2018

Permanent Secretary
Ministry of Finance & the Public Service
30 National Heroes Circle
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Attention: Mrs. Nadine James, Director, Negotiations

Re: 2018 General and Selective Capital Increases of the IBRD and the IFC

1. Reference is herein made to the captioned matter and in particular to your email dated July 24, 2018 by which the Chambers was (i) informed that Jamaica is being asked to vote on the matter of approval of resolutions regarding general and selective capital increases of both the International Bank for Reconstruction and Development (the "IBRD") and the International Finance Corporation (the "IFC"), and (ii) requested to comment on an attached *Report of the Executive Directors of the Bank¹ and the Directors of the Corporation² to the Boards of Governors* dated June 4, 2018 (the "Report"). In order to review this matter, we have been provided with the following:

- (a) The Report; and
- (b) The following draft resolutions:

¹ The IBRD.

² The IFC

- (i) IBRD Resolution re 2018 General Capital Increase (Annex 1);
- (ii) IFC Resolution re Conversion of Retained Earning and General Capital Increase (Annex 2);
- (iii) IFC Resolution re Amendment to Articles of Agreement of the IFC (Annex 3);
- (iv) IFC Resolution re 2018 General Capital Increase (Annex 4);
- (v) IBRD Resolution re 2018 Selective Capital Increase (Annex 5); and
- (vi) IFC Resolution re 2018 Selective Capital Increase (Annex 4).

2. We have also reviewed the Articles of Agreement of the IBRD (the "Bank Agreement") and the Articles of Agreement for the International Finance Corporation (the "IFC Agreement"), which are incorporated into our domestic law by the Bretton Woods Agreements Act and the International Finance Corporation Act.
3. At this juncture, Jamaica is being asked to vote on increases in capital of the IBRD and the IFC as set out in resolutions annexed to the Report.

GENERAL CAPITAL INCREASES

General Capital Increase ("GCI") in IBRD

4. It has been stated by virtue of the *Report* that in April 2018, the Executive Directors recommended to the Governors a General Capital Increase ("GCI") for the IBRD. Specifically, it is contemplated that there will be a GCI of US\$27.8 billion corresponding to 230,500 shares to be allocated on a pro rata basis. Jamaica's pro-rated portion is set out in Annex 1³ as being 311 shares. All shares to be allocated under this GCI will require paid-in capital at 20%.⁴

³ Page 11 of the Report

⁴ See the Report, at paragraphs 5 and 6(a).

5. The Bretton Woods Agreements Act governs *inter alia* Jamaica's membership to the IBRD by virtue of the Bank Agreement⁵ which is outlined under the schedule to that Act.

6. *Article II, section 2(b) of the Bank Agreement* contemplates increases in the authorized capital stock of the IBRD and requires a three-fourths majority of the total voting power to effect an increase.

7. Specifically, *Article II, section 3(c) of the Bank Agreement* provides that:

"If the authorized capital stock of the Bank is increased, each member shall have a reasonable opportunity to subscribe, under such conditions as the Bank shall decide, a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the capital stock of the Bank, but no member shall be obligated to subscribe any part of the increased capital." (Emphasis supplied.)

8. *Article II, section 3(c) of the Bank Agreement* makes it clear that Jamaica is not legally obligated to subscribe for any increase in capital of the IBRD and by extension not obligated to make any financial commitments with respect to any such increase. The subscription for increases in shares by Jamaica and a vote in support of such increase are matters to be determined by the Ministry within the context of its policy purview.

9. Having reviewed the Report provided by the Ministry in Conjunction with the Bretton Woods Agreements Act, the Ministry is being asked to note the following:

(a) Jamaica has five years from the date of adoption of the GCI Resolution to subscribe to the shares and may customize its own

⁵ Articles of Agreement of the International Bank for Reconstruction and Development.

schedule. If Jamaica subscribes for shares an Instrument of Subscription, a Memorandum of Law and copies of Jamaica's relevant authorizing legislation will be required.⁶

- (b) If the Government deems it appropriate to subscribe the Ministry should take note of the financial implications attendant on the increase and ensure that it has the fiscal space to meet the financial requirements.

10. **Section 4 of the Bretton Woods Agreement Act** authorises the Minister to pay for the account of Jamaica amounts payable from time to time under *inter alia* the Bank Agreement provided that the Bank of Jamaica may pay from its own funds such amounts after taking into account any agreement between the Government and the IBRD. Based on *inter alia* the Report, the current increase is being carried out in accordance with the Bank Agreement. It is our view that section 4 of the **Bretton Woods Agreement Act** authorises payments to the IBRD from time to time arising from the Bank Agreement.

The IFC Conversion of Retained Earnings & General Capital Increase

11. The Report, on page 3, states that it is proposed to convert the majority (US\$17 billion) of retained earnings into paid-in capital. The IFC draft resolution regarding "Conversion of Retained Earning and General Capital Increase" found in Annex 2 (the "Annex 2 Resolution"), if passed, is intended to achieve this by the creation of 16,999, 998 additional shares. The Report states that the reason for this is to reduce the large gap that has emerged between book value and par value of IFC shares.

⁶ See Footnote numbered 8 on page 3 of the Report

12. Section 2 of the International Finance Corporation Agreement Act (the "IFC Act"), *inter alia*, legislatively approved Jamaica's acceptance of the *Articles of Agreement of the International Finance Corporation* (the "IFC Agreement") which is incorporated into the IFC Act as its Schedule.

13. The IFC Agreement contemplates increases in the authorised capital stock of the IFC. *Article II, section 2(c) of the IFC Agreement* specifically provides as follows:

"The amount of capital stock at any time authorised may be increased by the Board of Governors as follows:

- (i) By a majority of the votes cast, in case such increase is necessary for the purpose of issuing shares of capital stock on initial subscription by members other than original member, provided that the aggregate of any increases authorised pursuant to this subparagraph shall not exceed 10,000 shares;
- (ii) In any other case, by a fourth-fifths⁷ majority of the total voting power.

14. The matter concerning which Jamaica is being asked to vote on in the Annex 2 Resolution is not for the purpose of issuing shares for initial subscription, so a four-fifths majority of the total voting power is required to pass the resolution.

15. The Ministry is being asked to note:

- (a) Jamaica and the other members of the IFC will be issued additional shares without the requirement for any cash contribution for same.⁸ This means that the Minister will have no need to exercise the

⁷ The original text of the IFC Agreement required a three-fourths majority, but this was changed by resolution.

⁸ See the Report, page 4, paragraph 14.

ministerial authorisation under section 4 of the IFC Act to pay for the additional shares in the IFC.

- (b) The allocation of additional shares to Jamaica following conversion of retained earnings into capital stock will be 28,356 shares,⁹ with each share having a par value of US\$1000.¹⁰

AMENDMENT TO THE IFC AGREEMENT

16. The draft resolution in Annex 3 of the Report (the "Annex 3 Resolution") proposes an amendment to *Article II, section 2(c)(ii) of the IFC Agreement* such that Article II, section 2(c) would read:

"(c) The amount of capital stock at any time authorized may be increased by the Board of Governors as follows:

- (i) by a majority of the votes cast, in case such increase is necessary for the purpose of issuing shares of capital stock on initial subscription by members other than original members; provided that the aggregate of any increases authorized pursuant to this subparagraph shall not exceed 10,000 shares;
- (ii) **In any other case, by an eighty-five percent majority of the total voting power."**

17. If the Annex 3 Resolution is passed, the change from the requirement of a four-fifths (80%) majority of the total voting power to a 85% majority would carry the import that increasing the authorised capital of the IFC would require greater support from the members than it did prior to the change. A vote in support of such a change in the voting requirement is a matter to be determined by the Ministry within the context of its policy purview. Having regard to the fact that the *IFC Agreement* is contained as a schedule to the IFC Act, we wish to highlight that legislative amendments will be required should the resolution be passed.

⁹ See the Annex 2 Resolution, paragraph C, Table 1.

¹⁰ See the Report, page 3, paragraph 11.

The Further IFC General Capital Increase

18. The draft resolution set out in Annex 4 of the Report (the "Annex 4 Resolution") proposes a GCI of 4,579,995 shares each having a par value of US\$1,000 to be allocated for subscription by members on a *pro rata* basis.¹¹ Jamaica would be allocated 9,262 shares for which it is authorised to subscribe.¹²

19. Article II, Section 2(d) of the IFC Agreement reads as follows:

"(d) In case of an increase authorized pursuant to paragraph (c)(ii) above, each member shall have a reasonable opportunity to subscribe, under such conditions as the Corporation shall decide, to a proportion of the increase of stock equivalent to the proportion which its stock theretofore subscribed bears to the total capital stock of the Corporation, but no member shall be obligated to subscribe to any part of the increased capital."

20. Article II, Section 2(d) of the IFC Agreement clearly expresses that each member is required to be given a "reasonable opportunity to subscribe"¹³ but is *not* obligated to subscribe for any part of the increased capital. By extension, Jamaica is not obligated to make any financial commitments with respect to any such increase. The subscription for increases in shares by Jamaica and a vote in support of such increase are matters to be determined by the Ministry within the context of its policy purview.

21. We ask that the Ministry note the following in respect of the further IFC GCI proposed by the Annex 4 Resolution:

- (i) A decision to subscribe for all or part of the 9,262 shares allocated to Jamaica in this instance would require payment of the

¹¹ See the Report, page 4, paragraph 12.

¹² See the Annex 4 Resolution, paragraph 2 and the table therein.

¹³ Emphasis supplied.

subscription price per share, which is set at One Thousand United States dollars (US\$1,000)¹⁴

- (ii) The terms of payment for any such shares and the consequences of not effecting payment in full are set out in the Annex 4 Resolution at paragraphs 4 (c) through (4(i), inclusive.

22. **Section 4 of the IFC Act** authorises the Minister to pay for the account of Jamaica the amounts payable from time to time to the IFC under, *inter alia* the *IFC Agreement* provided that the Bank of Jamaica (“BOJ”) may, subject to terms of any agreement made by the BOJ with the Government, **pay** from its own funds such amounts. It is our view that **section 4 of the IFC Act** authorises payments to the IFC from time to time arising from the *IFC Agreement*, and that a payment for increased capital stock, if decided upon by the Government, may be authorised by **section 4 of the IFC Act**.

SELECTIVE CAPITAL INCREASES

The IBRD Selective Capital Increase

23. The Report, on page 6, states that a shareholding realignment is proposed by way of a SCI of US\$32.3 billion (267, 943 shares) and the allocation of the increase in shares¹⁵ to identified participating members set out in Paragraph 3 of the resolution proposed in Annex 5 (the “Annex 5 Resolution).
24. Notably, *Article II, Section 3(c) of the Bank Agreement* states that if the authorised capital of the IBRD is increased, “each member shall have a reasonable opportunity to subscribe, under such conditions as the Bank shall decide, **a proportion of the increase of stock equivalent to the**

¹⁴ See paragraph 4 of the Annex

¹⁵ As noted above in respect of the IBRD GCI, Article II, section 2(b) of the Bank Agreement requires a three-fourths majority of the total voting power to effect an increase in the authorised capital of the Bank.

proportion which its stock theretofore subscribed bears to the total capital stock of the Bank". Therefore, the IBRD SCI may not be effected unless the members waive their rights to subscribe to sufficient shares to maintain their percentage shareholding.¹⁶

25. We note that Jamaica **is** listed in the table within paragraph 2 of the Annex 5 Resolution as a member authorised to subscribe for shares allocated pursuant to this IBRD SCI. We reiterate that *section 3(c) of the Bank Agreement* makes it clear that Jamaica is not legally obligated to subscribe for any increase in capital of the IBRD and by extension not obligated to make any financial commitments with respect to any such increase. The subscription for increases in shares by Jamaica and a vote in support of such increase are matters to be determined by the Ministry within the context of its policy purview.

26. We ask that the Ministry note the following in respect of the IBRD SCI proposed by the Annex 5 Resolution:

- (i) A decision to subscribe for all or part of the 163 shares allocated to Jamaica in this instance would require payment of the subscription price per share;
- (ii) The terms and conditions of subscription are set out in paragraphs 3(a) through 3(g), 5 and 6 of the Annex 5 Resolution; and
- (iii) Jamaica is not required to commit any financial resources if it decides not to subscribe for any of the 163 shares allocated to it for subscription under this SCI.

The IFC Selective Capital Increase

27. The Report states that the underlying principle in the realignment of shareholding in the IFC by way of a SCI is to align IFC voting power more

¹⁶ See paragraph 7 of the Annex 5 Resolution and the Report, page 6 at paragraph 23.

closely with IBRD and increase the share of developing countries while also strengthening the IFC's financial capacity.¹⁷


28. The IFC SCI is proposed to be implemented by way of (a) increasing the authorised capital of the IFC by 919,998 shares,¹⁸ and (b) to select members set out in Paragraph 3 of the resolution proposed in Annex 6 (the "Annex 6 Resolution").

29. Jamaica is **not** listed in Annex 6 as a member authorised to subscribe for shares issued pursuant to the proposed SCI, and is therefore not required to commit financial resources as a consequence of the SCI. The Ministry should, however, note the following:

(a) The SCI may not be effected unless all the members waive their pre-emptive rights to subscribe to their proportionate share in the increase of capital;¹⁹

(b) Given that the Report²⁰ states that the IFC SCI will, *inter alia*, "increase the share of developing countries in IFC voting power", it is not clear why Jamaica has not been included and the Ministry may wish to clarify the basis for non-inclusion.

We so advise.


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I. St. Jude Alder
for the Attorney General

¹⁷ The Report, page 7 paragraph 26.

¹⁸ See the Annex 6 Resolution, paragraph 1.

¹⁹ See sub-paragraph 4(c) of the proposed Annex 6 Resolution and the Report, page 8, at paragraph 31.

²⁰ See the Report, page 7, at paragraph 26