

UTAS PUBLIC INTEREST INTERNATIONAL LAW INITIATIVE

Participation in UN Climate Change Negotiations

Bonn, Germany



OVERVIEW

- PIIII background, objectives and achievements in 2016
- Participation in 2017 UN Climate Conference in Bonn
- Public participation and conflicts of interest
- Tracking negotiations
- Supporting international initiatives
- Assisting developing countries



BACKGROUND

- Paris Climate Conference 2015
- Inter-sessional meetings – Bonn 2016
- Marrakech Climate Conference 2016



OBJECTIVES

- Advance the practice of international law in the public interest
- Provide students with opportunities in international law and policy
- Support poor and vulnerable countries and groups with pro-bono advice
- Further strengthen the UTAS Law School's international profile and appeal



MEDIA COVERAGE OF INITIATIVE IN 2016

Poor countries must find \$4tn by 2030 to avert catastrophe, says climate study

As Paris climate change agreement is signed in New York, developing country negotiators highlight gulf between ambition and funding



Environmental activists form a human chain to make the peace sign and spell out '100% renewable' at last year's UN climate change talks in Paris. Photograph: Michel Euler/AP

Developing countries must raise more than \$4tn (£2,456bn), or roughly the entire annual budget of the US, to implement their climate change pledges by 2030, according to new research.

But much more money will have to be found by the world's poorest countries to reach global temperatures enough to avoid catastrophic climate change, say [British and Australian researchers](#) who have analysed the financial implications of the [pledges made to the UN last December](#) and the money so far offered by rich countries.



The University of Tasmania law students who calculated the cost of the Paris climate deal are Brook Dambacher, centre, Camilla More, left, Ashleigh McCoach, Lauren Hargrave, Isabelle Patch and Aelish White. Picture: SAM ROSEWARNE

Tasmania

University of Tasmania law students put \$4 trillion price tag on climate deal

DAVID BENIUK, Sunday Tasmanian
June 5, 2016 12:00am

A GROUP of University of Tasmania law students is gaining international attention after calculating the Paris climate change agreement will cost developing countries more than \$4 trillion.

UN CLIMATE CHANGE CONFERENCE, BONN 2017



Generously supported by a scholarship of \$3000 provided by the Faculty of Law, Law School Alumni, and an NGO staffed by UTAS alumni supporting the initiative

PUBLIC PARTICIPATION & CONFLICTS OF INTEREST

- PIIIL students summarised submissions
- PIIIL students reviewed national and international law precedents
- Attendance at UN workshop and negotiations



OPPORTUNITIES TO ENHANCE ENGAGEMENT OF NON-PARTY STAKEHOLDERS IN THE UNFCCC PROCESS

SUMMARY OF SUBMISSIONS

KEY TAKEAWAYS

- There is substantial agreement on the importance of enhancing participation in the UNFCCC process.
- There is support and strong arguments in some quarters for adoption of a definition and policy on conflict of interest within the UNFCCC; with business groups most likely to have conflicts being those most likely to oppose rules governing them.

The Subsidiary Body for Implementation invited Parties, observer organizations and interested United Nations agencies to submit their views on opportunities to further enhance the effective engagement of non-Party stakeholders with a view to strengthening the implementation of the provisions of decision 1/CP.21. This document summarizes these submissions and offers analysis on areas of convergence and divergence on the topic.

In general, the submissions push for greater non-Party stakeholder engagement. However, some also recognise that actors can have conflicts of interest that undermine the public policy goals enshrined in the United Nations Framework Convention on Climate Change (UNFCCC).

There is consensus amongst the Business and Industry non-government organizations (BINGOs) that the opportunities for business and other non-Party stakeholders to participate in the UNFCCC should be 'broadened and enhanced'. These organizations, which are specifically sympathetic to the private sector, argue that participation of such groups is necessary because they are key actors to the swift and successful implementation of the Paris Agreement.

The BINGO groups oppose conflict of interest policy, because such a policy may threaten their involvement and decrease opportunities for business participation in the UNFCCC process. Arguments put forward by BINGO groups set out that 'to exclude any non-Party stakeholders from participating in the UNFCCC processes on the basis of 'perceived conflict of interest' (and such perceptions cannot be uniformly interpreted) is to isolate an important constituency from either voluntarily committing to and delivering emissions reductions and/or hampering their comparative understanding and facilitation of national government commitments.¹ It is also submitted that 'the private sector is a key non-Party stakeholder to the UNFCCC and an important partner in implementing the provisions of decision 1/CP.21'.²

Corporate Accountability International submitted a joint submission along with nine other organizations, which sets out very clear reasons for recommending the UNFCCC adopts a definition and policy on conflicts of interest. It notes that "the UNFCCC currently counts among its admitted observers organizations with the sole purpose of representing the interests of the fossil fuel industry" which, it goes on to say, provides these industry representatives "ample opportunity to push their corporate and profit-driven agenda."³ The submission makes the point that "those entities cannot be expected to also intend to advance the ultimate objectives of the Convention, where it clashes with the source of their profits, i.e., extracting, selling, and burning, fossil fuels."⁴ The submissions of the Women and Gender Constituency (WGC) and the Citizens Climate Education organization (CCE) take a similar stance.

Policy	Country	Date established	Date came into effect	Issuing Body	Quick summary of issuing body (is it a public or private institution, what sector is it, and what is the body's mandate or mission?)	To whom it applies	Binding or Voluntary?	How is a conflict of interest defined?	How is a Col regulated? monitored? what are the consequences if there is Col?
Praemium	Australia	28 January 2009	Unknown	Praemium	"Praemium is a Australian established, market-leading provider of investment platforms, investment management, portfolio administration and CRM solutions with offices in Australia, the UK, Jersey, Armenia and Hong Kong."	Applies to executive and non-executive directors and staff members of the Praemium Group of companies. It is limited to Praemium Limited (Australia) and each of its Australian incorporated subsidiaries.	Binding	2. "A conflict of interest arises when a director or stall member has two or more competing interests."	9. "A breach of this policy failure to disclose an interest duty, subject to the circumstances surrounding breach and the nature of the interest and conflict, may result in termination of the director or employment, whichever be the case."
WWF Australia	Australia	15 August 2012	15 August 2012	WWF Australia	"WWF has been a leading voice for nature for more than half a century, working in 100 countries in six continents with the help of over five million supporters. WWF partners with government, businesses, communities and individuals to address a range of pressing environmental issues."	Board members and staff at all WWF Australia workplaces	Binding	6. "There is a potential conflict in any situation in which questions might be raised about whether a decision was made solely for the benefit of WF and to advance the cause of conservation, or whether there were competing concerns, most notably to gain favour for an individual associated with WWF, her or his family, or organisations related to such persons."	8. "Failure to notify WWF of potential conflict of interest result in disciplinary action which may ultimately jeopardise continued employment."
Australian Research Council	Australia	December 2014	Unknown	Australian Research Council	"Australian Government Commonwealth entity whose mission is to deliver policy and programs that advance Australian research and innovation globally and benefit the community."	1.1. "Applies to all individuals involved in the full scope of ARC business including, but not limited to, committee members, reviewers, researchers, ARC Chief Executive Officer, ARC employees and contractors."	Binding	2.1.1. "A conflict of interest is a situation in which someone in a position of trust has competing professional or private interests. such competing interests could make it difficult for an individual to fulfil his/her duties impartially, and could improperly influence the performance of their official duties and responsibilities."	2.3.10. "ARC committee members who fail to follow proper process in the disclosure and management of conflict of interest may be in breach of their fiduciary duty. This will lead to termination of appointment, and may result in the ARC seeking legal redress for breach of that duty."

MEDIA COVERAGE - NEW YORK TIMES

CLIMATE

'Vulnerable Voices' Lash Out as Companies Sway Climate Talks

By HIROKO TABUCHI MAY 16, 2017

CLIMATE | 'Vulnerable Voices' Lash Out as Companies Sway Climate Talks

SUBSCRIBE



Workers from Wuhan Guangsheng Photovoltaic installed solar panels on the roof of a building in Wuhan, China, last month. China has become a defender of an ambitious climate change policy.
Kevin Frayer/Getty Images

But there may be more to American companies' support of the Paris process than meets the eye.

American corporations have a strong, self-serving motive for urging the United States not to withdraw, said Tamar Lawrence-Samuel, policy director at [Corporate Accountability International](#), which campaigns against corporate influence in public policy.

"It makes complete sense to be at the policy making table than to be on the outside," Ms. Lawrence-Samuel said. "For years, these talks have been overrun by the very industries at the very heart of the problem."

CLOSING PLENARY PRESENTATION

- Invited to deliver an intervention at the SBI Closing Plenary on behalf of Environmental NGO Constituency



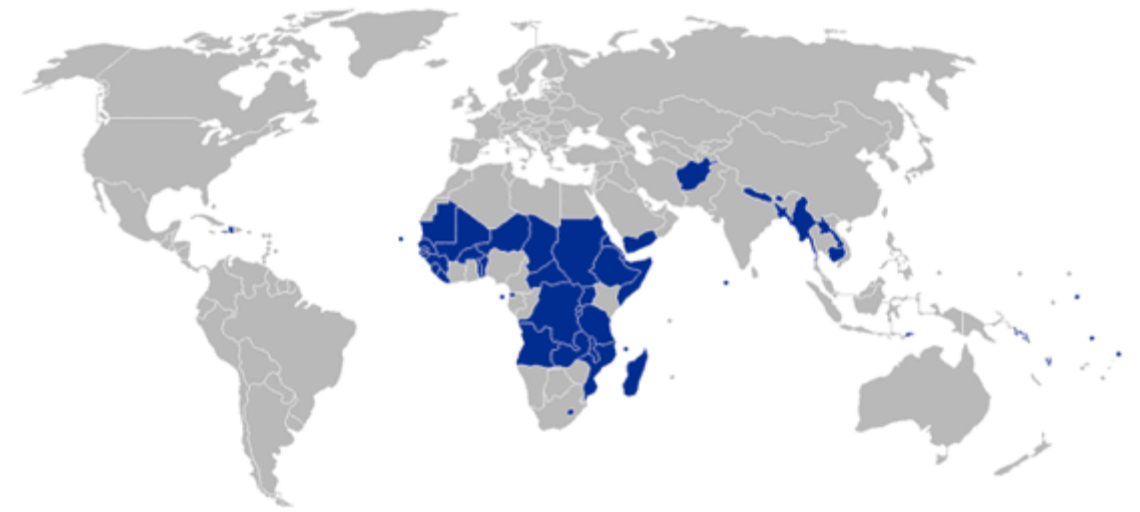
ASSISTING THE AFRICAN ADAPTATION INITIATIVE

	A	B	C	D	E
1	COUNTRY	SUB-REGIONS	SUMMARY	FINANCE	LINK
23	Ghana	West Africa	Ghana's INDC outlines the long-term goal of Ghana's adaptation to be to increase climate resilience and decrease vulnerability for enhanced sustainable development. It sets out Ghana's priority adaptation policy actions to be implemented: building agriculture resilience; sustainable forest resource management; resilient infrastructure planning; early warning and disaster prevention; managing climate-induced health risk; integrated water resources management; and resilience building for gender and the vulnerable. It details Ghana's adaptation policy actions in Annex 2. It also outlines both the finance, technology and capacity needs of Ghana to fully implement the INDC.	USD 12.79 billion will be required for adaptation. Ghana will mobilize USD 4.21 billion (34%) at the national level and the remaining USD 8.29 billion is the international contribution Ghana seeks in order to meet the cost of implementing its adaptation actions.	http://www4.unfccc.int/Submissions/INDC/Published%20Documents/Ghana/1/GH_INDC_2392015.pdf
24	Guinea	West Africa	Guinea's INDC introduces the background and national context of Guinea. Noting that it bears no historic responsibility for climate change, it provides details of a number of adaptation commitments it will undertake in order to deal with the local consequences of climate change. These include: preserving the quality and quantity of water resources; protecting, conserving and managing ecosystems, reviving economic activities and boosting the resilience of communities in its coastal zone; and supporting the adaptation efforts of rural communities. It also identifies four main barriers to meeting these adaptation needs: the cost of adaptation; gaps in terms of reliable climate data and data relating to natural resource management; inadequate integration of adaptation dimension in development planning; and the obsolescence of, and failure to comply with, spatial planning schemes. It references equity and ambition, and details Guinea's process of planning, implementing and monitoring the INDC. Finally, it details the means of implementation Guinea plans to employ including capacity building and finance.	Funding needs for adaptation (in addition to development funding needs) are estimated at between US\$670 million and US\$1700 million.	http://www4.unfccc.int/submissions/indc/Submission%20Pages/submissions.aspx
24	Guinea-Bissau	West Africa	Guinea-Bissau's INDC begins by providing its national context. It notes adaptation and risk reduction as priorities, adding that the implementation of such measures requires financial resources, access to technology and capacity building, to be provided by external partners. In addressing adaptation, it provides a summary of trends of climate change impacts and vulnerabilities before outlining short and long-term adaptations, objectives and goals. These initiatives aim to increase food security, reduce pressure on forest and fishery resources, and improve access to safe water. It highlights the need to involve all sectors of the national economy within these initiatives and outlines human capacities, skills and finance as specific barriers to adaptation.		http://www4.unfccc.int/Submissions/INDC/Published%20Documents/Guinea%20Bissau/1/GUINEA-BISSAU_INDC_Version%20to%20the%20UNFCCC%20(eng).pdf
25	Kenya	Eastern Africa	Kenya's INDC begins by introducing its national circumstances. It notes that as a minimal contributor to global GHG emissions, Kenya places significant priority on adapting to the effects of climate change. It provides that Kenya will ensure enhanced resilience to climate change by mainstreaming climate change adaptation into its medium term plans and implementing adaptation actions. It provides priority adaptation actions based on risk and vulnerability assessment.	It is estimated that over USD 40 billion is required for mitigation and adaptation actions across sectors up to 2030.	http://www4.unfccc.int/Submissions/INDC/Published%20Documents/Kenya/1/Kenya_INDC_20150723.pdf

Africa Adaptation Initiative



SUPPORTING LDC GROUP



BACKSTOPPING AFRICAN NEGOTIATORS

Ad-hoc Working Group on the Paris Agreement

Third part of the first session, Bonn, 8-18 May 2016

Agenda item 7 – Modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance referred to in Article 15.2 of the Paris Agreement

Informal Note by the Co-Facilitators – First iteration

Ad-hoc Working Group on the Paris Agreement (APA)

Second part of the first session, Marrakech, 7-14 November 2016

Agenda item 7 – Modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance referred to in Article 15.2 of the Paris Agreement

Informal Note by the Co-Facilitators

14 November 2016@10:00

Submission by the Republic of Mali on behalf of the African Group of Negotiators on the modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance referred to in Article 15 paragraph 2 of the Paris Agreement

30 March 2017

15 May 2017

Differences between the informal notes on Agenda Item 7 from Marrakech, 2016 and Bonn, 2017.

Relevant Links:

Bonn informal note 2017:

http://unfccc.int/files/bodies/apa/application/pdf/apa_item7_informalnote_first_iteration_15may2017@1030_0000003.pdf

Marrakech informal note 2016:

http://unfccc.int/files/bodies/apa/application/pdf/apa_item_7_informal_note.pdf

African Group submission:

http://www4.unfccc.int/Submissions/Lists/QSPSubmissionUpload/586_325_131357732536359607-AGN%20Submission%20APA%20Agenda%20Item%207%20on%204%20Apr%202017.pdf

In the first informal note the co-facilitators have made an informal summary of the discussions, with the annex "Possible elements that may be considered for the modalities and procedures for the effective operation of the committee to facilitate implementation and promote compliance referred to in Article 15.2 of the Paris Agreement". In the new note, this annex is made a part of the informal note, and far more detail is provided, part of which came from the informal summary of the first informal note.

Purpose and Nature

The main points of the purpose and nature of the mechanism to facilitate implementation and promote compliance were highlighted in both informal notes. However, the newest one went into detail. It stated that the purpose is to facilitate implementation and promote compliance, and details that this thereby means that it should:

- enhance legitimacy, effectiveness and durability of the agreement
- enhance credibility, confidence, consistency and effectiveness of actions, and trust among parties
- complement and enhance review function and other processes and mechanisms.

The new informal note also states that the mechanism should pay particular attention to the respective national capabilities and circumstances of parties, which is in line with the African Group's submission.

Structure

Additions:

- There will be 12 members on the committee
- For membership, there should be due regard to member's expertise and equitable geographic representation as well as gender balance

TRACKING THE GLOBAL STOCKTAKE NEGOTIATIONS

- Paris Agreement's review mechanism: the “Global Stocktake”
- Provided support to reporting by the Third World Network



ANALYSIS FOR LDCS ON TRANSPARENCY NEGOTIATIONS

Ad-hoc Working Group on the Paris Agreement (APA)

Third part of the first session, Bonn, 8-18 May 2017

Agenda item 5 – Modalities, procedures and guidelines for the transparency framework for action and support referred to in Article 13 of the Paris Agreement

Informal Note by the Co-Facilitators - First iteration

Reflections of the Co-Facilitators on the discussion in the informal consultations

Note: This informal note is our attempt to informally capture views expressed by Parties, including in their submissions. The content of the note is not exhaustive and neither represents agreed views, ideas or text nor attempts to draw any conclusions on possible areas of convergence or divergence. The note has been prepared under our own responsibility and thus has no formal status. We also recognize that nothing is final until all the MPGs are final, and that nothing in this informal note prejudices Parties' views on the final outcome of the MPGs.

I. Overview of the informal consultations on this item

1. During the third part of the first session of the Ad-hoc Working Group (1.3) at SB46 (May 2017), Parties continued the consideration of this agenda item.
2. The Co-facilitators, under their own responsibility and guidance of the Chair, discussed the item.

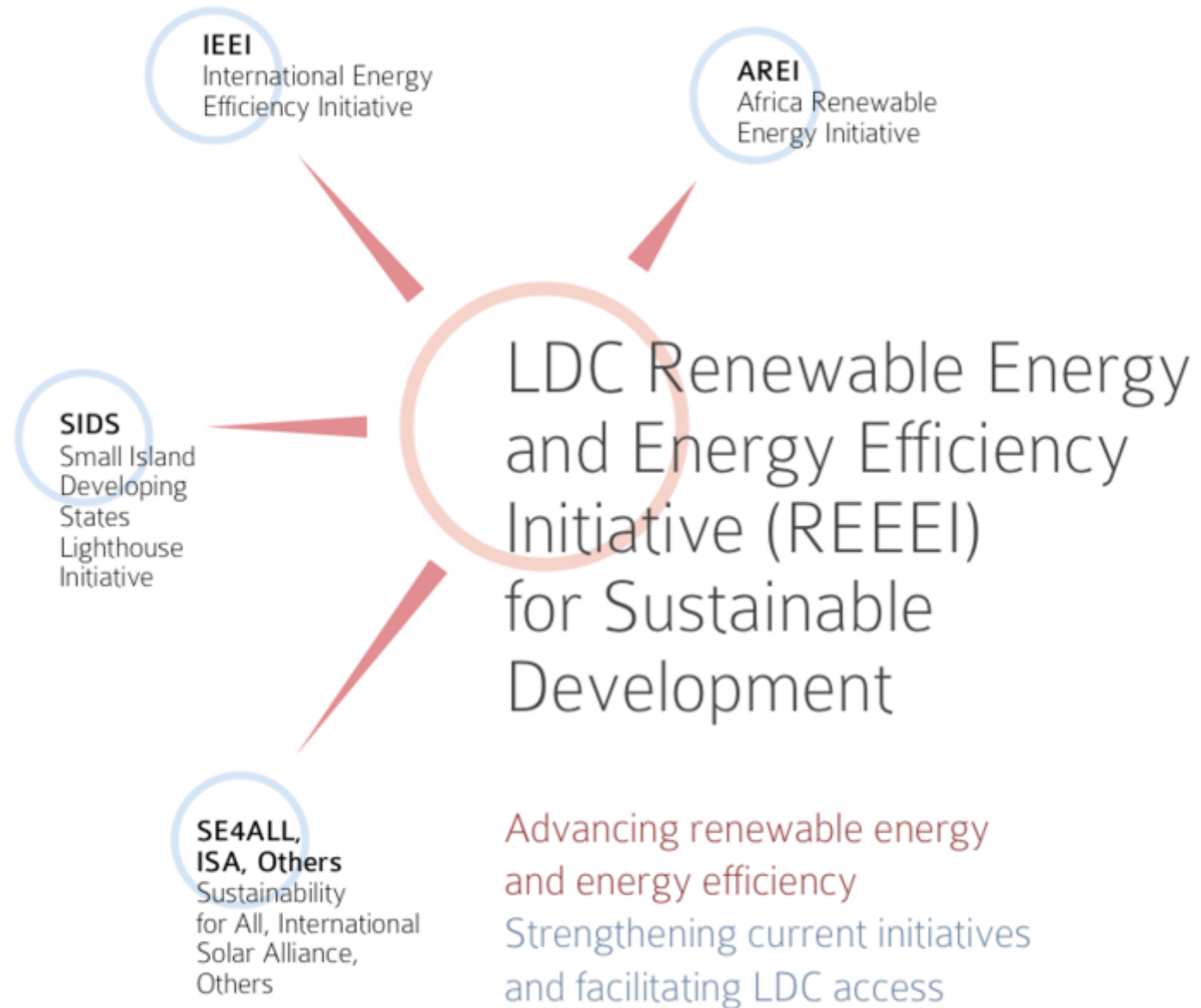
specific elements that may apply to (4) - (9), as appropriate:

- recipient,
- objectives and descriptive information,
- amount,
- sector,
- type of support,
- **expected timeframe of support provided**
- status,
- financial instrument,
- funding source,
- allocation channel,
- implementing institution,
- proof of how this support is new and additional; information pursuant to Article 9.5;
- criteria used to determine priority recipients;
- enabling policies to promote technology development and transfer;
- **enabling policies to promote finance**
- **enabling policies to promote capacity building**
- information on how developing country Parties' needs are taken into account
- **information to ensure no double counting**

specific elements that may apply to one or all of (4) - (11):

- name and/or description of need;
- amount of support needed;
- type of support needed;
- expected timeframe of support needed;
- funding country or channel of support received;
- type of support received;
- objective and descriptive information on supported actions;
- instrument of support received;
- domestic implementing institutions of support received;
- **status of support received and status of action;**
- support gaps,
- use,
- impact and estimated results thereof of support received;
- sharing of experiences and lessons learned in tracking support;
- progress made on implementing capacity-building plans,
- policies,
- actions or measures;
- **information to ensure no double counting**

RESEARCH TO SUPPORT LDC CLEAN ENERGY INITIATIVE



REVIEW OF LDC CONTRIBUTIONS ON RENEWABLES



EXPLORING BONN



SUMMARY

- 5 students have travelled internationally; 11 involved in PIII program
- UTAS law students have attended 4 UN climate change meetings
- Research and analysis undertaken has covered:
 - Mandates under the Paris Agreement
 - Climate finance
 - Conflicts of interest policies
 - Negotiations of the 'rule book' to implement the Paris Agreement
 - Clean energy and climate change adaptation initiatives
- Assisted negotiating groups representing over 68 countries
- Building connections between UTAS and overseas universities, and strengthening the Law School's international profile
- Planning work on International Criminal Law, semester 2 2017
- Exploring opportunities in trade law and fisheries

THANK YOU

2016/2017 PIIL participants:

- Aelish White
- Alice van Galen
- Ashleigh McCoach
- Brook Dambacher
- Camilla More
- Frances Medlock
- Gabby McDonald
- Heidi White
- Isabelle Patch
- Kate Raffety
- Lauren Hargrave

