



ecbi policy brief

Bangkok Reports of the ecbi/IIED Supported Negotiators from Vulnerable Developing Countries

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The **International Institute for Environment and Development (IIED)** is a global leader in sustainable development. As an independent international research organisation, IIED is a specialists in linking local to global. Working in collaboration with partner organisations and individuals in developing countries IIED climate change group has been leading the field on adaptation to climate change issues.



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Adaptation

The 7th session of the AD HOC Working Group on Long-term Cooperative Action under the Convention, Bangkok, 28 September to 9 October 2009

By: Sumaya Ahmed Zakieldeen

The Seventh session of the AD HOC Working Group on Long-term Cooperative Action (AWG-LCA)

From 28 September to 9 October 2009, the *Ad Hoc* Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) held a formal consultation session in Bangkok, Thailand, as part of ongoing negotiations under the United Nations Framework Convention on Climate Change. The negotiations are scheduled to conclude at the fifteenth session of the Conference of the Parties (COP 15) to be held in Copenhagen, Denmark, in December 2009.

Background :

In Bali, Parties had taken the critical step of launching a comprehensive process to enable the full, effective and sustained implementation of the Convention through long-term cooperative action, now, up to and beyond 2012, in order to reach an agreed outcome and adopt a decision at the fifteenth session of the Conference of Parties (COP) in 2009. Through the Bali Action Plan Parties had identified five main areas and elements these were:

- a shared vision for long-term cooperative action;
- enhanced national/international action on mitigation of climate change;
- enhanced action on adaptation;
- enhanced action on technology development and transfer;
- and enhanced action on the provision of financial resources and investment.

Adaptation similar to other elements of the AWG-LCA negotiating text was formulated after series of AWG-LCA sessions, up to date seven sessions were held. From the first to the fourth session parties were exchanging views in order to improve their understanding regarding the different elements of the LCA. The Chair of the AWG-LCA was mandated during the third session (Accra, 21 to 27 August 2008) to prepare under his own responsibility, a document assembling the ideas and proposals presented by Parties on the elements contained in paragraph

1 of the Bali Action Plan, taking into account the ideas and proposals presented by accredited observer organizations. During the fifth session (Bonn, 29 March to 8 April 2009) the AWG-LCA Chair presented his text and Parties were allowed to edit/insert/oppose any part of the negotiating text.

AWG-LCA 6 concentrated on developing negotiating text, using a Chair's draft (FCCC/AWGLCA/2009/8). During the session, parties clarified and developed their proposals and the main outcome was a revised negotiating text referred to as **INF.1: FCCC/AWGLCA/2009/INF.1**, which was a very long document (200 pages) and covers all the main elements of the Bali Action Plan

The informal AWG-LCA that was held in Bonn (from 10-14 August 2009), the focus was on how to proceed with the revised negotiating text (FCCC/AWGLCA/2009/INF.1). After a week of consultations, the AWG-LCA began to produce reading guides, tables, matrices and non-papers. At the end of the informal session the Co-facilitators for the different elements of the LCA were mandated to consolidate the LCA text, aimed at making the negotiating text more manageable. The product of consolidation was a document called **INF.2: FCCC/AWGLCA/2009/INF.2**.

During the last session AWG-LCA 7 the parties were looking forward for a substantially shorter negotiating text that concentrates negotiations and have all the elements for satisfactory agreement in Copenhagen. They were also hoping to enter into the full negotiation mode.

The main documents for the session include:

- 1) the revised negotiating text resulting from AWG-LCA 6 (FCCC/AWGLCA/2009/INF.1), and
- 2) the reordered and consolidated version of the negotiating text prepared by the co-facilitators as mandated by the end of the informal meeting that was held in Bonn, Germany, in August (FCCC/AWGLCA/2009/INF.2)

The different Groups and parties agreed to accept INF.2 as a base for discussion. Contact Groups were formed for the different elements of the AWG-LCA.

Adaptation

The Adaptation contact was co-chaired by William Kojo Agyemang-Bonsu (Ghana) and Thomas Kolly (Switzerland). The Groups and Parties accepted to engage in reviewing the adaptation text's structure in order to streamlining it; and then engage in textual negotiations afterwards.

First Reading

Parties agreed to do a first reading for adaptation text in INF.2 document however there was a discussion over where to start. While developing countries believe institutional arrangements and means of implementation are the most important parts, the developed countries argued that adaptation actions need to be identified first before talking about the means of implementations needed for them. Eventually that didn't constitute a major problem as Parties agreed to do a whole reading for identifying further areas for streamlining. Beside streamlining developing countries stated that gaps must be covered.

(a) Means of Implementations

During the first reading on means of implementations the developing countries highlighted the following:

- financing for adaptation is commitment
- Scale up finance must be provided for developing countries
- There should be no delays for adaptation action that are country driven
- Consideration of project life cycle from planning to implementation
- Provision of full cost for short, medium and long term adaptation activities
- Incremental cost must be provided by developed countries
- Financing for means of implementation must be clearly distinct from that of mitigation
- Public financing should be the base and must be accessible
- Fund for adaptation has to be public, under COP, and insure that needs of developing countries must coherently supported
- Need for mechanism of compliance
- Funding for adaptation should not be subject to conditionalities
- Preference of % of GDP from Developed Countries rather specifying specific amounts to be allocated

The USA suggested moving text of relevance to finance section but the Group of G77 and China insisted that key messages on adaptation finance should not be lost.

LDCs highlighted the following:

- Need for massive scaling up of finance
- Grant no loan base
- Want to go beyond NAPAs

- LDCs fund must be continuous and not conditional
- Reference to art. 4.9, emphasising that LDCs, Africa and SIDS are the most affected
- Activities relating to migration and displacement due to climate-related events should be emphasized
- Funding shall be equal to 1.5% of developed countries' GDP.
- focus on actions rather than processes

(b) Institutional arrangements

On Institutional arrangements the developing countries reiterates the following:

- language should reflect a fulfilment of the commitments of developed countries rather than contributions
- Avoidance of creation of bureaucratic institutions
- Arrangements that make adaptation funds more accessible
- Expedited direct access process for fund

In addition to that the LDCS called for the following:

- Importance of national, regional and international adaptation centres, but with clear differentiation in their roles (The African Group also called for clear distinction between national and regional centres)
- avoidance of burdensome mechanism for MRV of adaptation activities,
- MRVs should only be only for finance from Developed countries
- Adaptation fund should be under the convention

The developed countries (EU, US) suggested consolidation and addressing of issues related to institutional arrangements in clusters

AWG-LCA Plenary:

A stocktaking Plenary of AWG-LCA was held at the end of the first week of Bangkok in order to review the progress been made. Many developing countries asked Annex I countries to demonstrate political will to fulfil their obligations. They stressed the need for a party-driven

and fully transparent process, and for sticking to the clear mandate in the BAP, warning that deviation would mean failure in Copenhagen. Developing countries underscored that a political declaration would not be an adequate outcome from Copenhagen.

Developed countries on the other hand talked about simple and short political agreement. The EU called for focusing on the core issues such as: emission reductions by developed countries; a machinery to enable NAMAs; a robust reporting system; tools and instruments to enable cost-efficient climate policies; review and compliance; as well as finance, technology and capacity-building support. The Environmental Integrity Group, stressed that the outcome from Bangkok should identify the key issues needed in an agreed outcome in Copenhagen.

Non-Paper

After the first reading (not all the section were covered) the Co-Chairs produced a non-paper reflecting further streamlining of the negotiating text based on Parties suggestions. The non-paper had annexes which included elements such as functions and tasks. The Co-Chair stated that the consideration of means of implementation should be in the context of ongoing work on finance, technology and capacity building in other contact groups. While some parties stated that the text was helpful for highlighting areas of disagreement others described it as a good basis for conveying an action-oriented message

Developing countries welcomed the text however they laminated the following:

- the need to reflect binding commitments by developed countries,
- Need to highlight short-, medium- and long-term actions.
- expressed concerns with conditionalities in the text
- questioned the role of annexes in the organization of the AWG-LCA's negotiating and asked for parts of the annexes to be integrated into the main body
- On implementation part, expressed concerns about focus on planning, many paragraphs were about how planning could be done, followed by review
- Reference to finance, technology transfer and capacity building need to be retain in this section

The LDCS agreed on almost all the issues raised by the developing countries (G77 and African Groups) and added the following:

- underscore that priority should be on implementation rather than pilot activities
- proposed a reference to the LDCs in the text

The African Group asked for clear reference to definition for who is particularly vulnerable.

On the other hand the developed countries stated that adaptation is for all parties however, they noted that the text did not contain actions that all parties can take to address adaptation. They also insisted that focus should be on contents rather than handling of words.

On the structure and organisation of the text Parties spent considerable amount of time suggesting movement of some text from one section to another, the co-Chairs took note of that and promised to reflect it with all the other suggestion in the new non-paper.

Based on the non-paper the parties discussed all the sections of adaptation in both **formal** and **informal** settings as follow:

(a) Objectives, Scope and Guiding Principles

The developing countries emphasized that adaptation actions in their countries must be supported by developed countries in accordance with their obligations under the Convention. They stated that adaptation actions should be based on principles of convention and Bali Action Plan (particularly common but differentiated responsibilities). One of the most important principle that was highlighted was country divineness. The most vulnerable Groups stated that the objectives should be to address the urgent and immediate needs of developing countries especially SIDS, LDCs, and African countries.

The developed countries on the other hand underscored that this section should be an over arching objective of enhancing adaptation and that its contents will shape work on adaptation. They highlighted that the focus should be on the most vulnerable developing countries (particularly LDCs and SIDS) and opposed language on impacts of response measures and historical emissions. They stated that integration of adaptation into national planning and policies is a critical element. While acknowledging that adaptation is an additional burden on developing countries, they emphasised concerns against creation of an adaptation sector. They insisted that integration of adaptation into development is critical for implementing adaptation on ground

There was lengthy debate on what was meant by country driven, developing countries argued that it means they should decide what they want to do on adaptation using developed countries support

(b) Institutional arrangement

The developing countries stated the following:

- Implementation of adaptation action require Institutional arrangement
- There is urgency to have institutions that focus on adaption actions.
- There should be equitable and geographical representation, that must reflect LDCs and SIDs and not only UN regions.
- Need to establish institutions and to strengthen equally the national existing ones
- Adaptation action is country driven accordingly there is a need to see the role of convention at international level reflected into technology transfer and finance.
- Need for regional centre that share the knowledge and focus on implementation of adaptation action, regional adaptation projects/ programmes.

The LDCs emphasised that institutional arrangement is very important for them as they lack capacities and they need them to help building the capacities. They indicated that institutional arrangement should be guided by *conscious* and good will. They should be guided by the conference of the parties and should have fair representation of LDCs and SIDs.

The developed countries highlighted that there is need to understand the needs and function before deciding the institutional arrangement not the other way around. And that if all these institutions are established that will be burden for Convention budget. They question how new institutions are going to relate to existing ones. Canada suggested the evolution of the LEG into adaptation advisory panel.

(c) Monitoring and Reviewing:

Developing countries expressed frustration regarding the lack of delivery with regard to implementation. The rationale of the monitoring and reviewing is to assess the delivery of the support/financial resources. They stated that the text must focus on convention articles (4.3, 4.4, 4.5) and principles. They also stated that developed countries should use existing reporting mechanism such as national compliance and that financial reporting must be regular

Developed countries stated that monitoring and reviewing are important and essential elements to any framework on adaptation. In order identify good practices and where are the gapes. However they believe that monitoring and reviewing should not be limited just to finance and support but also to progress made on ground. All countries should monitor adaption action and support and that the COP should use that to suggest further action needed. Developing countries responded to that by saying developed countries reporting is a commitments under the Convention. However reporting for adaption is not mandatory under the Convention. They also mentioned that they receive very little amount of money regardless of the size of the countries. Article 12.3 stated that Annex I countries should provide detailed information with regard to art. 4.4, 4.5. LDCs stated that their capacities are limited and they don't want monitoring for the small amount of money they receive as that constitutes a burden to them.

(d) Risk reduction and management

The developing countries highlighted many issues:

- Despite of all our effort they will be considerable loss and damage
- Important of risk reduction and management under conditions of limited capabilities facing extreme climate changes
- Need for financial and institutional management for handling risk and enhancing adaptation and they have to be looked after by the international community
- Considerable % of adaptation fund should be allocated to disaster management
- Need to express the need of the developing countries particularly the most vulnerable LDCs, SIDs and Africa.

(f) Monitoring and reviewing

The developed countries stated that t this section addresses one part of the multi-window fund they believe that the focus should be on the what (actions) and leave how (finance) to other group. The EU stated that insurance is very central but not applicable as selection of tools is something for countries to decide. Japan underscore that it is premature to agree to insurance or compensation as it is difficult to differentiate between climate change impacts from weather

impacts. In future to do that there will be need to accumulate data but we don't have that in this section.

Finance of adaptation

The developed countries stated that discussion should be divided into what (actions)? And how (support)? and that the former should be discussed under adaptation while the latter should discuss elsewhere (finance section). They agreed however that finance, technology transfer and new financial arrangement are needed. But they insisted that there should be better utilisation of the existing institutions. Regarding funds developed countries did their best to avoid their responsibilities/commitments and starting talking in their proposed funds about capabilities and contributions of all parties even developing countries *with exception* of LDCs and SIDs.

The developing countries repeatedly underscored that provision of support must be under the COP, they stated that they prefer programmatic rather than project base approach that allow stand alone projects. The LDCs added that from the experience of the NAPA, the question of adequacy of resources is one issue, the other one is accessibility.

Response measures

The response measures remain one of the unresolved issues during Bangkok session, while OPEC countries advocate for it to be retain under adaptation, AOSIS and the developed country Parties (USA, EU) insisted that it could be addressed under 1b (vi). Response Measure was reflected in the non-paper text and that was strongly opposed by AOSIS and developed countries, they reiterates that the text is suppose to address adaptation to the adverse impacts of climate change. However Saudi Arabia insisted that article 4.8 should be retained and underscored its importance for their country.

Recommendation

- There is a need to keep complementary and consistence in issues addressed in adaptation in line with finance and technology and capacity building.
- Call for urgent implementation of adaptation actions for LDCs and SIDs
- There must be caution against attempts to weakening the unity of the developing countries. The most vulnerable have every right to receive attention/special consideration

of the international community. That is their right and if certain developed countries expressed sympathy to them that must not be viewed as favour as they should be doing even more than that

- I believe as LDCs we must be careful with the effort to integrate adaption in development as that is going to dilute financial commitment and weakening opportunities of standalone adaptation project
- Messages regarding money claims are not yet strong enough we might need to coordination on that with other Groups of developing countries
- Latin American Countries led by Colombia are still opposing reference to particularly vulnerable countries however with no alarming influence, however that might still need some bilateral
- LDCs need to speak about their rights in a very strong voice as they are claiming rights given to them by the Convention. I believe that they should not ask developed countries to be guided *by conscious* as that might give the feeling that they are begging for mercy.
- LDCs still need to put more effort on coordination in order to come out with strong positions. LDCs coordinators should always coordinate well with their group as well as with each other on the interlinked issues in Finance, Technology Transfer and adaptation

**Report on the Seventh Session of the AWG-LCA,
Bangkok, Thailand; 28 September to 9 October 2009**

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1. INTRODUCTION

In the run-up to COP 15 to be held in Copenhagen in December 2009, several consultative sessions between signatories to the FCCC have been held this year, the latest being informal consultations in Bonn from 10 to 14 August 2009. At the close of the Bonn meeting, there was little agreement on the: 1) form of the financial mechanism under the FCCC, 2) role and magnitude of public and private funding for adaptation and mitigation actions, and 3) methodology to establish assigned amounts of greenhouse gas emission reductions. The kaleidoscopic set of perspectives, ideas and proposals is contained in the document FCCC/AWGLCA/2009/INF.2 laid before parties meeting for the 7th Session of the AWG-LCA in Bangkok, from 28 September to 9 October 2009.

In many ways, the Climate Summit for Heads of State and Government held at the New York headquarters of the UN on September 22, is a symbolic curtain-raiser for the AWG-LCA and twin-track AWG-KP meetings in Bangkok. Indeed, the UN Secretary-General highlighted the following as critical elements of successful negotiations before and during COP 15 in Copenhagen (Denmark): a climate-resilient, low emissions future; enhanced action to assist the most vulnerable and poorest to adapt to the impacts of climate change; more ambitious action to reduce emissions, significantly scaled-up financial and technological resources and an equitable governance structure.

Echoing the UN Secretary-General and emphasising the high-level support delegates have, the UNFCCC Executive Secretary expressed confidence that delegates would negotiate in good spirit and make some progress in both AWG-LCA and AWG-KP processes. Other eminent speakers at the welcoming ceremony spoke delegates facing of a “race against time,” and urging “commitment to reaching a deal in Copenhagen that includes all the building blocks of the Bali Action Plan (BAP)”.

My participation in discussions/debates aiming to trim down negotiation text to be laid before COP 15 was in the context of adaptation and finance contact groups of the AWG-LCA. Interventions by various parties during these discussions are covered in some detail in section 2 of this report. Under section 3, I reflect on a number of issues in the hope of providing clarity or insights beneficial to LDC negotiators and their allies. Before concluding remarks in section 5, I use section 4 to report on a side event in which IAPAL was presented to a select group of NGOs.

2. ADAPTATION AND FINANCE NEGOTIATIONS

Parties considered Annex II on enhanced action adaptation and its means of implementation, and Annex IV of FCCC/AWGLCA/2009/INF. 2 on enhanced action on the provision of financial resources and investment, in conjunction with explanatory notes contained in FCCC/AWGLCA/2009/INF.2/Add.1 for the purpose of streamlining and consolidating text into intermediate outputs (i.e., non-papers) that facilitate further trimming down of negotiating text. Interventions by parties, sometimes contradictory, regarding the form and substance of text are described and discussed below:

2.1 ADAPTATION

Brazil indicated possibilities of streamlining certain sections of negotiating text. The EU proposed consolidation of some elements under new sections, whilst the G77+China wished to see the consolidation exercise reflecting different timescales. The USA drew parties' attention to the limits of consolidation cautioning against risk of over-consolidation. The G77+China, African Group (Ghana) and EU (Sweden) provided helpful suggestions on streamlining text. Bolivia called for language reflecting a "fulfillment of the commitments of developed countries," as replacement for "contributions." Co-Chair Kolly presented Non-paper # 8 as part of the process of streamlining the negotiating text. He noted that operative text was reflected in the main body and other elements placed in Annexes.¹ He also pointed out that parties' objections on specific contents were not taken into account. Sweden and Brazil questioned the place of annexes in the negotiating text. East Timor asked for partial integration of annexes in main body of text. The Philippines called for adequate reflection of annexes in body of text. AOSIS (Cook Islands) requested bracketing of texts referring to response measures. The Russian Federation

¹ The attention of LDC readers is drawn to the omission of levies on international air travel from list of financial resources spilling over from page 9 to page 10 of Non-paper#8. Readers' attention is also drawn to item (d) which has no obvious correlated from alternative sources of funding listed in Annex IV of FCCC/AWGLCA/2009/INF. 2. For that reason its inclusion needs to be explained. I did not have the opportunity to raise these in Bangkok. The group simply ran out of time.

called for inclusion of economies in transition in the specific parts of the negotiating text. Commenting on “scope and guiding principles” in Co-Chair Kolly’s non-paper, Australia called for language showing that that adaptation will need to be undertaken by all parties. The Philippines suggested that definitions and principles need to be consistent with the FCCC. Tanzania, for African Group, supported by Bangladesh for the LDCs, and Cook Islands for the AOSIS, called for a focus in the streamlined text on actions rather than processes. AOSIS (Barbados and Cook Islands) and the Umbrella Group (USA, Norway) suggest deletion of text referring to ‘response measures’ from Annex II of FCCC/AWGLCA/2009/INF. 2, a suggestion strongly rebutted by OPEC countries (Saudi Arabia, UAE, Algeria).

Objectives, Scope and Guiding Principles

LDCs (Bangladesh) voiced concerns that integration of adaptation into development plans could detract from the value of stand-alone activities and encourage developed countries to sign-off their commitments to adaptation funding. While acknowledging that adaptation is an additional burden on developing countries, the Umbrella Group (USA and Norway) stressed the importance of integrating adaptation into national planning and policies as opposed to the creation of an “adaptation sector.” The G77+China (Maldives) stressed that adaptation actions in developing countries must be supported by developed countries in accordance with their obligations under the FCCC. AOSIS (Cook Islands) noted that the immediate objective of adaptation funding is addressing urgent and immediate needs of developing countries especially SIDS, LDCs, and African countries. China drew attention to different interpretations what constitutes a “country-driven” process. Canada voiced its unambiguous understanding as a process in which national governments take the lead role in identifying and communicating their priorities (to the relevant FCCC bodies), and also in implementing (adaptation) actions.

Implementation of adaptation action

AOSIS (Cook Islands, Tuvalu) called for differentiation between enabling activities and implementation, and LDCs (Tanzania) pointed out that priority should be on implementation rather than pilot activities.

Means of implementation

G77+China (Maldives) supported by LDCs (Bangladesh) called for consideration of life cycle of funding of adaptation activities, highlighting the desirable characteristics of financial

resources (i.e., new, predictable and additional to ODA) mobilised under the financial mechanism. Stressing that funding should be grant-based; LDCs (East Timor, Malawi, Bangladesh) opposed co-financing arrangements for adaptation actions. LDCs (Bangladesh) emphasised that flow of public funds should be scaled up to at least 1.5% of developed countries' GDP. The group also suggested that 70% of adaptation funds should be earmarked for the LDCs, SIDS, and African countries.

[Risk reduction, management and sharing][Risk management and risk reduction strategies, including risk sharing and transfer mechanism such as insurance][Risk reduction and management]

Columbia added that 30% of adaptation funding should be allocated to disaster reduction and preparedness activities.

[Monitoring ...action and support][Monitoringsupported action][Measures.....][Review of progress]

The Maldives advocated for a mechanism that oversees developed countries' compliance with their funding obligations.

2. 2. FINANCE

There was agreement on the need for simple and operational language, but some of the connotations of 'forward-looking language' did not go down well with G77+China which view the idea as a means of sweeping aside all mention of historical responsibility. Parties had different ideas on how to deal with the section on "Principles": G77+China suggested better articulation; Canada suggested refining and maintaining focus on actionable items; Uganda and Columbia suggested replacement with principles in FCCC; the EU suggested deletion of some section and the USA deletion of the whole section. Through designated spokespersons of party groupings, the G77+China (Philippines), LDC (Uganda) and AOSIS (Barbados), as well as individual countries (USA, Japan, Saudi Arabia), suggested amendments relating to the arrangement and length of preambular text of Annex IV of FCCC/AWGLCA/2009/INF. 2. In particular, the USA called for greater emphasis and focus on operational elements of the text. Saudi Arabia called for the elimination of proposals that are at odds with the FCCC. The African

Group (Tanzania) called for differentiation between mitigation and adaptation funding. The EU (Sweden) underscored the need to highlight domestic mobilisation of financial resources, by all countries, to support some domestic actions. The G77+CHINA and OASIS (Barbados) expressed dissatisfaction over language limiting the scope of financial resources to cover costs of mitigation and adaptation actions by developing countries. AOSIS (Barbados) opposed OPEC countries' (Saudi Arabia, Kuwait, Nigeria) request for a reference to response measures.

[Generation][Provision] of financial resources

Canada, Japan, G77+China, EU spoke passionately about the public and private sector sources of funding, without agreeing on a clear for the private sector or its contribution to overall funding requirements. Pointing out international law principles as basis to redress damage caused by climate change damage AOSIS (Barbados) and LDCs (Uganda) concur that funding should come primarily from public sources, be supplemental to ODA and meet developing countries' requirements. Expressing its support to Barbados and Uganda, The Gambia also drew attention to advantages of and classification errors surrounding the international air passenger levy (IAPAL) proposed by the LDC Group.² Switzerland highlighted its country's proposal for a uniform global levy for countries with per capita emissions above 1.5 to 2.0 tonnes of CO₂. Bangladesh informed the meeting about its establishment of a Climate Change Trust Fund with an initial endowment of US\$ 100 million from the government. The USA also informed parties that the US Congress has approved a substantial increase in funding to vulnerable countries. It called on non-Annex II countries with the financial capacity to contribute to global efforts to do the same. Both the USA and Saudi Arabia object to proposals centred on international levies, but for different reasons. Whilst the USA pleads conflict with domestic laws, Saudi Arabia avers that levies would hurt specific economic sectors. The USA cannot participate either in

² Mr. Chairman

I would like to associate the Gambia with statements made by other colleagues to the effect that public treasuries in Annex II countries should provide the bulk of funding for adaptation.

In discussing private sources of funding however, we should be careful not to throw the baby out with the bathwater. Whilst acknowledging the erratic and unpredictable behaviour of commodity markets, there is nothing stopping us from focusing our attention on private sources capable of providing **predictable** and substantial amounts as complementary sources of funding for adaptation.

In this regard, I want to draw your attention to paragraph 16, Option 5 (p.135). As the text stands, Alternative 1 and its variant Alternative 2 (adaptation funding only) are not comparable to Alternative 3 (adaptation and mitigation funding) which should be treated separately. Notice that Alternatives 1 and 2 (a kind of solidarity levy) target individuals/households based on ability to pay, whereas Alternative 3 (a bunker fuel levy) targets firms/businesses within the same economic sector. Why can't we have both instead of being forced to make a choice? I think that all new, additional, sustainable and predictable resource streams are valuable.

auctioning of AAUs (Norway's Proposal) because it is not a party to the Kyoto Protocol. The G77+China (Philippines) observed that funding outside the FCCC does not fulfill developed countries' commitments under the FCCC. AOSIS (Antigua and Barbuda) voiced concern that many of the proposals for generating/providing financial resources did not reflect the idea of commitments and obligations. Antigua and Barbuda, supported by the Philippines, argued that ODA should not be mixed with meeting developed country obligations. G77+ China (Philippines) expressed great concern that developed countries might divert traditional ODA resources to climate change-related activities at the expense of other development activities. India observed that ODA financing is discretionary while climate change finance should be assessed based on clear acknowledgement of historical responsibility. Japan cautioned against excluding ODA from resources the flow calculus. In the same vein, Canada characterized ODA as no more than a technical accounting concept. New Zealand argued the sense in maximizing resources from bilateral, regional and other multilateral channels, rather than shutting them out. India pointed out adaptation costs in the range of US\$75 - 100 billion per year is probably underestimates actual costs, but could be used as a starting point for the discussion on scale of resources required. Adding to this point, The Gambia called for regular updates of adaptation costs by the UNFCCC.³ The Philippines cited a number of statistics on financial resources developed countries were able to mobilize within a short time span to rescue the private sector. Therefore, these countries cannot claim not having enough public money to meet their obligations. AOSIS (Papua New Guinea, Antigua and Barbuda) called for a formalized process to refine estimates of financial resources required at regular intervals. The EU (Sweden) called for a discussion on linkages/relationships between the plethora of options to ensure a coherent system for generation of financial resources.

[Institutional arrangements][Institutional structure]

An unresolved debate between the EU (Sweden), Umbrella Group (USA, Norway), and Environmental Integrity Group (Switzerland) on one side, and the G77+China (India) on the

³ Mr. Chairman,

The Gambia supports Philippines on behalf of G77 and China, Egypt on Africa, Uganda, on behalf of the LDCS. Mr. Chairman, the Gambia would like to point out that the scale of financing is evolutionary in character. A very recent authoritative study (Parry et. al. 2009) suggests that UNFCCC estimates are two to three times lower than real needs. The Gambia believes therefore that what is required is to leave the scope open and the UNFCCC to carry out/commission regular studies/assessments to inform assessed contributions over specific time horizons.

other, is whether ‘defining’ and ‘establishing’ a financial mechanism (FCCC Article 11) means the same thing.⁴

Australia advocated for a facilitative platform operated by the UNFCCC Secretariat that matches developing countries’ funding requirements with funding opportunities and enables contributors and recipients to navigate funding arrangements. Argentina described its proposal which aims at establishing dedicated adaptation and mitigation fund under the FCCC, managed by two executive bodies accountable to the COP. Norway requested that its proposal on auctioning AAUs be reflected in the main body of Non-paper #15 and not only as the annex.

Mexico and the G77+China (Philippines) made requests for re-articulation of their respective proposals. Mexico provided further clarification of its proposal highlighting the fact that differentiated contributions, based on a criteria cited in the proposal, would be required from all parties/subscribers. The formula used will ensure that developing countries’ contributions are smaller compared to others, and LDCs would be exempt from making contributions. Mexico also added that participation in its Green Fund does not relieve parties/subscribers of their financial obligations under the FCCC. G77+China indicated that the multi-lateral fund to be established through its proposal provides resources for both mitigation and adaptation activities. G77+China (India, Pakistan, China, South Africa, Venezuela) questioned the merit of the Mexico’s proposed Green Fund which: 1) evades the question of historical responsibility, 2) makes developing countries’ access to funds conditional upon their prior contributions. The USA explained the essentials of its proposal for a global fund for climate, highlighting balanced representation in its governance framework, calling for contributions from all parties except LDCs, and clarifying non-mandatory characteristic of contributions. The USA noted that its proposal envisaged a simple trust fund structure with balanced governance and based on fair operating rules. Pointing out that the FCCC “serves as a floor and not a ceiling” where financial contributions are concerned, the USA argued that the FCCC does not prohibit any country from making voluntary contributions. The Russian Federation agreed that countries should be incentivized to make financial contributions, adding that countries with economies in transition should be eligible for funding under certain conditions. G77+China (Philippines) commented that the USA proposal does not address problems with the current financial mechanism. Bangladesh likened the USA’s

⁴ This apparently trivial issue goes to the heart of the debate on a reformed/new financial architecture.

proposal to the Mexican Proposal under different packaging. The USA clarified that its proposal for a global climate fund envisaged new institutional arrangements and not the creation of a new institution. G77+ China (Philippines) accused developed countries of denying their historical responsibility and their corresponding commitment to provide financial resources and transfer technology. Saudi Arabia concurred by saying some options on sources of funding attempt to renegotiate the FCCC.

The USA expressed its support for the continued operation of the GEF as an operational entity of the financial mechanism, and envisages priority-setting and eligibility criteria to remain with the ambit of the COP. The USA argues in favor of using existing financial institutions that have administrative capacity and fiduciary experience to handle the flow of funds on the scale envisaged. Japan also spoke in favor of strengthening existing financial institutions to maximize effectiveness. Indonesia voiced its indifference to using existing institutions if they are adequately reformed. G77+China (Philippines), LDCs (Uganda), the African Group (Egypt) disagreed citing these institutions' poor track record on service delivery and resistance to reform. G77+China concur with LDCs (Uganda) and African Group (Egypt) on a financial architecture consisting of "one house with multiple windows". Canada agreed on the need to support adaptation in most vulnerable countries and creation of financial architecture that maximizes effectiveness of service delivery. Canada supported using existing institutions, reforming these to the extent possible and exploring new institutional arrangements where gaps exist. AOSIS (Antigua and Barbuda) called strengthening the GEF and for a strong replenishment. AOSIS pointed out that upcoming discussion on replenishment of the GEF are an excellent opportunity to reform the GEF. Switzerland encouraged parties to engage in the GEF replenishment discussions. The Gambia said that the GEF should not operate alongside a new financial mechanism because; given the choice, developed countries would only make contributions to the GEF thereby undermining the new financial mechanism.⁵ Tanzania suggested using the

⁵ Mr Chairman,

Inasmuch as our meeting wants to reach a compromise on institutional arrangements, having the GEF operating side-by-side with a new financial mechanism is likely to undermine this new institution simply because developed country contributors are more likely to go to the GEF. The fact is we cannot have the GEF and a new financial mechanism competing for funds. We have to make a choice between the GEF on the one hand, and other proposals on the other.

As to the GEF, the onus is on parties wishing to maintain it to demonstrate how new rules/measures designed to improve 'effectiveness' really works. Our experience in last 15 years is that financial mechanism operating through the GEF has not worked in developing countries favour.

Adaptation Fund under the Kyoto Protocol as a model to address issues of governance and access. LDCs (Uganda) observed that the on-going debate is about making current institutions more responsive and less expensive for implementation of enhanced action on adaptation. Canada expressed reservations about the idea that “bigger is less costly or more efficient”, and also flagged an (apparent) conflict between country-driven processes and the position of some parties that receive contributions outside the FCCC. India said only funding channeled through the financial mechanism established under the FCCC should count towards the fulfillment of Annex II parties’ financial obligations. Columbia proposed inclusion of a funding window for REDD in the multi-window financial mechanism mentioned by other parties. In the last The USA quickly read through text relating to a ‘matching entity’ that it subsequently submitted to chair for incorporation in negotiating text.

A friend of the Chair reported on constructive informal discussions he had with proponents of different institutional options and the merging consensus that some options can be successfully merged and total number of options reduced from nine to four. Once work on this is completed the result will be conveyed for the chair for consideration and eventual posting on the UNFCCC website.

[Compliance][MRV]

On matters related to compliance, Uganda proposed a two-stage compliance regime; 1) “naming and shaming” defaulters as an initial step, and 2) imposition of penalties for non-compliance with commitments.

The EU said compliance “means more than just penalties”. G77+China cautioned against confusing compliance with MRV. New Zealand and the USA expressed their preference for MRV as the definitive heading for the section on Compliance/MRV, pointing out that compliance is a cross-cutting issue. The USA called for a reference to “mutual accountability” in the text. The Philippines is also to submit new text on the compliance mechanism.

3. ANALYSIS

Country and coalition positions are still far apart on the most important issues: 1) what is most appropriate institutional structure that should receive and disburse financial resources for implementation of adaptation actions, 2) what role should the GEF play in the new dispensation,

3) are all developing countries entitled to funds generated/provided under the financial mechanism.

Several options for an institutional structure have been put forward, and the UNFCCC Secretariat expects to shortly receive proposals of integration/hybridisation of some options from a friend of the Chair on adaptation finance. From an LDC and G77+Cina perspective, COP guidance of newly established or existing entities is not enough. The entity(ies) must be **accountable** to the COP (Article 11.1). The COP must have full oversight and control of operations related to the receipt and disbursement of funds on its behalf. Options featuring entities that do not satisfy/acquiesce to this condition should be eliminated from further consideration. In my point of view, attempts to subject the GEF to the “authority of the COP” are doomed to failure because: 1) the GEF is not established by the FCCC; and 2) the GEF Council answers to other Principals. Furthermore, reform of the GEF has its limits.

In effect, allowing GEF to receive funds raised under the FCCC could allow developed countries to bypass and undermine new entities established by the COP. It has been argued that the GEF has the requisite administrative capacity and fiduciary experience to handle scale of funds. This is true, but it is equally the case that COP’s arrangement with the GEF is an interim not a permanent one. Observe also that GEF’s capacity was not acquired overnight. Under new institutional arrangements in which GEF does not play the role of receiver of funds, it could provide auditing and/or other functions that the COP may wish to assign it. In the *interim*, the GEF should cooperate with the COP in building the capacity of new entities entrusted with the operation of the financial mechanism.

According to the FCCC, all developing countries are entitled to funds generated under the financial mechanism. It is their right to claim or waive their entitlement. Arguments that some developing countries should be contributors rather than recipients of financial resources do not stand up to scrutiny. First, they are legally flawed. Second, developed parties have had every opportunity to replenish the LDC Fund since 2001 but have failed to do so. It is also conveniently forgotten that 2% share of proceeds from the CDM is South-South transfer of funds in which China and India are major contributors.

A careful reading of interventions indicates that parties are holding on to their proposals without bothering to examine or acknowledge the merits of alternative proposals. With the exception of reactions to proposals by other parties, this timid approach to negotiations is ultimately unproductive. When I read through different alternatives however, I realise that addenda to negotiating text, non-papers or the like give no indication of what constitutes decisive criteria (basis for elimination of some options) and other criteria (basis for ranking and selection of remaining options). In the circumstances, parties are more likely to reach agreement as a result of peer-pressure, or through compromise that does not guarantee the selection of best options or alternatives. By equating consensual with unanimous decision,⁶ parties have apparently chosen to complicate their task by handing veto power to individual parties. This is the Achilles heel of the negotiation process.

Japan, New Zealand, and Canada amongst other developed countries argue strongly in favour of link ODA to climate change adaptation. This is fine, but on two conditions. First they should significantly scale up and fulfil their 0.7% GDP pledge,⁷ and second, the COP should agree on a cap to the amount of ODA that can be counted towards developed countries' obligations. The cap on funding would allow developed countries to use ODA for replenishment of climate trust funds such as the one established by Bangladesh and get credits under the FCCC, but the same time prevent them from completely by-passing the entity(ies) created under financial mechanism (FCCC Article 11.5).

The G77+China needs to dedicate time to concerns of the OPEC countries. The coalition needs to constructively engage with these countries instead of ignoring their demands and AOSIS's awkward position of opposing Saudi Arabia's interventions on impact of response measures at every opportunity. True, OPEC countries are vulnerable to adverse impacts of climate change, but this is not their overriding concern as the issue is being championed by others (on their

⁶ Consensus: broad agreement. From Latin *consentire* (to agree)

Unanimous: total agreement. From Latin *unus* (one) + *animus* (mind)

⁷ It is well known that the majority of developed countries have not fulfilled their pledge on ODA, and have not shown any indication of changing the situation for the better. One may wonder what are the prospects of asking developed countries to provide an additional 1.5% of their GDP. And if countries do not comply, how does one ensure they do?

behalf). The Mexican and USA proposals based on core principles such as: “Countries that do not contribute are not entitled to benefits”, and “All countries have common responsibilities towards climate change” are a distraction from the bigger picture. Whilst LDCs are exempt from making contributions under these and other proposals, the group should view this as its ‘right’ and not a ‘gift’ that can be used to drive a wedge between the LDCs and the wider G77+China. Clearly Saudi Arabia bases its judgement on IAPAL’s negative impact on unspecified, presumably tourism sector, on a misconception that a small increase in air fares cause tourists to change destinations or stay at home. The empirical evidence and computational results both prove the contrary. G77+China coordination meetings could be made more effective if a consolidated presentation is made by its coordinators and parties engage in a brainstorming/Q&A exercise to develop, refine and update group strategy.

The USA may not be a party to the KP, but that was and still remains its choice. Therefore, its argument of non-ratification of the KP cannot be an excuse for its inability to participate in the auctioning of AAUs. Because the KP is 'self-executing' under American law, and former President G.W. Bush did not like its ramifications, this was the main reason why President Bush withdrew from the KP, even though other countries were looking up to US leadership. The USA proposal on the financial mechanism is consistent with its overall strategy (See Implementation Agreement) to weaken the FCCC. Quite surprisingly, the EU, an ardent advocate of the KP and leader in the absence of the USA, with other countries are falling into the USA’s sphere of influence.

Developed countries ambivalence towards India and China in particular has more to do with economic and power relations and less to do with climate change, but is unfortunately defining the contours of climate change negotiations. Because China rise as an economic superpower seems inexorable, developed countries want it to take on a greater share of responsibilities now, ignoring that fundamental and inconvenient truth that they have failed to fulfil their own obligations. Legal penalties, not reputational losses are indeed the most important in disciplining and deterring non-compliance (with obligations). How one makes some countries comply, especially P5 members of the UN Security Council, is another matter altogether.

4. SIDE EVENTS

On Sunday October 4, 2009, I was one of the panellists speaking before an audience of NGOs affiliated with the Ecumenical Coalition on Tourism (ECOT), at a side event organised by ECOT.⁸ Other panellists were Manfred Treber of German Watch (Germany) and Bill Hemmings of T&E (Belgium). My contribution at this meeting centred on the IAPAL and its relation to tourism. Speaking from cue cards prepared overnight, I gave the audience an overview of the IAPAL proposal in the FCCC negotiating text, the reasoning behind the proposal, how IAPAL works, and its merits.

The audience learnt that IAPAL is one of several instruments available to the FCCC for financial resources to meet ever increasing costs of adaptation to climate change. Revenues generated from IAPAL are meant to be paid into the Adaptation Fund (AF) established under the Kyoto Protocol to the FCCC. The AF also attracts a share of proceeds from CDM project activities and voluntary contributions from parties to the FCCC. IAPAL takes its inspiration from the French Passenger Levy (FPL), but is distinct in two key elements: 1) IAPAL is mandatory at country level, and 2) IAPAL articulates the link between air travel (pressure), climate change (impact), and adaptation funding (response). Similar to the FPL, IAPAL is mandatory for passengers, who pay prescribed top-up amounts according to their class of travel.⁹

Building on the premise that climate change issues are increasingly becoming issues of survival for people around the globe, we argued that there are different levels of responsibility to address the challenge. On matters related to funding adaptation, governments can and should provide financial resources supplementary to ODA; corporations should shoulder carry burden of repair to (latent) damages caused by their activities; and individuals/households¹⁰ contribute towards repair of damages caused by their consumption patterns.

The audience was also informed that air travel accounts for 52% of international travel, compared to 2% for ship/boat (maritime) travel and 10% for bus/coach travel. It was noted that

⁸ Dr. Saleemul Huq (IIED) who had been originally invited to make a presentation had to travel at short notice and asked me to step in his place.

⁹ IAPAL advocates reason that it is a 'smart' levy, and one so obvious that policy-makers failed to see its relevance before 2006. Taxation in the airline industry is not new thing. Traditionally, taxes embedded in air fares are earmarked to meet costs associated with infrastructure, support services, and partly replenish public treasury. Before the IAPAL and other FCCC proposals related to bunker fuels, environmental costs have not been factored into air fares.

¹⁰ It is assumed that those who can afford to travel by air are not poor according to UN standards. IAPAL is one of many mechanisms of enabling social transfers from those with sufficient means to the most vulnerable and least responsible for adverse impacts of climate change.

the huge difference between air and maritime passenger travel was the main reason behind IAPAL's exclusion of references to maritime transport. People travel by air for many reasons including family reunion, work/business, religious pilgrimage, tourism and holidays, amongst others. Computations based on current level of passengers and differentiated levies for business and economy class travel is expected to generate US\$9 ± 1 billion per annum, sufficient to fund at least 20 % urgent adaptation needs in developing countries. Not only are the financial resources generated new, predictable and substantial, but they are also expected to increase with air travel projected to grow by 5 – 6% over the next decade. Until the situation changes for the better, IAPAL outperforms voluntary contributions to the AF in terms of scale and timeliness and overall contribution towards meeting AF programmatic objectives. IAPAL (embedded in cost of air ticket) is collected by airlines and paid into designated FCCC account at regular periods after deducting their administrative costs. Drop in demand of 0.47 – 0.52% due to the levy compared with 6% growth in air travel shows that IAPAL does not affect commercial viability of travel-related sectors. Indeed, it takes more than a small increase in air fares to deter tourists from travelling. The tourism sector has adequately demonstrated its resilience to health, safety, and security scares, exchange rate fluctuations, and increased taxation.

5. CONCLUDING REMARKS

In order to move negotiations away from its provincial bases, the LDCs as a group and the wider G77+China need to come up with intellectually appealing critiques of proposals they find least appealing. I am the first advocate of international cooperation to address climate change, but do not agree with striking a compromise/any compromise that is ethically flawed during the negotiation process. Climate-change negotiations are not trade negotiations. That message should be sent to the political leaders in developed countries who have indicated they might be attending COP 15. The negotiation process needs constructive engagement of parties who can put aside their narrow self-interests and use informed, independent research, to guide **the** 'problem-solving' exercise on which human survival and civilisation may depend.

Finally, it would be myopic and amnesic to think or let the USA think it can lead the way on the climate change challenge. Essentially, the USA is welcome back into the 'team' but not as its captain, and for good reason. Recent events tell us that the USA may decide to sign on or stay

out of the KP no matter what happens in Copenhagen. Therefore, parties should be circumspect about proposals that may water down any final agreement.

Report on the UNFCCC Negotiations
Held in Bangkok, Thailand from 28 September to 9 October 2009

By: Litsabako Kali

Legal form of the agreed outcome

Introduction:

The current international regime consists of two treaties, namely: The United Nations Framework Convention on Climate Change (UNFCCC) adopted in 1992 which has practically universal membership and the Kyoto Protocol (KP) adopted in 1997. The KP treaty obliges developed states listed in Annex 1 of the UNFCCC to reduce their greenhouse gas emissions by the amount inscribed in Annex B of the Kyoto Protocol. However, it only provides for a first commitment period lasting from 2008 to 2012. Hence, there is an urgent need to establish new rules ensuring further emission reduction after 2012.

The negotiations are very fragmented at the moment, taking place in multiple groups under both the Kyoto Protocol (AWG-KP) and Convention (AWG-LCA).

The focus of this report is on the possible legal form to be agreed to in Copenhagen in December 2009 in compliance with the “Bali Action Plan” adopted by states in 2007 in Bali at the highly dramatic climate conference. The plan predicts reaching an agreement on future international regime against climate change by the end of 2009, at the climate conference in Copenhagen.

The Bali Action Plan does not specify which legal form the regime shall take, but it declares that Parties shall reach an agreed outcome and adopt a decision”. Consequently, the AWG-LCA has neither guidance nor restrictions concerning the legal form of the proposals they shall elaborate. This was a deviation to the “Berlin Mandate” adopted by COP 1 in 1995, which led to the adoption of the Kyoto Protocol. The “Berlin Mandate” contained stronger and more specific language. It is talking about “the adoption of a protocol or another legal instrument”.

The Mandates of the AWGs Regarding the Legal Form

With respect to the scope and the legal form of the outcome to be elaborated, the mandate of the Ad Hoc Working Group under the AWG- KP also leaves some open questions. The COP/MOP decision, which established the AWG-KP only refers to “its work” and “its results”. The mandate do not indicate if and how the work of the AWG-KP and AWG-LCA shall interact. By highlighting the need to ensure the “ comparability of (mitigation) efforts by developed country Parties, the Bali Action Plan only clarifies that the processes of setting reduction targets for Kyoto Parties within the AWG-KP and for Non-Kyoto Parties like United States(US) within the AWG-LCA cannot be conducted completely autonomously. Other linkages have been introduced on the procedural level only. The timelines of the working groups have been aligned, with both bodies being requested to forward the results of its work to the COP and the COP/MOP at the Copenhagen Climate Summit.

Thus, the setting of the post 2012 negotiations and the mandates of the two ad hoc working groups neither prejudice a specific outcome nor preclude an option for the legal form of the post 2012 climate regime. Instead, they leave room for a wide range of alternatives.

Legal Architecture/ form options

There are three options identified for the “agreed outcome”. Now, the task is to assess whether these options are realistic and given reason for trepidation.

The considerations would be on the Legal Architecture options, the pros and cons for different approaches to be adopted and what this could mean and the implications thereafter.

On the issue of the three basic options identified, namely; single Protocol, two protocols and amended Kyoto Protocol and COP decisions, the issue of concern would be what each of them entail. A description of each will be outlined below;

A Single Protocol, it was not clear what this Protocol would include. The open questions for discussion would be:

- How much of Kyoto Protocol survives and what would be the impacts on the carbon market.
- The merging of the Kyoto Protocol as it is and re-adoption of Decisions under KP as is.

- If we talk of only parts of Kyoto Protocol, which parts? Does it mean having to reopen negotiations?

In analysing a Single Protocol, one would say it would produce the following results; more legal certainty, economic efficiency, simplicity; coherent framework for post-2012- regime, for example, between finance and technology provisions; a single set of institutions and procedures applying to all Parties, operational and administrative efficiency; a degree of comparability between all Parties' actions; single entry into force provision; a tough political "sell" to a G77& China nervous about differentiation of commitments among non- Annex 1 Parties; risk of "reopening" technical issues resolved at Marrakech/ a repeat of Marrakech experience; developed countries backtracking from hard commitments, weakening of compliance; need for transition arrangements from KP terminating; late entry into force process- risk of gap after KP first commitment period.

For the *two Protocols*, it was clear that this would involve the amendment of the Kyoto Protocol and Copenhagen Protocol for LCA Outcomes. Currently the negotiating text under the LCA has no reference to Kyoto Protocol, not in mandate and harder to merge the two. The Kyoto Protocol text involve the narrow amendments and lots of CMP Decisions, hence the reason why it is hard to merge the two.

From the two Protocols, it is likely that there would be: short-term benefit- which aligns with current two negotiations tracks; current institutional framework is preserved, with possibility of improving KP; reduces the risk of backtracking from current KP commitments; coherence can be ensured through linkages between the Protocols (political, legal and operational); opportunity for CDM reform; retains or deepens the Annex 1 and non- Annex 1 division; harder to assess comparability of efforts; complex, bigger administrative burden. Need for shared metrics, compliance system; could discourage other countries from adopting legally-binding reduction targets. Now the question would be weather US step up?; how do FlexMex operate under both Protocols?; a separate set of mechanisms for each Protocol? Separate governing bodies?; uncertainty could threaten the emerging carbon market.

The last option would on the *amendment of the Kyoto Protocol and COP Decisions*. In the circumstances, the fall-back option could prove to be the only solution that all Parties can agree on. Therefore, easy for US to accept. The amendment of KP plus COP Decisions would be a method of preserving developing country NAMAs in a non-legally- binding way, it is quicker

and less cumbersome than a Copenhagen treaty negotiation plus KP amendment, could work as a transition to a future broader agreement.

On Architecture/ form

In terms of the overarching design/architecture of the Copenhagen outcome developed countries are **all** proposing a type of “Common Responsibility Framework” (USA terminology), although they have differences between them on issues of detail. The implications of this “Common Responsibility Framework” appears to require the re-interpreting or/and re-writing of the current principles and obligations under the Convention. In general, the structure of this offer and request involves:

An offer from developed countries of extremely low ambition GHG emission reduction targets in the form of bottom-up pledges. In total the pledges add up to a range of approximately 11% to 18% below 1990 levels by 2020 (if you include the USA targets outlined in the Waxman-Markey Bill or 17% to 23% for Kyoto Protocol Annex 1 Parties only). These pledges do not match the levels of ambition required by the science (the IPCC puts forward a range of 25% to 40% below 1990 levels by 2020). This offer rejects the approach put forward by the G77 to use a top-down, objective criteria based approach using the required by science level of ambition as a start point. This offer is made conditionally with a number of requests/demands around what the architecture/form of the Copenhagen outcome and in this context, what developing countries must do, namely:

On the Architecture/form that the Copenhagen outcome must be reflected in a single new legal instrument under the Convention, this condition or request/demand effectively replaces the Kyoto Protocol or makes the Protocol redundant.

The G77 and China are divided on many issues of detail but are fully united in one key aspect, namely, that they reject the idea of a single legally binding outcome in Copenhagen. They insist on maintaining the agreement reached in Bali to have a 2 track outcome, with the continuation of the Kyoto Protocol for legally binding mitigation efforts of developed countries (that have joined Kyoto) and an outcome under the Convention.

Specifically, the Group of 77 and China, maintains that the Convention is the basis for a “Common Framework of Responsibilities” which provides a strong foundation for:

- An inclusive, fair and effective international climate change regime.
- A climate regime which enable the international community to effectively address the imperative to stabilise the climate system while recognising the imperative and right of developing countries to develop, address poverty and food security, and in this context the Convention provides for:
 - The principle of equity, where developed countries, who are most responsible need to “take the lead”.
 - The principle of Common but differentiated responsibilities where all countries act in accordance with their responsibility and respective capability.

As a reflection of these principles in the context of one aspect of the “Common Framework of Responsibilities” outlined in the Convention, namely for Annex 1 Parties “take the lead” in meeting their obligations to mitigate GHG emissions (as outlined in Art. 4.1 of the Convention) through Protocol quantified emission reduction commitments. To achieve this, Parties agreed to the Kyoto where Annex 1 Party emission reduction targets are concretely enumerated and become progressively more ambitious in a step wise fashion from one Commitment Period to the next. This instrument has proved and is proving to be extremely effective in delivering real emission reductions, at lowest cost to Annex 1 Parties through the flexible mechanisms.

The negotiations in the AWG-KP must build on this success by setting up the next steps for Annex 1 Parties, more ambitious quantified emission reduction commitments for the 2nd and subsequent Commitment Periods, which are informed by the most recent IPCC science. In this process the negotiation should improve the efficiency and effectiveness of the mechanisms and rules under the Kyoto Protocol drawing on experience of implementations.

From one’s point of view, the legal nature and binding character of COP decisions is unclear. The US would most likely not be legally bound by an emissions reduction commitment; likely not acceptable to many countries. There is unbalanced outcome: splits commitments across a treaty(KP) and non-treaty level instruments(COP decisions).COP decisions are not legally binding/enforceable. Parties to agree to less ambitious targets than otherwise possible OR some developing countries set more ambitious targets as they are not legally strictly bound. The legal uncertainty, could reduce private sector confidence in carbon markets.

On Political Dynamics

In terms of the emerging political dynamics the EU has significantly shifted its position to incorporate the positions of the USA, Japan, Australia and others in relation to insisting on a single legally binding outcome in Copenhagen. This completely refrains the agreement reached in Bali to have a 2 track outcome, with the continuation of the Kyoto Protocol for legally binding mitigation efforts of developed countries (that have joined Kyoto) and an outcome under the Convention.

The proposals put forward by the developed countries and developing countries differ in all respects. For instance, developing countries want to preserve Kyoto Protocol where they insist on the binding obligations on the Annex 1 Parties only as provided for by the Protocol. There is fear on the part of the developing countries that if a single agreement is adopted, there is a high likelihood that they would be dragged across table and into binding commitments and no guarantee of finance and technology support from the developed countries.

Africa, the LDCs and Small Islands Developing States(SIDS) are strongly maintaining their position that the outcome under the Convention must be legally binding to ensure that the finance and technology support is legally binding while the NAMA mechanism captures voluntary commitments to mitigation action within this legal instrument .Other developing countries are not in favour of a legally binding outcome under the Convention, however, it is unclear to what extent this is a tactical position that is held at this time, in order to keep the two track process going or to what extent it is a real position. However, most Annex 1 Parties' view is that developing countries need to be full partners in the Copenhagen Deal.

Among the options outlined above, the principles to judge the legal form which were developed by ad hoc group in Bonn 1 were as follows; effectiveness, urgency- implying no gap and strong effective action, equity, transparency, accountability, resilience or durability, avoid backsliding on existing commitments and inclusion of incentives for early entry into force, avoid gaming and participation, comparable emission reductions and compliance among Annex 1 Parties, positive incentives for action and implementation, MRV criteria for Annex 1 support and non Annex 1 actions should respect common but differentiated responsibilities, incentives for compliance

among all parties(strong enforcement triggers and consequences for non-compliance for Annex 1 Parties),flexibility to strengthen- robust mechanism.

Conclusion

At the moment, there is no position on the Architecture. The outstanding questions would be for instance, weather there is a need for a position on the Legal Form? If so, when? What do discussions in SBI Contact Group on Intergovernmental Meetings tell us? What tracks are unlikely to merge before Copenhagen?

UNFCCC Bangkok negotiations report on Mitigation

Held from 28 September to 9 October 2009

By Damian Casmiri

Introduction

The Ad hoc Working Group on Long Term Cooperative Action under the convention (AWG-LCA) was convened from 28th September to 9th October, 2009 in Bangkok, Thailand. The meeting served as the first part of seventh session whereby the second part will be held in Barcelona, Spain from 2nd to 6th November 2009. The aim of this session was to continue with the work of reducing the size of the negotiating text to a manageable one as well as negotiations on various matters as stipulated in the Bali Action Plan before conclusion in Copenhagen, Denmark in December 2009. The major task here was to shorten the size of the text by concentrating on those elements likely to be agreed in December by parties that should be effective, ambitious and fair. Unlike the last meeting held in Bonn in August, the revised negotiating text has some supplementary documents which made parties to go through it easily. One of the supplementary document was FCC/AWGLCA/2009/INF.2/ADD.1 which illustrated how the revised negotiating text was reordered and consolidated.

Negotiators were keen to see the text reduced to a manageable text without losing the concepts from country parties. To facilitate this, the AWG-LCA chair formed contact groups which were mandated to reduce the size of the text on various parts by consolidating and converging proposals. Apart from converging similar proposals, deleting those which are not consistent with the Bali Action Plan and the convention was stressed as being one of the approaches to make sure that the text is of small size.

This report focus on the enhanced action on mitigation as stipulated in the Bali Action Plan adopted in 2007 during Conference of Parties (COP) as decision 1/CP 13. The report concentrates on the following three issues under enhanced action on mitigation of climate change:

- Mitigation commitments by developed country parties; 1b(i).

- Nationally Appropriate Mitigation Actions (NAMAs) by developing countries;1b(ii).
- Policy approaches and positive incentives on issues relating to Reducing Emissions from Deforestation and forest Degradation (REDD)

Organisation of the meetings

To facilitate the negotiations, the following meetings were convened:

- Plenary
- Facilitators
- Informal consultations; and
- Contact groups.

Opening of the session

The session was graced by high government political leaders and UN officials. All of them reminded the negotiators and other participants in general some basic aspects of climate change and the expectation the community has on them at large during this session. Prime minister of Thailand reiterated that the high priority for developing countries that are vulnerable is to make sure that climate change does not halt the pace of economic growth, sustainable development, poverty eradication efforts and attainment of Millennium Development Goals (MDGs). He went further saying that efforts to address climate change has not gained a momentum internationally as it should be; this was also pointed out during a summit of G20 leaders who declared that the statement on climate change was not as strong as it should be therefore in any way there can be no plan B is A is not in place already.

The Executive Secretary of the UNFCCC pointed out the outcome of the just ended New York summit on climate change which call on nationally appropriate mitigation actions by developing countries that must be supported by developed countries in terms of finance, technology as well as capacity building, actions to enhance resilience of vulnerable and ambitious emission reduction commitments by developed country parties. Based on this he was optimistic that the Bangkok negotiations would have a greater achievement as the negotiators were given already a green light at their home politically although during negotiations this was not reflected.

Thailand minister of environment stressed that the need and urgent deep cuts of emissions from developed country parties pointing out they have both moral imperative and historical

responsibility to act. He stressed that the agreements to be reached at the international level must deal with the needs of developing countries, which are vulnerable in nature, to safeguard both the growth and poverty eradication. He also beseeched the parties to reach ambitious and agreed agreement in Copenhagen.

The minister for environment of Denmark was hopeful that leaders had provided significant inputs which would accelerate the pace of negotiations before Copenhagen. On the other hand she lamented that the G20 meeting did not deliver finance on climate. Like many negotiators, she pointed out the need of reducing the size of the negotiating text. She was pessimistic that the deal might not be signed in Copenhagen if developed countries parties are not willing and prepared to provide support in terms of technology and finance to developing country parties as well as setting new binding emission reductions commitments.

Mitigation commitments by developed country parties; 1b(i).

Developed country parties are required, according to Bali Action Plan, to set ambitious green house gases emission reduction commitments in order to prevent the temperature from increase. Scientific findings suggest that the amount to be reduced should be from 25%-40% by 2020 and about 85 % by 2050 taking 1990 as a base year. The emissions reduction efforts should be done domestically and not through offsetting mechanism such as through Clean Development Mechanism and others to be agreed based on the outcomes of the negotiations. Despite the recommendation by scientists, during negotiations it was observed that developed country parties are either not ready and willing to adopt the findings or will adhere subject to fulfilment of some conditions which are at the expense of developing countries. On the other hand developing countries have expressed clearly that they will not agree to have legally binding emission reduction commitments as this is controversial to the mandate of Bali action plan and the convention.

Unlike in the previous negotiations when developed country parties were using the phrase “participation of major developing countries”, this time they came with another strategy/approach of ensuring that some developing countries will have legally binding emission reduction commitments. United States supported by other developed countries with the exception of Columbia and Costa Rica, pointed out that under AWG LCA there is a need to form a sub group to consider textural proposal on “mitigation elements common to all parties” contrary to

sub groups formed by AWG LCA chair according to elements enhanced action on mitigation as stipulated in Bali Action Plan. The proposal is to ensure that all parties implement their respective nationally appropriate mitigation actions as reflected in annex 1 as well as to formulate and submit low carbon strategies that articulated an emission pathway to 2050. The proposal went further by suggesting that these actions should be subjected to measurement, reporting and verification (MRV). The proposal was strongly rejected by developing country parties. One point to think is, why the formation of sub group to deal with the element which is not consistent with the Bali Action Plan was seen to be very important to US to the extent of threaten that if the sub group would not be formed then all discussions should reverted to the full contact group. Certainly the motive is to try to modify the nature of the obligations of developing countries to ensure that major developing country emitters have legally binding commitments. No doubt that the common elements referred by US lies under the word “measurable, reportable and verifiable” which are seen both under 1b(i) and 1b(ii) under the Bali Action Plan. The actions in developing countries to be MRVed should be supported by developed countries and this doesn’t imply that there is something in common which can be equalized by the proposal. Negotiators should stick to the BAP and convention otherwise some parties especially developed countries will twist it to suit their interests claiming that they interpret the action and the convention at the detrimental of developing country parties.

On the level of ambitious emissions reduction commitments by developed country parties, the proposal from LDCs has gone further by putting a “safety factor” by proposing reduction to be 45% and 95% for 2020 and 2050 respectively taking 1990 as a baseline. Some of the developed countries have chosen their own base line year in setting their emission reduction targets such as 2000, 2005 and 2006. Using different base year will not only lead to double standard, but also will make the achievement of target hardly impossible. The pledge that has been made by developed country parties so far would lead to reduction of about 20% by 2020, an amount which is far less than the one suggested by science (at least 25%).

Hot debate raised on the comparability of efforts. Developed country parties stressed that there is no need at all of including comparability criteria list in the outcome rather they can be used for negotiation purposes as this is important only for national decisions. This was strongly opposed by developing country parties lamenting the necessity of defining comparability through international negotiations which should be strong and solid based on the protocol as a reference

point pointing out that protocol's target were based on pledges which was not the solution preferred by all countries as it goes far beyond countries putting forward national numbers . China suggested pillars under comparability of efforts namely, comparability, comprehensiveness, nature of commitments, proximity and compliance. The rationale of this is that mitigation commitment under 1b(i) should have the same MRV rules and be same as in the Protocol articles 5, 7, and 8. Japan suggested that not only numbers can be used but also policies and measures can be used as well. There was a concern from LDCs that many proposals in the text do not put a clear distinction on commitments between developed country parties and developing country parties.

Nationally Appropriate Mitigation Actions (NAMAs) by developing country parties; 1b(ii)

Different ideas were exchanged during negotiations on how NAMAs should be and what it constitutes. It was proposed by the developed country parties that, under NAMAs, parties with high emissions should achieve energy intensity target. The proposal hit an obstacle from developing country parties who stressed that they want to see discussion on finance readiness and not specific actions which are prerogative to host countries. NAMAs actions are entitled support from developed country parties in terms of finance, capacity building and technology travels over and above Overseas Development Assistance (ODA). Notwithstanding the support suggested by Bali Action Plan, developed country parties tried to ensure all NAMAs actions should be MRVed with developing countries pointed out clearly that there is no objection on this provided that actions are supported to cover full costs. National schedule including reporting template were proposed by a number of parties to be completely deleted from the text as this is inconsistent with the Bali Action Plan (which should be the guideline during negotiations) simply because NAMAs are voluntary and country driven therefore no need of having registry in place. India pointed out that the issue of carbon trading which featured in the proposal should be removed completely because it doesn't fit under this section. If carbon trading was to remain here it implies that some actions under NAMAs would qualify for selling credits to developed country parties for offsetting their emissions. The implication of this has two fold: actions should meet certain standard like in the current CDM which is controlled by CDM executive board (few developing country parties with the exception of major developing countries have benefited so

far. LDCs is lagging behind by having very small number of projects) and digging the grave for Kyoto Protocol burial which should be survive irrespective of the agreements to be reached at Copenhagen. Equally important this would shift the proposed responsibility of developed country parties to support NAMAs using public resources to private sector which is support to supplement public funds and not be a primary source of finance. On the other hand, there might be a hidden worry from some of the major developing countries that if agreement will be reached on this then many other countries will participate and generate credits which will either flood the market or shifting of investment to other developing countries.

Some parties expressed their concerns of including even environmental threat technologies in NAMAs such as nuclear power and large scale hydropower. This should not be encouraged, unless financed seriously in terms of technology and capacity building, taken into consideration the risks associated with them and the ability of developing country parties in responding to disasters such as leakage of nuclear and failure of dams.

After a number of informal contact group, a non paper text was prepared to be used in Barcelona. In order to ensure active participation in NAMAs, LDCs proposed to have special window treatment to simplify the procedures. This is very important idea to be considered seriously otherwise NAMAs would be like CDM projects in which LDCs are lagging far behind. In addition to simplified procedures, LDCs NAMAs should be voluntary, fully funded and enabled by technology and capacity building from developed country parties.

Reducing emission from deforestation and forest degradation (REDD+); 1b

(iii)

Initially informal contact group on REDD+ was applauded for successfully managing to reduce the size of the negotiating text notwithstanding a number of pending issues need to be resolved. Like in the 1b(i) and 1b(ii) attempt was also made by some parties to refer REDD+ to NAMAs on the ground that many principles such as MRV and financing are also discussed under 1b(ii). This suggestion was opposed on the reason that apart from the Bali Action Plan which has differentiated the two clearly, negotiations under REDD+ was far ahead that of NAMAs and actions to be taken under NAMAs are not yet defined therefore combine the two would bring

another ambiguity and halt the momentum of negotiations gained already. It was reiterated that before discussing principles it would be better to identify actions and activities that qualify under REDD+. China and Brazil pointed out that the negotiating text should avoid using words which may link REDD+ and flexible mechanism until it is implemented fully. Some parties suggested that it would of greater help to identify issues that could be agreed at the Copenhagen and those that could be included in COP decision or considered further by subsidiary Body for Scientific and Technical Advice (SBSTA).

REDD+ readiness funding which is predictable and sustainable was stressed by developing country parties as a pre condition towards ensuring successful implementation of projects. Implementing REDD+ by phases was suggested starting with readiness then implementation on the condition that the first should be by finance and capacity building. Principle of safeguard raised a concern whereby some parties worried that this might lead to conversion of natural forests to other forms of lands such as plantations. Contrary to other parts under mitigation, in this parts the inclusion of stakeholder views was kept on repetition from various parties in the name of Indigenous People (IP) and forest dweller who seen as a custodian of forests. It was suggested that the text should recognised and incorporated the UN declaration on the rights of indigenous people. Reservation was made that the agreement to be reached should recognise and respect national legislations. Caution should be taken as the use of indigenous people might lead to denying other groups in the community enjoying the same direct-service offered by the forests.

To ensure smooth implantation of the projects it was suggested to differentiate actions that go beyond community such as energy, food security and commercial logging. Sustainable forest management should be discussed careful and defined clearly due to the fact that some parts have already pointed out that logging and timber is their main source of revenue. There is a proposal that two types of funds should be established under REDD+: funding for enhancing carbon stocks and for conserving the existing stocks. This will be discussed in Barcelona.

Like in the previous parts, the issues of market mechanism under REDD+ was raised as well. Parties opposed this on the ground that it is premature to consider it at this stage and suggest it

can be considered during implementation phase. LDCs maintained that REDD+ issues should not be included under NAMAs.

Conclusion

According to Bali Action Plan, mitigation section has about six parts which has made many delegations especially from LDCs not able to follow all parts due to the number of delegates which in most cases are two (who are financed by UNFCCC). This might be among the strong reasons which make negotiators from LDCs and Africa in general to be seen as weak. This is a big challenge because developed countries normally have a strong delegation which can follow all matters under discussion. For the negotiations in Barcelona and Copenhagen there is a need for delegations from developing country to set strategies to ensure that they are not losing despite of being not as strong as developed countries.

Keeping on insisting that all negotiations should be consistent with Bali Action Plan may be seen as strong point towards the victory against those proposing new issue contrary to the BAP and the convention in the umbrella of interpreting the action and the convention

Report on:

The 9th session of the AD HOC Working Group on Further Commitments for Annex I Parties under the Protocol, Bangkok, 28 September-9 October 2009

By: Gebru Jember Endalew

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The Bangkok Climate Change Talks was held in Bangkok, Thailand from 28 September- 9 October, 2009. After the opening ceremony, the AWG-KP opening plenary took place, followed by the AWG-LCA opening plenary. In the afternoon, contact groups convened to consider adaptation, technology, mitigation and finance under the AWG-LCA and Annex I emission reductions, other issues and potential consequences under the AWG-KP.

The recent Protocol ratifications by Turkey, Kazakhstan and Zimbabwe were highlighted during the opening of the first part of AWG-KP by chair John Ashe. He urged the AWG-KP to intensify its work to avoid “a global disappointment” in Copenhagen. It was followed by the adoption of agenda and agreed to the organization of work. Opening statements were also made by representative parties. Then it was agreed to establish four contact groups on:

- Annex I emission reductions;
- Other issues;
- Potential consequences of response measures; and
- Legal matters.

Different time slots were allocated for each issue and I was able to attend most of the sessions as they were not happening at the same time. Discussions by the AWG-KP contact groups on Annex I emission reductions, other issues and response measures are summarized below.

Annex I Emission Reductions:

This issue covers Annex I parties aggregate and individual emission reductions in the post-2012 period when the first commitment period under the Protocol ends. During our stay in Bangkok, it was considered through contact groups and informal consultations.

The most prominent issue for discussion at this session includes annex I parties aggregate emission reductions and individual contributions. And it was started by Japan explaining its pledge of 25% reduction from 1990 levels by 2020. Different parties acknowledged the pledge made by Japan and encouraged other Annex I countries to come up with more pledges consistent with the scale required by science, while encouraging them not to condition their pledges on action by others. Other parties (like Brazil, China, India...) highlighted the appropriate forum for discussing developing country actions is under the AWG-LCA.

The call (by EU, Australia and New Zealand) for coordination between the AWGs on levels of ambition and comparability of efforts was opposed by LDCs and other developing countries. In order to engage with the US, another call for joint informal discussions was opposed by India and Brazil saying that they have delegates in both AWGs and can coordinate positions without having joint sessions.

The EU said efforts by countries that are not parties to the Protocol affect the level of Annex I aggregate emission reductions. The EU explained that the Protocol's architecture has many elements that can be taken forward. Highlighting the need for an effective outcome in Copenhagen, he said a single instrument would be simpler in terms of ratification. He stated that this does not necessarily mean the Protocol "will have to die" and highlighted parties' emission reduction commitments under the Protocol until 2012 and subsequent compliance assessment. The EU also explained that they may have a substantial surplus of AAUs in the first commitment period and if treated in the second commitment period would impact the scale of emission reductions that countries must achieve. New Zealand noted that a commitment to ambitious emission reductions requires changes to LULUCF rules and effective carbon market mechanisms.

South Africa recommended using science as the basis for determining Annex I countries' aggregate level of ambition, suggested a 40% reduction from 1990 levels by 2020 as the aggregate target. The Federated States of Micronesia proposed using either the public announcements by the US or other numbers, such as a 25% or 45% reduction, as an assumption for defining the Annex I aggregate range. Japan emphasized that there was no guarantee that the US would agree to the assumed level, warning this would undermine the political durability of the process. He also noted that the 45% aggregate target did not consider action by non-Annex I parties, which he said is important to understanding the "total picture."

Comparability:

- Parties then discussed whether they should base comparability on factors, including marginal abatement cost determined by their own national circumstances or based on some metric such as cumulative historical responsibility.

Base Year:

- Australia supported using a single legally-binding base year with multiple reference years.
- Canada stressed that their pledge used 2006 as the base year and recommended using a table with base years as defined by individual countries in their pledges, as well as columns comparing 1990 and other common base years.
- Several developed and developing countries called for retaining 1990 as the base year for the sake of simplicity, comparability and transparency.
- The EU expressed concern that using multiple base years would require a Protocol amendment, as several provisions, including Protocol Articles 3.5 and 3.7, refer to "1990" rather than to "base year."
- Australia noted that multiple base years present challenges in the calculation of AAUs.
- Japan stressed that while their new pledge is relative to a 1990 base year, there should be flexibility to choose other base years to facilitate the participation of the broadest number of countries.

Length and number of future commitment periods:

- Colombia highlighted the benefits of a mid-term review of commitments,
- South Africa stressed that such reviews should only lead to stronger commitments and will act as an "early warning system",
- Australia and Iceland questioned the implications of mid-term reviews on legal commitments and the impact on emissions trading systems.

- Brazil highlighted the two-year lag on emissions data due to the reporting schedule.

Implications of the flexibility mechanisms on Annex I parties' targets:

- China called for focusing on targets and the percentage of emission reductions that Annex I countries would be allowed to achieve through offsetting, saying a discussion of the detailed rules was premature and there is a need define the concept of supplementarity to avoid “mainstreaming” offsetting, specifying that the figure can be further discussed but that it should be below 50%.
- South Africa emphasized that the use of offsets is a “zero-sum game” and suggested: first setting Annex I parties' targets for domestic emission reductions and then adding a percentage that could be achieved through offsetting; or setting aside a proportion of AAUs for the mechanisms. He also noted that achieving 50% of targets through offsets “is way beyond supplementarity.”
- EU stressed that it is not possible for Annex I countries to set targets without first knowing the rules and emphasized the importance of a “robust” carbon price for investment decisions and the role of the EU Emissions Trading Scheme in achieving this during the first commitment period. On supplementarity, EU identified “a strong wish” to limit the CDM, noting a cap on CDM credits in the EU's post-2012 climate and energy package.
- Tuvalu and India noted that sectoral crediting mechanisms “will flood the markets” and urged considering their environmental implications.
- Brazil proposed a cap on offsetting, which he said should be well below 49%. He noted that increasing the scale of markets through, for example, sectoral crediting, would negatively impact the carbon price by increasing supply without increasing demand.
- Australia supported retaining the CDM and noted the possibility of additional new mechanisms such as REDD and sectoral mechanisms.
- Senegal highlighted that the carbon market should function as an incentive for investment.
- Several Annex I parties identified the need for flexibility and cost-effective emission reductions.
- Switzerland, Japan, Canada and others stressed that quantifying the concept of “supplementarity” is not necessary.
- Canada opposed an international ceiling on the use of credits, stressing it as a domestic policy decision.
- The Russian Federation said the issue of surplus AAUs is not linked to the discussion of numbers and should only be considered after 2012, when the results of the first commitment period are known.

Implications of LULUCF rules for Annex I emission reductions:

- Brazil, for the G-77/China, supported by AOSIS and Tuvalu, called for mandatory inclusion of agreed activities to eliminate the “pick and choose nature” of current accounting and promoted a net-net accounting approach. The G-77/China also proposed caps on LULUCF to ensure other sectors are addressed.

- New Zealand, with Japan and Canada, said that caps would create a disincentive for LULUCF mitigation efforts. Switzerland underscored that environmental integrity is the overarching principle of the LULUCF process.
- Norway said a net-net approach could be acceptable. The EU highlighted that agreement is needed on national reference levels, discount factors and whether specific activities would remain voluntary or mandatory for reporting. Tuvalu highlighted the need for conformity in reporting for comparability. AOSIS expressed concern that some rules could allow for an increase in industrial emissions. Australia called for the use of a historic baseline and for consistency across sectors.

Parties agreed to forward non-paper no. 2 on proposed amendments to the Protocol pursuant to its Article 3.9 to Barcelona to facilitate discussions at the resumed session, and also recommended the AWG-KP Chair to issue a revision to document FCCC/KP/AWG/2009/10/Add.4/Rev.1.

Other Issues in the AWG-KP's Work Programme:

Discussions under this contact group focused on issues listed in paragraph 49(c) of the AWG-KP's work programme referred to as "other issues." And were on:-

- The Protocol's flexibility mechanisms;
- Basket of methodological issues; and
- On LULUCF

Flexibility Mechanisms:

- The Vice-Chair proposed focusing on proposals for improving the efficiency of the flexibility mechanisms, especially the CDM and joint implementation, highlighting that the goal is to try to clean up the text (FCCC/KP/AWG/2009/10/Add.3/Rev.1) and provide clearer options for Copenhagen.

On the development of standardized, multi-project baselines:

- The EU, opposed by several parties, supported establishing benchmarks.
- Argentina, supported by several others, said standardized baselines and benchmarks should be optional.

- Other parties expressed preference for making the standardized baselines mandatory and clarified that such baselines would take account of national and regional circumstances and would therefore not constitute a barrier to CDM project development.

On positive or negative lists of CDM project activities:

- Senegal and Ethiopia, for the LDCs, supported retaining this option and highlighted the need to improve access to the CDM.
- AOSIS, the EU and Norway raised concerns over environmental integrity and opposed proposals that would exempt projects from meeting the requirement of additionality. The EU added that the additionality test has a firm legal basis and that relaxing it would require a Protocol amendment.
- Bangladesh urged a focus on proposals that highlight the needs of LDCs and SIDS.
- China questioned the merit of having a positive list of CDM project activities if projects included in such lists still need to undergo the additionality test.
- Kuwait opposed negative lists. India and others said they supported only positive lists,
- The EU said negative lists could be needed, for instance, to avoid double counting and to clarify that unilateral NAMAs do not qualify under the CDM.
- India, Brazil and others stressed that NAMAs are separate from the CDM.
- Saudi Arabia proposed adding clean fossil fuel technology to the positive list of project activities.
- Japan supported further simplifying the additionality test for small-scale projects rather than exempting additionality.

In the non-paper prepared by the Chair, text on this issue was consolidated with text on improving access to CDM projects.

Issues like improving regional distribution and access to project activities, introducing multiplication and discount factors and to include CCS and nuclear activities under the CDM, and on extending the share of proceeds to joint implementation and emissions trading have been discussed.

The final non-paper, incorporating all discussions to date, would not be ready before the conclusion of this session, but would be published on the Secretariat's website. It was also informed that the non-paper would be forwarded to the AWG-KP Chair, who would incorporate it into revised documentation for use at the resumed session of the AWG-KP in Barcelona.

LULUCF:

Parties considered Annex II of document FCCC/KP/AWG/2009/10/Add.3/Rev.1, on options to address the treatment of LULUCF. Presentations from parties on LULUCF data submissions and narrowed down options on forest management issues were heard.

Progress on issues related to natural disturbances, harvested wood products and wetlands and clarification of LULUCF accounting implications on emission reductions targets were also highlighted.

It has been agreed to forward non-paper no. 2 on options and proposals on how to address definitions, modalities, rules and guidelines for the treatment of LULUCF to the AWG-KP Chair who will decide whether to include it in revised documentation or as a non-paper in Barcelona.

Basket of Methodological Issues:

On this issue discussions focused on three topics:

- common metrics to calculate the CO₂ equivalence of emissions by sources and removals by sinks;
- 2006 Intergovernmental Panel on Climate Change (IPCC) Guidelines for National Greenhouse Gas Inventories; and
- Inclusion of new greenhouse gases in Protocol Annex A.

Parties discussed, on common metrics, whether to use global warming potentials (GWPs) provided by the IPCC in the Fourth Assessment Report, leave them unchanged until possible action by the SBSTA on global temperature potentials, or continue using the Protocol's provisions on GWPs. Vice-Chair Dovland suggested the last option as the basis for moving forward. The EU responded that they could move towards compromise if language was added on the implications of adding new greenhouse gases.

Parties also discussed whether to use the IPCC 2006 Guidelines, UNFCCC reporting guidelines as revised by the SBSTA in its work programme, or a hybrid of the two.

On new greenhouse gases, parties considered whether enough information(source, future trend, atmospheric life time...) was available to include new gases in the Protocol, the form such additions should take, and which gases to include.

Vice-Chair Dovland noted that non-paper no. 1 would be amended to reflect these discussions and would serve the basis for continued work by parties in Barcelona.

Potential Consequences:

This issue relates to the consideration of information on potential environmental, economic and social consequences, including spill-over effects, of tools, policies, measures and methodologies available to Annex I parties. Discussions in the contact group centred on methods for deepening understanding and a possible system to respond to negative consequences.

South Africa, for the G-77/China, supported by Ethiopia, for the LDCs, and others, emphasized ensuring understanding of the potential consequences of policies and measures on developing country economies, and creating a system to minimize and prevent negative impacts on developing countries.

After further informal consultations, a new non-paper was prepared. Parties discussed areas of convergence and divergence in order to frame outstanding issues for further work in Barcelona.

China, supported by Saudi Arabia and Argentina and opposed by Canada, introduced text stating, *inter alia*, that “Annex I parties shall not resort to unilateral measures against imports from developing countries.” Saudi Arabia stressed that this issue lies at the core of the discussions on potential consequences and that Annex I parties must not be allowed to use environmental protection as pretext to impose tariffs or trade barriers. These discussions and the revised text would be captured in a document to be used by the AWG-KP Chair to prepare updated documentation for Barcelona.

Legal matters:

Parties agreed that the group on legal matters would convene if requested by parties to consider specific issues. During the session, no meetings were held by the legal matters group.

During the plenary, Norway announced plans to increase their emission reduction goal from a reduction of 30% to 40% from 1990 levels by 2020. AOSIS, with Algeria, urged other Annex I parties to follow Norway's lead in making pledges that are closer to what the science requires, and Thailand called for increased levels of ambition.

AOSIS emphasized the group's deep disappointment with the numbers presented thus far, which represents a collective ambition of 11-18% below 1990 levels by 2020 and said this would lead to a temperature increase of "3°C or worse."

Chair John Ashe explained that the AWG-KP would continue with the four contact groups on the basis of the new non-papers at its resumed ninth session in Barcelona. He also explained that due to time constraints and the extensive workload, provision would be made for additional evening meetings in Barcelona.

The first part of AWG-KP 9 did not adopt conclusions but the work done at the Bangkok session is reflected in non-papers and revised documentation issued before Barcelona. The non-papers are available online at the Secretariat's website: http://unfccc.int/meetings/ad_hoc_working_groups/kp/items/4920.php.

Bangkok Climate Change negotiations 28 September to 9 October 2009

Brief Report on REDD-plus and LULUCF

By: Abdalla Gaafar Mohamed

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Bangkok talk on Climate change was conducted during the period 28 September to 0 October 2009 as a part of negotiation meetings before Copenhagen Dec. 2009 (COP). Negotiation covered Ad hoc group on Koyoto Protocol (AWG-KP) and Ad hoc group on long term Cooperative Action (AWG-LCA). The aim of negotiation in both AWG-KP and AWG-LCA is to have an agreement on strengthening the future climate change regime by Copenhagen Dec. 2009.

REDD-plus

REDD- plus refer to reducing emissions from deforestation and forest degradation in developing countries, and the role of conservation, sustainable management of forests and enhancement of forest carbon stock in developing countries. The main body for REDD-plus negotiation is AWG-LCA but still the negotiation undertaken by AWG-KP is also relevant to REDD-plus

In Bangkok the REDD-plus was discussed in the sub-group on '1(b)(iii)', as in the Bali Action Plan. The sub-group was facilitated by Tony La Viña from the Philippines

The Chair's scenario 'revised negotiating text' (FCCC/AWGLCA/2009/INF.1), that include parties proposals remains 'on the table' as a negotiating document, for negotiating and consolidation of text

During four informal consultation meeting, REDD was discussed within G77+China and the African group to reaching a common position on the Chair s text

REDD facilitator met with different parties individually for drafting a non paper that had been availed to parties. The non-paper on REDD –plus (No 18 (08/10/09 @ 11:00) was produced

during the session and different parties began discussion, negotiation and consolidation of such document . The non paper 18 covers: objectives, scope and guiding principles; means of implementation; measurement, reporting and verification of actions or measurement and reporting systems; measurement, reporting and verification of support; and institutional arrangements

Generally, the REDD-plus negotiations progressed well compared with other issues, but difficult questions are still need to be resolved. Such questions include:

- which elements could be included in COP decisions in Copenhagen and which elements might be considered further by the Subsidiary Body for Scientific and Technological Advice (SBSTA) (to some parties many issues can wait).
- Text improvement where, many countries asked for a very concise text including principles, means of implementation and MRV. Other such as China proposed a framework of the REDD-plus scope and key principles. Some developed countries highlighted principles such as effectiveness.
- Should REDD-plus be a NAMA

The question of whether REDD-plus should be taken as part of Nationally Appropriate Mitigation Actions (NAMAs). In this regard the majority of developed countries and some of developing countries such as the US, Brazil and the EU believe that REDD-plus actions should be considered NAMAs, while most of developing countries believe that the REDD-plus should be kept separate from NAMA since REDD-plus negotiations are very advanced compared with the discussion about NAMAs.

REDD-plus approach

Several countries were favoured a phased approach to REDD-plus - starting with a readiness phase before implementation and avoidance of linking REDD to the market mechanism

Negotiation on Safeguards

All parties considered safeguards, including the involvement of Indigenous Peoples and local communities with emphasis on Indigenous Peoples rights

Other proposed issues

- The need to incorporate reference to the UN Declaration on the Rights of Indigenous people
- Consistency with national legislation and relevant international agreements and the need to respect national legislation
- Inclusion of a clear safeguard against the conversion of native forests to plantations
- Consideration of the high dependency of local people on forests for their daily livelihood needs
- The need of some countries to exploit forests to combat poverty in their countries (argued against safeguards concerning the conversion of native forests into plantation).

Scope and eligibility

- Despite many countries argued for defining which REDD-plus actions will be eligible for support, Facilitator decided that it was too early to achieve consensus on such issue.

Despite , the non paper No 18 (08/10/09 @ 11:00) form a good base for discussions at the next session and all parties likely to focus on, but it could not be considered as a negotiating text or agreed text so, the ‘revised negotiating text’ (FCCC/AWGLCA/2009/INF.1) is still the formal document

LULUCF

LULUCF Under the Convention As stated in Article 4, paragraph 1(a and d):

- Develop, periodically update, publish and make available to the Conference of the Parties, in accordance with Article 12, national inventories of anthropogenic emissions by sources and removals by sinks of all greenhouse gases (GHGs)* not controlled by the Montreal Protocol, using comparable methodologies to be agreed upon by the Conference of the Parties.

(* including inventories of GHG emissions and removals from the LULUCF sector)

- Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all GHGs not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems.

The ‘revised negotiating text’ (FCCC/KP/AWG/2009/ was availed to parties by the Chair to facilitate the negotiation among them. It was decided by the majority of parties that there was a

need for precise convergence and consolidation of the text, since it was still long and confusing in some areas. Considerable divergence between developed and developing countries was clearly observed

Some details on LULUCF data and information taking 1990 as a base year was presented by some countries such as Canada, Norway, New Zealand, Australia, Switzerland and European community. Many parties emphasized that the process in LULUCF is very slow in order to reach its targeted position in Barcelona. Subsequently non-papers were produced during the session and parties started to address its contents.

G77+China Position

More than six informal consultation meetings on LULUCF were conducted by the group of G77+China where a common position was formulated to address the LULUCF issues particularly, options and proposals on how to address definitions, modalities, rules and guidelines for the treatment of land use, land-use change and forestry. Such proposal was submitted to the Chair. This includes:

- Option A (Definition) The group decided to stick to the previous definitions
- The group favour inclusion of FM along with grazing land and crop land
- The group favour and Agreed upon Net-Net approach as accounting option
- The group not favour the Forward Looking Approach
- The group request the numbers and assumptions for BAR (Reference levels) approach to be presented before Barcelona

Divergence areas include:

- The CAP for the LULUCF contribution
- Actual figures and assumptions
- Natural disturbances
- Harvested wood products (HWP)
- The assumptions made to produce the data and the basis for projections

RAPPORT MISSION

Quelles solutions pour les Transferts de Technologies ? dans le cadre de la Convention Cadre des Nations Unies sur les Changements Climatiques

Du 22 septembre au 09 Octobre 2009_ Bangkok (Thaïlande)

Birama DIARRA_Mali

Chef Division Recherche et Développement

Les Transferts de Technologies constituent aujourd'hui un élément crucial en plus des financements, de l'adaptation, de l'atténuation des émissions de GES et de renforcement des capacités dans la résolution des questions de changements climatiques.

La mise en application des Articles 4.3, 4.5, 4.7, 4.8, 4.9 de la Convention devrait permettre le développement, la diffusion et le transfert de technologies notamment aux pays en développement. Mais depuis 15 ans aucune action concrète n'a jusqu'à présent pas été menée.

A Bangkok, du 22 Septembre 2009 au 09 Octobre 2009 deux activités majeures ont permis de suivre l'évolution des questions de Transfert de Technologies au titre de la convention.

REUNION DU GROUPE D'EXPERT SUR LES TRANSFERTS DE TECHNOLOGIES (EGTT)

Cette réunion tenue les 23, 24 et 25 Septembre 2009 a fait la synthèse du troisième rapport du groupe EGTT sur les "**Indicateurs de Performance du Transferts de Technologie**". Le groupe sur plus de 130 indicateurs identifiés a **retenu une quarantaine d'indicateurs dont 8** dans le domaine du financement de la technologie (ref. annexe).

On peut noter entre autres indicateurs :

- L'évaluation des besoins de transferts de technologies (TNA).
- Le nombre de projets et programmes de technologies identifiés au TNA et mise en œuvre dans les pays en développement.

- Le nombre de communication nationale avec des activités de transfert de technologies.
- Le nombre de programmes multilatéraux et bilatéraux qui ont aidé les pays en développement de développer et mettre en œuvre le transfert de technologies.
- Le total annuel global des flux financiers et d'investissement dans le cadre de Transfert de Technologies pour l'atténuation.
- Le total annuel global des flux financiers et d'investissement dans le cadre de Transfert de Technologies pour l'adaptation.

Auparavant, le groupe EGTT avait déjà élaboré **un rapport sur la stratégie de transfert de technologies** mais aussi et surtout sur **l'estimation des coûts actuels et futurs du transfert de technologies en matière d'atténuation et d'adaptation**. Toutes choses qui par ailleurs devaient faciliter la mise en œuvre concrète du transfert de technologies.

Les Pays Parties **devraient s'approprier** de ces documents de EGTT en vue d'une meilleure prise de décisions pour le transfert de technologies.

CONSOLIDATION DU CHAPITRE. "Actions renforcées du Transfert de Technologie" dans le cadre du Groupe Adhoc sur la Coopération à long terme (AWG – LCA).

Au cours des rencontres du groupe des Pays les Moins Avancés (PMA), du Groupe Afrique, du Groupe G77 et la Chine et de la 7^e Session de AWG – LCA, le Transfert de Technologie a occupé une large part des discussions conformément au document FCCC/AWG-LCA/2009 INF2. Annexe V.

Il y a eu **10 séances de rencontre du groupe de contact et 4 séances de rencontre du groupe informel** à ce sujet. Au cours de la session, l'ensemble des discussions était focalisé sur la consolidation du chapitre avant la rencontre de Barcelone et la COP 15 à Copenhague pour les négociations.

Les discussions ont porté sur les points suivants consignés dans le document 4 :

- La vision du Transfert de Technologies
- Les domaines ou actions de Transfert de Technologies

- Les options du Transfert de technologies
- Le mécanisme de développement de Transfert de Technologies
- Le financement des Transferts de Technologies
- L'arrangement institutionnel des Transferts de Technologies.

Des avancés significatives sont en cours mais des questions fondamentales restent posées :

- **Comment faire le transfert de technologies et quelles technologies ?.**
- **Comment lever les barrières notamment le Droit de Propriété Intellectuel (DPI) ? .**

Les PMA à travers le Groupe G77 et la Chine a réitéré sa préoccupation en rappelant :

- La **diffusion** et le transfert de technologies **existantes** dans les pays vulnérables
- Le **financement adéquat et additionnel** du transfert de technologie
- Le renforcement des capacités pour la **mise en œuvre parfaite et concrète** du Transfert de Technologies
- La **levée des barrières** notamment le **Droit de Propriété Intellectuel (DPI)**
- Le développement, le déploiement et le transfert de **nouvelles Technologies**
- La **création des centres régionaux** de Transfert de Technologies.

En conclusion, les pays en développement notamment ceux les moins avancés devraient veiller et s'impliquer dans la **mise en œuvre concrète de l'article 4 de la Convention**. C'est de là qu'advieront toutes les solutions probables de lutte contre les changements climatiques (réduction d'émission, capacité d'adaptation etc...).

Annexe

Box 1: Set of performance indicators

Based on the outcomes of this work a set of 40 indicators have been identified to measure the implementation of the Technology transfer framework under the Convention.

Technology Needs assessments

1. Amount of financial resources provided for the TNA process (PI-TNA-01)*
2. Number of programmes/projects for capacity building on TNA's in non-Annex 1 Parties (including percentage of least developed countries) (PI-TNA-02)
3. Number of targeted non-Annex 1 Parties to build capacity on TNA's (including percentage of least developed countries) (PI-TNA-03)
4. Number of published TNA's completed or updated by non-Annex 1 Parties (PI-TNA-04)
5. Synthesis report on TNA's made available by the UNFCCC Secretariat and considered by the subsidiary bodies (PI-TNA-05)
6. Number of technology programmes/projects from TNA's implemented by non-Annex 1 Parties (PI-TNA-06)

Technology information

1. Number of national communications with information on technology transfer activities (PI-TI-01)
2. Number of national communications with information on technology transfer activities (PI-TI-02)
3. Synthesis report with information on maintaining, updating and developing TT:CLEAR, addressing gaps and user needs, made available by the UNFCCC Secretariat and considered by the subsidiary bodies (PI-TI-03)
4. Number of technology information centers and networks connected to TT:CLEAR (PI-TI-04)
5. Number of users of TT:CLEAR from developing countries (PI-TI-05)

Enabling environments

1. Performance on each of the six World Bank's governance indicators (either by country, a selection of countries, or an entire region) (PI-EE-01)
2. Total volume (Number and dollar value) of joint R&D opportunities for EST's provided (primarily by developed country) governments (PI-EE-02)
3. Presence of clear policy guidelines to the recipients of public funding on how to move from research stage to commercialization stage of technology transfer process (PI-EE-03)
4. Number of bilateral and multilateral programs that have helped developing countries develop and implement regulations promoting the use, transfer of and access to EST's (PI-EE-04)
5. Presence of tax preferences and incentives on imports/exports for EST's (PI-EE-05)
6. Volume (in USD) of export credits to encourage the transfer of EST's (PI-EE-06)
7. Whether mention of environmentally sound technology transfer is made in National Sustainable Development Strategies (PI-EE-07)
8. Rating of investment climate according to World Bank's World Business Environment Survey (PI-EE-08)
9. Proportion of budget for public procurement of environmentally sound technologies (PI-EE-09).
10. Degree of disclosure and transparency regarding the approval processes of technology transfer projects (PI-EE-10)
11. Number of technical studies that explore barriers, good practices, and recommendations for enhancing enabling environments (PI-EE-11)
12. Percentage of partnerships with thematic foci on climate change and sustainable development with meaningful participation by developing country Parties (PI-EE-12)

Box 1: Set of key performance indicators (continued)

Capacity building

1. Amount of financial resources provided for the Capacity Building for development and transfer of technology (PI-CS-O 1)
2. Synthesis report of national capacity needs and priorities for capacity building for the development and transfer of technologies in line with the technology transfer framework (PI-CS-02)
3. Number of participants/experts in training programmes on the development and transfer of technologies, in particular on the EST related activities (PI-CS-03) .
4. 4. Number of new and existing national and regional institutions, operating as centers of excellence, on the OTT (PI-CS-04)

Mechanisms

1. Number and volume of reported innovative public/private financing mechanisms and instruments (PIMECH-OI)
2. Report on the possible ways to enhance cooperation between the UNFCCC and other multilateral environmental agreements (MEA's) (PI-MECH-02)
3. Report on the references to objectives of other MEA's in national communications (PI-MECH-03)
4. Number of reported barriers and good experiences in the development of endogenous technologies (PIMECH-04)
5. Report with guidance for reporting on joint R&O needs (PI-MECH-05)

indicators for financial flows

1. Total Annual Global Investment and Financial Flows in Climate Change Mitigation Technologies (PI-FIN01)
2. Total Global Investment and Financial Flows in Climate Change Adaptation Technologies (PI-FIN-02)
3. Total Annual Investment and Financial Flows in Climate Change Technologies - Convention Financial Mechanism (PI-FIN-03)
4. Total Annual Investment and Financial Flows in Climate Change Technologies - Kyoto Protocol Flexibility Mechanisms (PI-FIN-04)
5. Total Annual Investment and Financial Flows in Climate Change Technologies - Bilateral Sources (PI-FIN-05);
6. (Total Annual Investment and Financial Flows in Climate Change Technologies - National Sources (PI-FIN-06); .
7. Total Annual Investment in Climate Change Technologies - Multilateral Sources (PI-FIN-07);
8. Total Annual Investment and Financial Flows in Climate Change Technologies - Private Sources (PI-FIN08).

* This is a unique code given to each performance indicator. PI = performance indicator; XXX = key element of the technology transfer framework; YY = number of the performance indicator under the relevant key element

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