

CANCUN HIGHLIGHTS: FRIDAY, 3 DECEMBER 2010

Throughout Friday, a number of contact groups and informal consultations convened under the COP/MOP, SBI, SBSTA, AWG-LCA and AWG-KP.

CONTACT GROUPS AND INFORMAL CONSULTATIONS PARTIES' PROPOSALS UNDER CONVENTION

ARTICLE 17 (protocols) (COP): Chair Michael Zammit Cutajar (Malta) opened the first contact group meeting. He explained that five proposals were submitted under Convention Article 17 before COP 15 by Australia, Costa Rica, Japan, the US and Tuvalu, and a sixth proposal was made by Grenada for AOSIS in 2010.

GRENADA stressed the importance of: having a process for considering the legal form; working under the AWG-LCA; and establishing a second commitment period under the Kyoto Protocol. He said the AOSIS proposal for a new protocol: covers all elements of the Bali Action Plan as well as other critical elements; represents a compromise among AOSIS members; and also reflects many other parties' views.

JAPAN said the contact group's work should not duplicate parties' efforts and noted that his country's proposal for a new protocol is for a single legally-binding instrument.

AUSTRALIA said achieving the 2°C target necessitates broader participation than the Kyoto Protocol. She stressed the need for legally-binding commitments by all major economies with differentiation between developed and developing countries. She highlighted Australia's proposal for national schedules, saying these could take into account different national circumstances, as well as the full range of parties' mitigation efforts. AUSTRALIA stressed the AWG-LCA's central role and called for COP decisions from Cancun outlining a way forward towards a legally-binding outcome.

TUVALU and COSTA RICA stressed that their countries' proposals are not intended to replace the Kyoto Protocol. TUVALU explained that his country's proposal contains provisions on: mitigation by developed and developing countries;

adaptation; risk-management and risk-reduction; technology; a fund with different funding windows; and immunities for persons serving under various bodies to be established. On the way forward, he stressed the contact group as the way to consider how to achieve a legally-binding outcome.

COSTA RICA underscored that his country's proposal reflects the full spectrum of parties' views and includes a global approach under which all countries mitigate their greenhouse gas (GHG) emissions and adequate support will be provided for adaptation. He called for a mandate to work towards the adoption of a legally-binding instrument at COP 17.

The US indicated that his country "continues to like" many of the elements in the proposal submitted in 2009, including its provisions on mitigation. He explained that the context of the proposal was to ensure that the legal basis was available for parties to adopt a new protocol reflecting the AWG-LCA's work in Copenhagen. He underscored overlap between proposals under this agenda item and the AWG-LCA's work. With INDIA, he urged giving priority to the AWG-LCA.

INDIA stated that legal "bindingness does not only come from a protocol," explaining that the Berlin Mandate, Marrakesh Accords and the Bali Action Plan have all been decisions and parties have felt bound by them. Saying that consideration of this issue is premature, INDIA reminded delegates that during negotiations for the Kyoto Protocol, "the form came last after the substance had been clarified."

The EU called for clarifying, in Cancun, that the intention is to work towards a legally-binding outcome under the AWG-LCA. He elaborated that this means the outcome should not be in the form of decisions, but in the form of protocols and amendments. The EU reiterated willingness to commit to a second commitment period under the Kyoto Protocol in the context of a comprehensive global outcome.

CHINA underlined that proposals by AOSIS, Costa Rica and Tuvalu are being fully considered under the AWG-LCA and questioned how the legal outcome can be addressed without clear understanding of the substance.

SINGAPORE and several other AOSIS members stated that

the AWG-LCA's outcome must be a global and comprehensive legally-binding agreement that is complementary to the Kyoto Protocol. Several parties also identified the need for a channel for constructive dialogue on legal issues. SAINT LUCIA called for a decision setting out the process towards a legally-binding outcome, indicated that the agenda item should remain open and suggested that the COP Presidency consider an inter-sessional process. The MARSHALL ISLANDS presented detailed suggestions, including extending the AWG-LCA's mandate to take into account elements from proposals under Convention Article 17.

SOUTH AFRICA identified lack of clarity on the legal form of the AWG-LCA's outcome as the "elephant in the room" and COLOMBIA identified it as one of the problems preventing success in Copenhagen. SOUTH AFRICA supported an outcome consisting of a legally-binding instrument from both the AWG-KP and the AWG-LCA tracks, and stressed that the "bigger blueprint" would be best addressed by the COP Presidency. NORWAY identified broad agreement on the need for a legally-binding instrument, while saying work towards this goal should not duplicate efforts.

BOLIVIA stressed the mandate to finalize work under the two negotiating tracks, indicated that the consideration of a new instrument is premature and suggested focusing on substance. The PHILIPPINES said his country remains "agnostic" and that decision on the legal form of the outcome depends on various issues. He expressed preference for an immediately-operational instrument and emphasized the need for continuation of the Kyoto Protocol.

Chair Zammit Cutajar noted that many views were familiar from previous discussions on the legal form, saying that parties continue to hold different views on the two-track process, as well as on what constitutes a "legally-binding outcome." He also indicated that contact groups, such as this, are sessional bodies and their "life" ends at the end of the COP, while the Presidency continues during the inter-sessional period. He underscored, however, that the agenda item will remain open beyond COP 16, and stressed that the most important thing is that the issue is not "lost" and that there is a space to discuss it.

Chair Zammit Cutajar concluded that the morning's discussions are part of the "big picture" and the COP President is in the best position to address the issue. He said that given parties' divergent views and the COP President's instructions to avoid duplication of work, he will seek the COP Presidency's advice on how to continue. GRENADA expressed disappointment at the Chair's decision not to convene informal discussions in the afternoon.

AGENDA ITEM 3 (Annex I further commitments) (AWG-KP): AWG-KP Chair John Ashe (Antigua and Barbuda) opened the contact group meeting, saying the purpose is to take stock of progress made, particularly by the spin-off groups, as well as to consider the way forward. The spin-off group facilitators then reported on progress.

Spin-off group Co-Facilitator Peter Iversen (Denmark)

reported that the Chapter II spin-off group (LULUCF) has focused on harvested wood products, wetlands and *force majeure*. He explained that some progress has been made but that the group would benefit from more time to continue its considerations.

AWG-KP Vice-Chair Adrian Macey (New Zealand) reported on work done on Chapters III (flexibility mechanisms) and IV (basket of methodological issues). On the flexibility mechanisms, he said the group had sought to identify areas where the current text could be further refined and where possibilities existed to move towards consensus text. AWG-KP Vice-Chair Macey said the group had refined options on the possible inclusion of carbon capture and storage (CCS) under the CDM and that parties are also consulting on the use of Certified Emission Reductions (CERs) generated from projects in certain countries. Regarding the basket of methodological issues, AWG-KP Vice-Chair Macey reported "good engagement" on new GHGs and common metrics to calculate GHG equivalence, highlighting areas in which the text has been streamlined. Regarding new GHGs, he reported growing convergence on the inclusion of nitrogen trifluoride.

Co-Facilitator Eduardo Calvo Buendía (Peru) reported on the spin-off group on Chapter V (potential consequences), saying discussions have focused on resolving the remaining differences regarding either establishing a permanent forum to address potential consequences or using existing means, such as national communications. He reported that as the proponents of the two options have not agreed to retract either option, the current text remains unchanged and will be forwarded to the AWG-KP Chair for further consideration.

Co-Facilitator Jürgen Lefevere (European Commission) reported on the spin-off group on Chapter I (numbers) and highlighted that the group had focused on the following unresolved issues: length of commitment period; base year and reference year; and carryover of surplus AAUs. On the commitment period, he reported convergence on a single commitment period but divergent views on whether this should be five or eight years long. On base and reference years, he said parties had come close to a possible compromise on having a single base year to calculate parties' Assigned Amounts and reference years for domestic purposes. He said a text had been prepared on this issue, which enjoys broad support. On the carryover of surplus AAUs, he said the co-facilitators have streamlined the current proposals into three options: maintaining the current provisions or removing existing provisions on carryover; limiting carryover such as through capping; or not allowing carryover.

Yemen, for the G-77/CHINA, stressed that the continuation of the Kyoto Protocol is essential for addressing climate change. He said the progress made so far in the consultations should be captured in new text to help facilitate negotiations and move closer to a "success story" in Cancun. The EU urged more progress on the discussions on LULUCF and the carryover of surplus AAUs.

AWG-KP Chair Ashe said the spin-off groups would be given

more time to enable them to complete their work, reporting that additional meetings have been scheduled for the spin-off groups. He also said he would report on progress made to the informal COP/MOP plenary holding on Saturday. AWG-KP Chair Ashe further highlighted the need to address the political elements which are key to reaching a balanced outcome and said he would bring these elements to the attention of the COP/MOP President so that she can determine how to take them forward.

LULUCF (AWG-KP): In afternoon informal consultations, parties considered a co-facilitators' non-paper, which provides two options for a LULUCF decision. Some parties lamented that their proposals were not adequately reflected in the text. On a definition of wetland management, some parties preferred a narrower definition, focusing on anthropogenic rewetting and draining.

Parties also discussed whether, in the event of *force majeure*, all emissions from the disturbance would be excluded, or only emissions above a threshold. Parties raised concerns about lack of clarity on whether *force majeure* refers only to a single event or an accumulation of events. Consultations will continue and a new text will be released on Saturday.

ADAPTATION FUND (COP/MOP): During morning informal consultations, parties considered the draft terms of reference for the initial review of the Adaptation Fund.

MITIGATION (developed and developing countries) (AWG-LCA): In the drafting group on mitigation, parties considered text on co-facilitators' views on options for elements of the outcome on mitigation by developed countries and mitigation by developing countries. It was noted that text on MRV would be forthcoming.

On mitigation by developed countries, some parties preferred reference to commitments, while others preferred targets. Some parties expressed concern about launching a process to negotiate individual pledges and/or the assumptions and conditions underlying them.

On mitigation by developing countries, some parties expressed concern about invitations for developing countries to submit information on their mitigation actions, while others noted that this information is needed to assess what the total mitigation actions add up to. Some parties objected to reference to low emissions development strategies.

ADAPTATION (AWG-LCA): In the afternoon informal consultations, a new text was introduced. Parties could not reach agreement on whether to continue on the basis of the new text or the Tianjin text. Discussions on this issue continued late into the evening.

FINANCE, TECHNOLOGY AND CAPACITY-BUILDING (AWG-LCA): During the afternoon drafting group on finance, a new text was introduced prepared based on the Tianjin text but described as "more concise and clean." Many parties recalled the possibility of incorporating relevant paragraphs from the Tianjin negotiating text. Informal discussions continued.

ENHANCED ACTION ON MITIGATION (REDD+)

(AWG-LCA): In the drafting group on REDD+, many parties expressed support for using the AWG-LCA Chair's text (FCCC/AWGLCA/2010/CRP.1) as the basis for further negotiations, with a number of parties calling for only minor changes. Many parties called for a decision on REDD+ in Cancun, with some noting that this will be contingent on progress on MRV negotiations.

Parties also considered the linkage between REDD+ and NAMAs. Most parties agreed on a phased approach to REDD+. Parties had divergent views on national and sub-national implementation, though some suggested that sub-national approaches could be used as an interim measure. Many parties highlighted the need for national reference levels. Parties discussed whether MRV of safeguards should occur. Some parties objected to reference to markets. Some parties highlighted the need to address drivers of deforestation and a number of parties objected to reference to low carbon strategies.

CONVENTION ARTICLE 6 (education, training and public awareness) (SBI): The morning meeting of the contact group on Convention Article 6 focused on the intermediate review of progress in the implementation of the amended New Delhi work programme on Article 6 of the Convention. Chair Pa Ousman Jarju (the Gambia) introduced a draft COP decision prepared by him on the basis of the outcomes of the thematic regional and sub-regional workshops organized to share lessons learned and best practices, as well as on parties' interventions in the SBI plenary. Parties considered the text paragraph-by-paragraph and the contact group was able to agree on a draft COP decision and conclude its work.

MATTERS RELATED TO LDCs (SBI): During the afternoon contact group, Co-Chair Katherine Vaughn (Australia) introduced draft SBI conclusions and a draft COP decision. She said parties had agreed to extend the LDC Expert Group's (LEG) mandate for five years. Parties agreed to include an additional LDC member in the LEG. Delegates discussed the proposed text paragraph-by-paragraph and decided to forward it for adoption by the SBI plenary.

LDC FUND (SBI): During the afternoon contact group, Co-Chair Vaughn introduced draft SBI conclusions and a draft COP decision. Delegates discussed the proposed text paragraph-by-paragraph. The EU suggested inviting all parties in a position to do so, to contribute to the LDC Fund. On text dealing with requesting the Secretariat to prepare a synthesis report on the progress made in updating NAPAs, the EU supported referring, instead, to progress in implementation of NAPAs. Bangladesh, for the G-77/CHINA, proposed including reference to both the updating and implementation of NAPAs. Parties agreed to forward the draft conclusions and decision text to the SBI plenary.

ARRANGEMENTS FOR INTERGOVERNMENTAL MEETINGS (SBI): In the afternoon contact group, SBI Chair Robert Owen-Jones (Australia) introduced a text developed during informal consultations, where observers were allowed to participate.

On recognizing the important role of parliamentarians and legislators, and the value of their participation as observers in the UNFCCC process, the US opposed the reference to these individuals as observers. SAUDI ARABIA, supported by EGYPT, opposed referring to parliamentarians and legislators, saying that their participation and role should be considered by each party according to its national circumstances and legal framework. MEXICO supported retaining the text and reference to parties' submissions.

MEXICO and many others, opposed by SAUDI ARABIA, supported draft text on having an in-session workshop in 2011 on ways to enhance the engagement of observers and their means of participation. Noting difficulties reaching agreement, the SBI Chair proposed referring consideration of this issue to the next session. Finally, SOUTH AFRICA proposed, and many parties supported, text taking note of discussions held during SBI 33. SAUDI ARABIA supported deletion of text noting that the creation of a limited number of consultative fora comprised of observers should be a way to enhance engagement.

SBI Chair Owen-Jones said he will reflect all parties views in the draft text to be presented to the SBI plenary.

CAPACITY BUILDING (CONVENTION) (SBI): During the afternoon contact group, Co-Chair Marie Jaudet (France) introduced draft SBI conclusions and a draft COP decision. On a request to the GEF to increase its support to capacity-building activities in developing countries, the EU, supported by the US, JAPAN and others, suggested bracketing "increase" and proposed, instead, reference to "continue to provide financial support." Noting the increasing need for support for capacity building activities, the G-77/CHINA opposed. Parties did not reach agreement and decided to continue consideration of this issue and the agenda item on capacity building under the Kyoto Protocol at the next SBI session.

NAIROBI WORK PROGRAMME (SBSTA): In the evening, the group on the NWP met informally to continue negotiations on draft SBSTA conclusions. Unresolved issues addressed included the clarification of language on enhancing capacity "including of women and indigenous peoples" and a proposed workshop on ecosystem-based adaptation. Many developed countries supported the workshop, while many developing countries supported waiting until SB 34 to define further work. Parties supported language agreeing to continue activities under the NWP while the programme is under review. Options related to indigenous communities or peoples remained bracketed.

Parties reconvened in a brief contact group. Co-Chair Kishan Kumarsingh (Trinidad and Tobago) introduced the draft conclusions and parties agreed to forward the text, with remaining brackets, to the plenary.

REVISION OF THE UNFCCC REPORTING GUIDELINES ON ANNUAL INVENTORIES FOR ANNEX I PARTIES (SBSTA): In the afternoon contact group, parties discussed draft conclusions. Parties discussed requesting the IPCC to use scientific developments on wetlands to fill gaps in the 2006 IPCC Guidelines and parties ultimately agreed to forward the draft conclusions for adoption by the SBSTA.

PROTOCOL ARTICLES 2.3 AND 3.14 (SBI/SBSTA): In the afternoon joint SBI/SBSTA contact group, Co-Chair Andrew Ure (Australia) introduced draft conclusions based on the G-77/China's proposal for a joint workshop relevant to Protocol Articles 2.3 (adverse impacts of policies and measures) and 3.14 (adverse effects). AUSTRALIA noted they could support the draft conclusions if the workshop was combined with one on implementation of Decision 1/CP.10 (Buenos Aires programme of work on adaptation and response measures). Parties agreed to forward the draft conclusions to the SBSTA and SBI plenaries for adoption.

IN THE CORRIDORS

With the end of the first week rapidly approaching and ministers starting to arrive at the UN Climate Change Conference in Cancun, many delegates found themselves thinking about the way forward. The textual basis for work during the second week featured among the hottest topics in this respect. At her press conference, UNFCCC Executive Secretary Christiana Figueres confirmed that the AWG-KP Chair would release a new text on Saturday and that the AWG-LCA Chair would also provide a new version of her non-paper. In response to rumors concerning a possible Mexican text, the UNFCCC Executive Secretary took a firm stand: "There will be no such text."

Many identified "balance" as the magical ingredient for a successful outcome next Friday: "We need balance between the elements of the Bali Action Plan under the AWG-LCA, balance between the two negotiating tracks, and balance between developed and developing countries' interests," noted one expert. "Countries need to be equally comfortable and equally uncomfortable with the outcome," was how Executive Secretary Figueres defined a balanced outcome.

The word "balance" was also an answer to some delegates wondering why certain issues that many predict will be among the key Cancun outcomes have received "so little" attention during the first week. "I can't believe that today was the first time that REDD+ was taken up," stated one delegate. One delegate offered an explanation: "Coming here, some of the AWG-LCA texts were much more advanced than others. Negotiators are trying to bring them all to a comparable level." Another cautioned: "Some of us are afraid that if we open up advanced text for discussion, we may end up moving backwards." The AWG-LCA's work on MRV/ICA was described by many as one of the "critically important" but more "immature" elements of the AWG-LCA's work. "The first version of Margaret's non-paper did not address MRV, but I'm trusting that the new non-paper will contain something interesting," indicated one party.