

Chair issues draft text as Kyoto Protocol session ends

Bonn, 10 Aug (Hilary Chiew and Lim Li Lin) -- The week-long session of the working group under the Kyoto Protocol ended on Friday 6 August with the issuance of a new 50-page draft proposal by the Chair of the group, and a closing plenary in which developing countries strongly criticised developed countries for their so far abysmal plans to cut emissions and the apparent refusal of many of them to commit to a second commitment period of the Protocol.

The Chair of the Ad hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP), Mr. John Ashe of Antigua and Barbuda, issued his draft proposal comprising texts with options (representing the differences of views of Parties to the Protocol).

The Chair's proposal is in the form of an amendment to the Kyoto Protocol and draft decisions to be adopted (by the Conference of Parties of the UN Framework Convention on Climate Change serving as the Meeting of Parties to the Kyoto Protocol, or CMP) at the UNFCCC meetings in Cancun, Mexico on 29 November-10 December.

Five draft decisions are contained in the document's five Chapters.

Chapter I is an amendment to the Kyoto Protocol for the second commitment period pursuant to its Article 3.9, accompanied by a draft decision adopting the amendment. Chapter II is a Draft decision on Land use, land-use change and forestry (LULUCF). Chapter III is a Draft decision on Emissions trading and the project-based mechanisms.

Chapter IV is a Draft decision on Greenhouse gases, sectors and source categories, common metrics to calculate the carbon dioxide equivalence of anthropogenic emissions by sources and removals by sinks, and other methodological issues. Chapter V is a Draft decision on Consideration of information on potential environmental, economic and social consequences, including spillover effects, of tools,

policies, measures and methodologies available to Annex I Parties.

The Chair's draft proposed text is based on the previous documentation that has now been updated with proposals by Parties (on the amendment to the Kyoto Protocol for the second commitment period, in which the scale of Annex I Parties' emission reductions is central) and which also captures the progress made at this session in the various contact groups (on "other issues" including land use, land-use change and forestry, emissions trading and the project-based mechanisms, methodological issues and potential consequences).

Several developing countries supported the issuing of the Chair's text and called for negotiations to begin based on it. They stressed that satisfactory progress in the AWG-KP is key to the success in the two negotiating tracks at the Climate Conference in Cancun. The other track is the Ad hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA).

In closing statements at the final plenary of the working group, the developing countries criticised developed countries for their lack of commitment to the Kyoto Protocol process.

The G77 and China said that Annex I Parties had been unwilling to table emission reduction pledges that are transparent or ambitious enough. At the next meeting in Tianjin, China (in October), they must raise the ambition level to close the gap.

The G77 and China was also concerned about the loopholes allowing Annex I Parties to avoid real reductions. It reiterated its well-known stance that the Kyoto Protocol must continue in line with the legal obligation.

(Annex 1 Parties refer to developed countries and countries with economies in transition that are Parties to the UNFCCC with legally binding commitments to reduce greenhouse gas emissions. The Kyoto Protocol sets the reduction targets for Annex 1 Parties. The US is an Annex 1 Party but not a Party to the Protocol.)

In a strong statement, China said it is against any proposal to replace the Kyoto Protocol, as well as proposals to impose unfair obligations on developing countries. "If the Kyoto Protocol process fails, it will be the failure of the whole multilateral process on climate change," it warned, and called for the group to engage in full negotiating mode based on the Chair's draft, at the next meeting.

The European Union seemed to be the only developed country Party that indicated that it could still support the continuation of the Kyoto Protocol, but under certain conditions. While expressing its openness to consider a second commitment period of the Kyoto Protocol, the EU said it should be clear that it is premised on ensuring a satisfactory balance between both tracks and on improving the environmental integrity of the Protocol. (The first commitment period spans 2008 to 2012.)

Speaking on behalf of the Group of 77 and China, Yemen said the Group notes that consideration of the scale of emission reductions of Annex I Parties has been delayed through the continuing inability or unwillingness of negotiating partners to bring to the table pledges for emission reduction commitments that are transparent or consistent with the level of ambition needed to address the increasingly urgent challenge of climate change.

In this context, it said the key focus for the next session (in Tianjin) must be on raising the level of ambition in order to close the gap between these pledges and the commitments that are truly needed.

The continuity of the Kyoto Protocol is an essential element for the future of the climate change regime, it said.

The establishment of new quantified emission reduction commitments for Annex I Parties under the Protocol is a legal obligation that must be met and is a cornerstone of the climate regime and the Cancun outcome as a whole.

The Group reiterated its serious concern as to the extent of loopholes (which allow Annex I Parties to avoid undertaking real emission reductions), as indicated by many of the presentations at an in-session workshop that was held during the Bonn session (on the scale of emission reductions by Annex I Parties), as well as the slow progress in the AWG-KP negotiations.

It said talks in Cancun can succeed only if there is a clear commitment from Annex I Parties to meet their legal obligations in the two negotiating tracks, and the Kyoto Protocol track must lead the way in reaching the Cancun outcome.

Representing the African Group, the Democratic Republic of Congo said that it is very disturbed by the way Annex I Parties have re-inserted some of their old positions back into the Chair's draft text. The Group, it said, is concerned that that would lead Parties to renegotiate issues where compromises were reached on in the past.

This, it added, is a clear sign that Annex I Parties are not fully committed to reaching an agreement that will result in a second commitment period.

It said that Africa requires an outcome that establishes ambitious greenhouse gas emission reductions for Annex I Parties in order to ensure that the impacts of climate change do not undermine its development and poverty eradication goals.

Specifically, it stressed that that would require agreement on the continuation of the two-track approach, culminating in an amendment of the Kyoto Protocol thereby establishing the second and subsequent commitment periods.

The amendment, it said, must contain deep economy-wide quantified emission limitation and reduction targets for all developed countries for the period beyond 2012. In accordance with the science and in line with developed countries' historical responsibility for emissions, and in line with the African Union's call, the level of ambition should be at least 40% below 1990 levels by 2020 and between 80 to 95% by 2050.

Acknowledging that while Parties have different interpretations of the contents of the Secretariat's paper on legal matters (which describes legal options to ensure that there is no gap between the first and subsequent commitment periods and legal implications if such a gap were to occur), it said that the Group believes that very important issues have been raised, all of which require further deliberations.

It said opportunity must be created for Parties to zero-in on some of these legal options and explore these further so that they can adequately prepare for all eventualities.

The Alliance of Small Island States (AOSIS), represented by Grenada, said that it is concerned by the lack of progress made at this session, on both contextual and technical issues.

At the in-session workshop, it said Parties saw a high degree of convergence from presenters on the scale of the challenges faced in raising the ambition of Annex I Parties' pledges to the level required by science.

Presentations confirmed that the pledges would only achieve a 1 to 7% reduction below 1990 emission levels, including those of non-Kyoto Protocol Parties, it said.

This is extremely disturbing for countries vulnerable to the impacts of climate change. However, it said, Parties also learned from the workshop that there are a series of measures that can be taken to increase the effective emission reductions of the pledges now on the table.

These include measures to close what are termed as "loopholes" in the Kyoto Protocol accounting system in the areas of LULUCF accounting and surplus AAUs (assigned amount units). It reminded that the loopholes identified have not been closed and it would still be absolutely essential to see a substantial increase in ambition from Annex I Parties.

Otherwise, it said that Parties cannot hope to come close to the range indicated in the IPCC (Inter-governmental Panel on Climate Change) report of 25 to 40% reductions by 2020, which is associated with a 2 to 2.4 degree Celsius increase in temperature, or to go beyond this range to a more than 45% reduction.

AOSIS believes it is essential to achieve a long-term limitation of temperature increase to well below 1.5 degrees Celsius. This has a support base of 107 countries and a rising scientific base, it said.

"We must address pledges from Parties that are above business as usual scenarios; we must address the quantitative implications of surplus carryover (of AAUs) from the first commitment period to the second commitment period; we must address Article 3.7 on deforestation; and we must address LULUCF crediting. We must also see a substantial improvement in Annex I Party pledges," it added.

"If we fail to fix these," the group warned, "we would be left at a 1 to 7% reduction in emissions from Annex I Parties below 1990 levels by 2020, which would be an unconscionable result, given the vulnerable countries around the world that are waiting for this process to achieve something real and meaningful".

It said that it is appreciative of the Chair's draft text which took into account Parties' proposals, including for increasing the share of the proceeds for adaptation, and for addressing the issue of surplus AAUs and improving the accounting under Article 3.7 (of the Protocol).

It disagreed with some Parties who felt that these issues are beyond the mandate of this working group. Instead, it

sees these elements as essential for a strong Kyoto Protocol.

Lesotho, speaking for the Least Developed Countries (LDCs), said that there should be no gap between the first and second commitment period, and stressed the urgency of agreeing to deep and ambitious Annex I emission reductions. It said that it was disappointed with the slow progress of the AWG-KP, and that in Cancun, the Kyoto Protocol must lead the way.

India felt that the Chair's draft text should enable Parties to focus attention on the key issues that have to be addressed to help Parties reach an effective outcome at Cancun. The text, it said, should therefore follow the mandate of the AWG-KP which is to decide the quantified emission reduction commitments of Annex I countries in the second commitment period of the Kyoto Protocol.

India believes that the work of the AWG-KP is the key to the success of the two-track negotiations. A satisfactory outcome on the basis of science and equity is central to the success of the negotiations at Cancun, it added.

It further said that it would be unfair and also a digression from our main task if the attention is instead shifted to the actions of developing countries.

It said the UNFCCC and the Kyoto Protocol are the two legal realities that have been negotiated after much thought and effort. These must not be allowed to be diluted, marginalised or supplanted. Therefore, Parties are here in the AWG-KP not for negotiating a new treaty or agreement. Whatever Parties choose to do must only enhance and not diminish the principles and provisions of these two legal realities.

Agreeing with India that future work must be focused on its mandate, China said it is still concerned with the intention of setting preconditions (by certain Parties) for the Kyoto Protocol track, in the name of balance or coherence between the two tracks. It is also against any proposal to replace the Kyoto Protocol with a new protocol, as well as those (who) try to misuse the Kyoto Protocol negotiations to introduce or even impose unfair obligations on non-Annex I countries.

It said during this session, it further identified the gap between what has been offered by Annex I (countries) and what is needed in accordance with their historical responsibilities and based on science. It is shocked and deeply concerned by the size of the gap, and as government delegates, it heard the strong voice of civil society and recognises the duty of the AWG-KP to set the scale of emission reductions of Annex I (countries) in

the second commitment of the Kyoto Protocol, which should be ambitious, without being severely compromised by any loopholes.

It reiterated that the Kyoto Protocol process should draw conclusions before Cancun according to its mandate, and this should be the cornerstone of a meaningful outcome in Cancun.

It said the Kyoto Protocol track, therefore, has to catch up and make progress ahead of the AWG-LCA. It warned that if the Kyoto Protocol process fails, it will be the failure of the whole multilateral process on climate change. With the draft text proposed by the Chair, it said that it is prepared to go into full negotiation mode at the next session.

Referring to the in-session workshop held on 2nd and 3rd August, Bolivia said it was made very clear that the actual emission reduction pledges (under the Copenhagen Accord) are not consistent with the objective of limiting temperature increase to 1.5 degrees Celsius and not even 2 degrees Celsius.

It pointed out that each limit to the increase in temperature corresponds to a budget of carbon emissions that cannot be surpassed. The distribution of the remaining carbon budget between developed and developing countries must be done in an equitable way, taking into account population distribution and the emissions debt that the developed countries have with developing countries.

The reduction commitments that the developed countries tabled are not consistent with science nor with the equitable distribution of the atmospheric space, it said. Therefore, it said, it is fundamental that the next session in China is dedicated to progress substantially on this issue which is the heart of these negotiations, and without which there cannot be a satisfactory result in Cancun.

Representing the European Union (EU), Belgium reiterated that while it preferred a single legally binding instrument that would include the essential elements of the Kyoto Protocol, it is flexible regarding the legal form, as long as it is binding.

It said it is open to a second commitment period under the Kyoto Protocol as part of a wider approach in which a binding instrument capturing the outcome of the AWG-LCA process would complement and work in parallel with an improved Kyoto Protocol.

Such an approach, it added, should ensure that other major emitters take on their fair share of the global emission reductions effort and that environmental

integrity is improved, noting that many Parties expressed similar interests.

It restated its objective to make all the progress that is feasible in both negotiating tracks towards a comprehensive and legally binding outcome, in line with its 2 degrees Celsius objective. It acknowledged that current pledges do not match the required level of ambition. There also seems to be broad recognition now, that if we do not get the accounting rules right, this would further undermine the effort that is required, it added.

The EU said progress has been made on improving the accounting rules with a better understanding of the implications of the LULUCF accounting options and of the assumptions underlying current pledges.

It is concerned that while within the Kyoto Protocol track, Parties were discussing quantified emission limitation and reduction objectives, options for accounting, the length of commitment periods, the inclusion of additional gases etc, it did not see an equivalent level of progress under the Convention track.

It deplored that within that track, Parties were unable even to put their respective mitigation commitments on the negotiation table, adding that it would carefully analyse the new text that the Chair will produce, in preparation for the next session in Tianjin.

Speaking for the Umbrella Group, Australia said it is committed to being part of a comprehensive global deal and stressed the importance of the growing need for clarity on rules including for (carbon) markets and LULUCF, and of recognizing the special circumstances of economies in transition.

Korea, on behalf of the Environmental Integrity Group, said that the work of the AWG-KP is part of a broader comprehensive and balanced package defining the future climate change regime. It suggested that the pending issues such as surplus AAUs and LULUCF have to be resolved by Cancun.

It emphasised further developments on the flexible mechanisms and the establishment of new ones, and suggested streamlining the draft Chair's text for amendment of the Kyoto Protocol as well as related decisions.

To advance politically, conditionalities for the second commitment period under the Kyoto Protocol should be addressed. It said that in Cancun, common issues, e.g. mitigation, market mechanisms, and expectations for the two working groups should be dealt with.

Japan said it seeks a balanced, environmentally effective and comprehensive global deal and emphasised the importance of ensuring a coherent approach with the AWG-LCA for moving forward.

It said the whole world thirsts for a post-2012 global deal that is more effective and comprehensive than the present Kyoto Protocol where only certain countries are required to reduce greenhouse gas emissions while others are not, hence, the simple Kyoto Protocol regime appears weak to address global warming.

It said that, "an aircraft that flies on one engine will drop us short of our ultimate destination and can by no means save the earth".

This is the rationale of the Umbrella Group's statement and its steadfast position that the international community should seek a single, fairer and effective legal instrument where developed and developing countries can participate in the form of an amended Kyoto Protocol or the creation of a new agreement.

It further said the lack of coherence of both ad hoc working groups has caused insufficiencies and has invited criticisms and suspicions.

In closing the plenary, the Chair, John Ashe, invited Parties to submit comments on his draft proposal in writing by 31 August, as he intends to prepare a scenario note on how the draft text can be considered in Tianjin. He said comments will be compiled as a miscellaneous document and made available to all Parties.

At the session, the legal contact group considered the Secretariat's paper on "Legal considerations relating to a possible gap between the first and subsequent commitment periods" that was requested at the last session of the AWG-KP.

It was decided that no further work on this issue was needed at this point, and that the legal interpretation of the Kyoto Protocol is the prerogative of Parties, and they would determine when this is necessary.