

Developed countries condition future of the Kyoto Protocol

Bonn, 9 June (Lim Li Lin) - The contact group meetings of the Ad hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) commenced on Wednesday, 8 June with serious disagreements between Annex I (developed country) and non-Annex I (developing country) Parties on the future of the Kyoto Protocol and the way forward towards Durban (where the next UN climate change conference will be held in November).

Canada became the third Annex I Party to declare in Bonn that it will not commit to a second commitment period after 2012 under the Kyoto Protocol, just as Russia and Japan have done at previous sessions.

While developing countries firmly insist that for a balanced Durban outcome, developed countries must commit to a second commitment period under the Kyoto Protocol, developed countries are trying to lay the foundations for a new agreement that would include all “major emitters” (which would include commitments from the United States as well as “advanced developing countries”).

(The United States, which is not Party to the Kyoto Protocol, had in Bangkok last April, made clear that it could not support an international regime that would set top-down rules for emission reduction targets and consequences for non-compliance.)

Developed countries also insist on the need for agreement on the technical accounting rules regarding their emission reduction pledges before or at the same time that commitments can be made, and threatened that if work on the rules does not take place in Bonn, it will be almost certain that there will be no second commitment period under the Kyoto Protocol.

Developing countries on the other hand have continued to insist that it is important to understand the context of the discussions in the AWG-KP. This is because some countries (Canada, Russia and Japan) have declared that they will not commit to a second

phase of emission reductions under the Kyoto Protocol, while other developed countries have attached conditions to their further commitments. As such, the work of the AWG-KP is uncertain, with developing countries working towards a second commitment period of the Kyoto Protocol, and some developed countries working to shift the outcomes of the work of the AWG-KP into the AWG-LCA (Ad-hoc Working Group on Long-term cooperative Action) outcome.

The meetings followed on from the last session in Bangkok in April. At that session, developing countries led by Tuvalu and St Lucia insisted that the work of the AWG-KP not move into technical discussions in small spin-off groups until the political issues around the future of the Kyoto Protocol and its second commitment period are resolved. Most countries supported continuing this political discussion at the opening of the AWG-KP on Tuesday, 7 June.

The discussion at the last session in Bangkok had focused around the conditionalities that developed countries have attached to their emission reduction pledges. The Alliance of Small Island States (AOSIS) had put forward a number of questions, on what pre-conditions have been met and need to be met in order for Annex I Parties to move forward with a second commitment period of the Kyoto Protocol.

The Chair, Adrian Macey from New Zealand, proposed at the start of the contact group that the meeting should discuss policy issues on the conditionalities and linkages that Annex I Parties are making with regards to the second commitment period, as well as to advance the negotiating text, so that there is greater clarity on the issues for political decisions in Durban.

St Lucia, supported by **Bolivia**, expressed doubt that the Chair's proposal for work would help achieve the clarity desired. It said that three Parties have expressed their lack of interest in the second commitment period, and this should be taken note of, and the work should focus on the other Parties and

their conditionalities. (This sentiment was also supported by Brazil, Singapore, Zambia, and Cuba.) Then, the timing of political decision-making should also be determined. Tuvalu advocated for a more specific discussion on the conditionalities, beyond generalities.

The **European Union**, supported by **Switzerland** and **Australia** suggested asking what a successful, balanced package for Durban would look like, and what role the second commitment period would play in that, rather than framing the issue as a question about conditionalities.

It said that the second commitment period should be part of a balanced package for Durban. If this is agreed then the focus should be on what needs to be done with regards to the rules, as rules are needed before the numbers can be put in a legal commitment.

It said that excluding some countries from the negotiating process was squarely against the multilateral process, as all Parties, even the non-Kyoto Protocol Party is welcome, and should be part of the discussion, as maybe there could be a package that could be attractive to them.

The **Russian Federation** said that if there is a second commitment period, the regime will be much clumsier, and will not have environmental integrity. It said that it wanted to be part of a comprehensive regime, and to take commitments, in the manner that was confirmed with the Copenhagen Accord and reiterated in Cancun. It suggested that the Durban outcome could formalize in a decision the emission reduction pledges, as well as the rules, for example on MRV (measurement, reporting and verification) and comparability of efforts. This would make its implementation possible from legal point of view, it said.

It also expressed its extreme surprise with proposals (to move forward in the discussion with only those countries that are willing to consider a second commitment period). It said this was not legally justifiable or politically acceptable, and Parties cannot be excluded.

Switzerland said that Cancun was a starting point, and that it is important to look at the deliverables in the broader package. In this regard, progress must be made on all the areas. The bridge must land in one comprehensive legally binding regime, embracing all major emitters, it said. It requested that the AWG-LCA workshop report on developing country mitigation should also be made available to the AWG-KP.

(Developing countries are not required to take emission reduction commitments under the Kyoto Protocol.)

It later added that its conditions are a clear understanding of the rules, implementation of the MRV package based on the modalities and guidelines that were agreed in Cancun, and that the future regime must make sense, be clear, comparable, comprehensive, fair, coherent, and effective.

Canada announced that it will not be taking an emission reduction target under the second commitment period, but said that this does not mean that it will not engage. It said that the Kyoto Protocol rules and structures can be useful in the context of a more comprehensive agreement, for example land use, land use change and forestry (LULUCF) rules in the context of REDD-plus (Reducing emissions from deforestation and forest degradation in developing countries) and market mechanisms.

New Zealand referred to “commonalities and conditionalities”, and said that every Annex I country is ready to take commitments in “appropriate legal form”. It said that there was a lot of commonality on comparability, common rules, and coherence with the AWG-LCA. It asked what are the conditionalities of non-Annex I countries? For example, the demands for 40 % emission reductions (by 2020 on 1990 levels) is unlikely to be achieved, and would this be unacceptable? It said that conditions relate to the targets and the rules, while conditionalities are more political, for example the global context and contribution from all major emitters.

Norway said that it can consider a second commitment period under the Kyoto Protocol, as part of a balanced outcome in Durban. It said that its level of ambition is to reduce emissions by 30% by 2020 on 1990 levels, and that it was willing to increase its emission reductions by 40% if others do more. It is flexible whether or not it commits under the Kyoto Protocol, or as part of a new outcome. It said that the elements of the Kyoto Protocol should be kept in a future legal agreement, and that the Kyoto Protocol alone is not enough for an environmentally meaningful outcome. Its conditions are that the Cancun agreements are implemented, clear progress on mitigation and coherent MRV for developed and developing countries especially for major emitters, surplus assigned amount units (AAUs) addressed, and accounting rules adopted together with the agreement on the second commitment period.

Japan said that it had a strong aspiration for a new legal framework in which all major economies participate. It reiterated its position that it would not commit to a second commitment period under the Kyoto Protocol. It said that there is an accumulation of lessons and experience on the implementation of the Kyoto Protocol, which is an important structure for emission reductions, and provides the building blocks towards a new framework.

Brazil said that the second commitment period must be adopted in Durban to ensure that there is no gap between the commitment periods. It said that issues under the AWG-LCA should not be considered.

Singapore said that the second commitment period is a critical part of the balanced package under the two-track process which was agreed in Bali.

Argentina said that the AWG-KP is the place to discuss the second commitment period, not vague ideas about the future. This sentiment was echoed by China and Saudi Arabia, who stressed on the mandate of the AWG-KP.

Democratic Republic of Congo said that there is a lack of political will from Annex I Parties. It asked how to expect an outcome in Durban if there is no second commitment period, and how can conditionalities and commonalities be placed and expect Durban to be a success?

Cuba added that it was only willing to consider the flexible mechanism under the second commitment period of the Kyoto Protocol, and not under the AWG-LCA.

At the second meeting of the contact group, the deep disagreement between developed and developing countries continued and remained unresolved. The Chair proposed taking forward issues in the text, and in spin-off groups.

St Lucia insisted that it was difficult to get into technical issues, as the political context frames the way we approach these issues. It asked to hear from more Parties, and requested for a number of specific clarifications from Annex I Parties based on what they said in the first contact group meeting.

In response to a question posed by St Lucia, **New Zealand** explained that its ideal legal form is a single treaty with advanced developing countries, and this may be appropriate in the long term. In the interim, there needs to be a transition period, and there could be two tracks that are balanced and equally legally binding. This could include the prospect of a second commitment period under the Kyoto Protocol. It said that a balanced package at Durban would include all the elements of the current negotiations in appropriate legal form. It urged for work on the text, and for identifying the political issues for Ministers in Durban.

Australia said that its vision for a new climate regime is a legally binding treaty, where mitigation commitments by all major economies are anchored. Durban will be a step towards that vision. It said that that there should be a solid mechanism to bring the level of ambition up, and the institutions and structures should be brought to life.

Canada said that it was seeking a legal agreement that includes commit from all major emitters. The Cancun agreements is a good framework, it said.

Tuvalu agreed with St Lucia and pressed for more specificities in the conditionalities discussion. It clarified that all Parties have the legal right to speak and have an input, however the inputs of those that do not want to be a Party to the second commitment period must be considered in that context, as their inputs have no relevance to the second commitment period. It said that during the negotiations of the Kyoto Protocol itself, the same thing happened, and those mistakes should not be repeated. It also asked what is the legal form of the other elements of the package, for example for the United States' mitigation commitment. This question was not responded to.

The **EU**, supported by **Switzerland, Norway, New Zealand, Colombia** and **Peru** proposed that spin-off groups on technical issues should be held, even as the political issues continue to be discussed. New Zealand said that if there are no rules, we can be confident that they will not be applied in the second commitment period. The EU said that if we continue without the technical discussion, it saw no possibility that it would be ready to adopt a second commitment period.

St Lucia, Tuvalu, Argentina, Bolivia, and Saudi Arabia opposed moving into spin-off groups for technical discussions before the political issues are resolved.

Algeria said that a work programme should be adopted in order to adopt a final decision on the second commitment period in Durban, based on the mandate in Article 3.9 of the Kyoto Protocol.

Bolivia said that the AWG-KP must fulfill its mandate in Article 3.9, and work on how to increase the level of ambition with regards to emission reduction numbers.

The Vice Chair, Madeleine Diouf Sarr from Senegal, proposed a legal group to be convened on Friday. In the end, it was agreed that the Chair would consult on whether to convene the legal and spin-off groups.

The Chair concluded the contact group meeting by saying that it is very difficult to get political clarity first, as political clarity is what you get in the deal, and the deal is for Durban. If we continue to seek political clarity, it may be more difficult to reach at the end. He suggested moving forward in an iterative way. In Bangkok, the space was created for political discussion, and now the group could also start to examine proposals in the text, he said.