

Kyoto Protocol second commitment period remains elusive

Beijing, 10 September (Chee Yoke Ling and Hilary Chiew) – Even as scientific evidence mounts on worsening climate change, developed countries are not willing to meet their legal obligations to make deep greenhouse gases cuts under the Kyoto Protocol.

By the end of the most recent round of climate talks in Bangkok (30 August to 5 September), there was no movement from developed countries to increase the level of their ambition with regard to emissions reduction – the low pledges, subject to many conditions, made in Durban, South Africa last December remain unchanged.

The first commitment period for emissions reductions under the Kyoto Protocol ends on 31 December 2012, and the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) have been negotiating since 2005 to reach a new set of targets to commence on 1 January 2013.

The Seventh meeting of the Conference of the Parties to the UN Framework Convention on Climate Change serving as the Meeting of the Parties to the Kyoto Protocol (CMP 7) that met in Durban failed to finalize the details of the second commitment period and another year was given to do so.

The outstanding issues carried forward from the Durban CMP 7 include the following: the length of the KP second commitment period (5 or 8 years); quantified emission limitation and reduction objectives (QELROs), converted from the pledges made by Annex 1 Parties; implications of the carry-over of assigned amount units (AAUs) from the first commitment period; access to the KP mechanisms for Parties that are not participating in a second commitment period; and legal issues to ensure the smooth transition from the first to the second commitment period.

Delegates at the Bangkok meeting worked in 2 groups: a contact group that exchanged views on the outstanding political issues and way forward, and a spin-off group on numbers/text, including QEROLs, options of AAUs carry-over and the review (of second commitment period QELROs). The spin-off group was co-facilitated by Mr. Jürgen Lefevere (EU) and Sandea de Wet (South Africa), and it continued discussions that started in May in Bonn when the AWG-KP reconvened after Durban.

There were also informal consultations (continued from Bonn) by the AWG-KP Chair Ms. Madeleine Diouf (Senegal) and the Vice-Chair Mr. Jukka Uosukainen (Finland) on the legal and procedural issues relating to transition to the second commitment period.

The additional meeting in Bangkok was aimed at resolving the outstanding issues so that the AWG-KP can successfully complete its work at the next CMP in Doha, Qatar in December 2012. The AWG-KP started its work in 2005, but the reluctance of several developed country Parties to comply with their KP obligations as well as Canada's withdrawal from the Protocol altogether has resulted in years of delay. At the same time, Japan and the Russian Federation are not participating in the second commitment period (CP2). Australia, Monaco and New Zealand as well as Kazakhstan and Ukraine (economies in transition that are Annex 1 Parties) have not submitted their QELROs yet.

(Observers say that a gap between the end of the first commitment period – 31 December 2012 – and the beginning of the next period, is increasingly inevitable since it will take time for ratifications to the amendment of the KP incorporating the second commitment period. In addition some Parties will need to undergo domestic legislative steps to implement their

international obligations. Different Parties and groups of countries have submitted proposals to avoid/address such a gap.)

A meaningful KP second commitment period was part of the package that led to the acceptance by developing countries of the 'Durban Platform' decision to start a new ad hoc working group to work on an agreement to be effective from 2020. Developing countries expressed disappointment over the substance and pace of the Bonn negotiations at the closing of the May plenary of the AWG-KP (see TWN Bonn Climate News Update #26 dated 28 May 2012" "Disappointments cloud closing plenary of Kyoto Protocol working group").

The situation did not change at the Bangkok meeting, with none of the outstanding issues closer to a resolution.

During the closing plenary on 5 September of the AWG-KP's informal additional meeting, the Africa Group expressed severe disappointment over the lack of movement by Annex 1 Parties in raising the level of ambition for emissions reductions. A joint statement by the Least Developed Countries (LDCs) and the Alliance of Small Island States (AOSIS) lamented that the environmental integrity of the KP which is the only legally-binding treaty is eroding before our eyes. A group of 23 developing countries in a joint statement described the KP as being an extremely sad state of affairs that bodes ill not only for the future of our current climate regime but, even more so, for the lives and prospects for better and more sustainable living conditions for the billions of people that our countries represent.

An informal paper dated 5 September was circulated in Bangkok, the "Vice-Chair's non-paper on possible elements for a Doha decision adopting the Kyoto Protocol amendments". This is an updated version from the non-paper circulated by the AWG-KP Vice-Chair in May, and contains proposals from several Parties and groups of Parties placed under the following headings: preamble; adoption of the amendments contained in the annex to the decision (on the commencement date and length of the second commitment period); urging Parties to ratify the amendments in an expedited manner with a view to facilitating their prompt entry into force; provisional application; any additional language related to legal continuity; operational and technical continuity; any outstanding consequential revisions of the previous CMP

decisions, including by linking to any outstanding work under SBSTA; other.

A second updated paper at the end of the Bangkok meeting is from the work of the spin-off group, titled the "Co-facilitators' non-paper on proposed amendments to the Kyoto Protocol" with 2 options from the December 2011 Durban decision 1/CMP.7 and a third received from AOSIS dated 14 May 2012. This paper contains, among others, options for a table of the QELROs for each Annex 1 Party that will replace the current one in Annex B to the Protocol. The numerous conditions attached to many pledges/QELROs are also listed.

There is widespread concern that the ambition level of those Annex 1 Parties that have submitted the range of figures is not high enough to for a meaningful CP2. According to the AOSIS submission, the aggregate reduction for participating developed countries (relative to 1990 levels, and for a five-year commitment period ending in 2017) should be 33%, if the rules proposed by AOSIS are implemented. However, AOSIS estimates that the actual aggregate reduction of participating countries for the 5-year period (based on figures supplied by these countries) would only be 23%, thus falling far short of what is needed. Moreover, the EU continues to prefer an 8-year period for the CP2, a period that AOSIS, LDCs and the Africa Group fear will lock in very insufficient reductions until 2020.

With fundamentally no progress made on the outstanding issues in Bangkok, the CMP 7 in Doha thus promises to be very difficult. At the closing plenary of the AWG-KP on 5 September Chair Diouf announced that she will prepare a text that captures the discussions so far for Doha. This will be available by October to enable Parties to give proper consideration domestically. She added that at the ministerial meeting in Seoul (South Korea) in the second half of October ministers will be able to consider this text in preparation for Doha.

Below are the highlights/extracts from the statements made by Parties at the AWG-KP closing plenary in Bangkok on 5 September.

Algeria on behalf of the Group of 77 and China said the Group is engaging in constructive discussion on the translation of (emissions reduction) pledges to QELROs. It stressed the legal option to avoid a gap between the first and

second commitments periods, adding that the CP2 under the KP is crucial for the Group.

Algeria said that CP2 must be ambitious and the 1 January 2013 commencement date not be delayed. It considered the KP as central to our international response to climate change and that it is essential to deliver a strong and legally binding outcome in Doha that ensures no gap. It emphasized that Annex 1 Parties should not use flexible mechanisms without making a commitment under the KP. It further urged those Parties who still have not put forward their QELROs to do so. It also said that those that have done so should consider how to improve on their QEROL ambition by Doha.

Swaziland on behalf of the African Group said the group came to Bangkok ready to engage in substantial discussions with the hope that we can leave Bangkok with a negotiating text for Doha. In this regard the Africa group submitted decision text on entry into force of amendments and transitional arrangements; worked with partners to significantly improve and contribute to a proposal by developing countries on Carry-over of surplus units.

Nevertheless, it said, the group remains deeply concerned about the slow progress that we witnessed in the KP discussions. It stressed that key for us, as we have indicated repeatedly, is raising the level of ambition for Annex 1 Parties across the board, including Annex I Parties to the KP. The group remains severely disappointed that we don't seem to be moving any further forward in this respect.

Swaziland said that some Parties told us stories about their national circumstances and domestic laws as a way of trying to convince us of why they are leaving the KP, staying out of the second commitment period or do not take QELROs at all. We have been negotiating since 2005, said the group, we all have national circumstances; our circumstances are that the effects of climate change, that we did not cause, continue to ravage our countries, adding to poverty, underdevelopment and death. These are far more urgent circumstances and we urge our partners in the Annex 1 countries to take this matter seriously.

It stressed further that the opportunity to avoid 2 degrees C of warming – let alone a level of warming that keeps Africa safe – is closing. Failure by Annex I countries to raise ambition now in Doha, and delaying until a mid-term

review or beyond, sends a worrying message to the world, and risks committing us to a path of dangerous warming. At the same time, excessive use by the Annex I Parties of a limited atmospheric budget, valued by economists in the trillions of dollars, also denies it to non-Annex I Parties (developing countries), imposing new costs and limiting our development. It undermines both our survival and our development.

The African group laments the lack of leadership from Annex 1 Parties in tackling the problem of climate change and the current low pledges on the table. No amount of spinning will convince us that the current pledges are in line with what science and equity requires, or that it meets the Convention's requirement that Annex I Parties make a contribution to achieving the objectives of the Convention that is "equitable and appropriate".

After seven years of negotiations, faced with unambiguous scientific information, and in a world with disasters rising daily, there can be no excuse, said Swaziland. We lament the resistance to raising the level of ambition, and the intent by our partners to lock their low levels of ambition into an 8 year commitment period. We condemn this as the reckless disregard for human life. People in poor developing countries are also human beings, but the poor and the most vulnerable suffer, and will suffer more, from the effects of climate change, while many countries who have used our common atmospheric space to develop their economies for many decades continue to unashamedly pollute without any regard to lack of adaptive capacities in developing countries.

We once again insist that those who caused this problem of climate change take the lead in fixing it. We are perplexed by the elevation of economic competitiveness over and above the lives of the poor. Africa did not cause this problem, and Africa's contribution to this problem even now is still tiny. On the contrary, Africa stands ready to offer solutions and to play its part.

Swaziland went further to say that Doha must effect the second commitment period of the Kyoto Protocol by adopting amendments to Annex B of the Kyoto Protocol with credible and legally binding cuts for the developed countries (QELROs). This is the minimum position for Africa. It must surely be a minimum position for the planet.

The Gambia on behalf of the Least Developed Countries and AOSIS expressed concern that

the environmental integrity of the KP which is the only legally-binding treaty is eroding before our eyes, It stressed that this will require actions in Doha that prioritise limiting emission according to the latest science.

It said that Annex 1 Parties that had not submitted their economy-wide emissions reduction targets to do so, and that all Annex 1 Parties should raise the ambition, without conditions. The CP2 should be for a length of 5 years (not 8 years that would lock in insufficient emission reduction); and there must be dramatic cut in surplus AAUs from the first commitment period. It added further that Annex 1 Parties must have QELROs inscribed in Annex B of the KP if they wish to participate in the KP flexible mechanisms. Annex 1 Parties not party to the KP must take on ambitious commitments under the AWG-LCA.

Saudi Arabia speaking on behalf of the 22-member Arab Group expressed concern with the slow progress of negotiations on the Protocol, and stressed the importance of agreement on a number of important outstanding issues, which are of major concern for developing countries in general and Arab countries in particular.

The agreement on a CP2 of the Protocol is an essential requirement during the Doha conference, it said, and called for the adoption of the CP2 beginning immediately with effect from 1 January 2013.

The group said it followed with interest the proposals put forward by a number of industrialized countries on their proposals for emission reduction ambitions post-2012 to 2020. We are concerned by efforts by developed countries to make their mitigation contingent on mitigation action in developing countries. Industrialized countries have a historical responsibility to lead in cutting emissions. We expect industrialized countries to demonstrate leadership to implement reduction commitments required by the Protocol and to raise the level of ambition, taking into account the importance of the separation between the path of negotiation within the framework of the Protocol and any other negotiating tracks (referring to the working groups on long-term cooperative action under the Convention and on the the Durban Platform of enhanced action).

It emphasises and reaffirms the importance of reaching an agreement in Doha on a second

commitment period that includes all its original Parties, and called on all Annex I Parties to accede to the second commitment period, stressing also that access to the Clean Development Mechanism should be conditioned by the operationalisation of the CP2 through its full ratification.

Dominica spoke on behalf of the ALBA, which includes Bolivia, Dominica, Cuba, Ecuador, Nicaragua and Venezuela. It said that the group came to support this process and to work together to reach a successful and balanced outcome. We know this is not easy, but we feel it is not impossible.

It is deeply concerned that since Copenhagen (2009 meeting of Parties of the UNFCCC and the KP) there have been attempts to weaken the multilateral system through, for example, trying to develop a bottom up approach based on voluntary pledges, which is not consistent with the urgency of addressing climate change, and the survival of the planet and humanity. The lack of political will is more and more evident in each Conference of the Parties, and we feel we have to act firmly in order to strengthen the multilateral framework required to address the impacts of climate change.

At this session in Bangkok, it said further, we have noticed with great dismay attempts made by some Parties to start even considering the dilution of the legal character of the KP with even more flexibility provisions, and “options” that will further erode the strength of this legal instrument, not even mentioning that at this stage, taking note that not all Parties have put forward their QELROs as agreed in Durban; meanwhile time is running out of our hands to produce the results that the planet needs, the adoption of the second and subsequent commitments of the Kyoto Protocol.

We are also concerned that discussions on the KP and are being also diverged to the Durban Platform. Dominica made a plea not to get ourselves confused; the KP is not a mechanism but rather the only legal instrument we have to tackle the increasing amount of emissions from developed country Parties, which have assumed their historical responsibility and leadership in contributing to combat climate change.

Dominica also recalled that in the recent summit on Sustainable Development held in Rio de Janeiro in June (2012), we reaffirmed that climate change is one of the greatest challenges of our times and expressed our profound alarm that emissions of GHG continue to raise globally, and

that this affects all, particularly developing countries. We also agreed to urge parties to the UNFCCC and to the Kyoto Protocol to fully implement their commitments, as well as decisions adopted under those agreements. We also underscored that the global nature of climate change calls for the widest possible cooperation by all countries. That is why we require global action through global agreements under the Convention, based in the principles of Common but differentiated responsibilities and respective capabilities (CBDR) and equity, to protect the planet system for the benefit of present and future generations. It's time to act on these agreements, it stressed.

The main commitment is the adoption of the CP2 of the Kyoto Protocol, as agreed in Durban, according to ALBA, and this is a crucial matter for developing countries as part of the balanced package of the Durban outcome. It must be ambitious in terms of the emission reductions, and begin immediately on January 1, 2013. The goals for emission reduction should be based on Science and not on political or economic interests.

It added that it is paradoxical that in this session we have been discussing ambition for ADP (the Durban Platform for a post 2020 agreement) but we need to recognize that we don't have enough ambition for the only existing, rules based, legally binding instrument to combat climate change, that governs our collective efforts to address climate change.

It also said that only by undertaking legally binding commitments under the Kyoto Protocol, should Annex I Parties be able to benefit from flexible mechanisms established under such Protocol. Moreover, it is probably time to develop a compliance regime particularly in relation to the compliance of Annex I and II Parties with their obligations under the Convention.

Iran speaking for a group of developing countries (Algeria, Argentina, Bolivia, China, Cuba, Democratic Republic of the Congo, Dominica, Ecuador, Egypt, El Salvador, India, Iran, Iraq, Kuwait, Malaysia, Mali, Nicaragua, Pakistan, Philippines, Saudi Arabia, Sri Lanka, Sudan, and Venezuela) reiterated that the Kyoto Protocol is the only legally binding, rules-based instrument with quantitative emissions reduction targets for Annex I Parties. It must be preserved.

We have now reached the moment of truth with respect to the Kyoto Protocol, it said further. The

litmus test of the commitment of Annex I Parties to the Kyoto Protocol is now being applied – and they are found to be wanting. One Annex I Party to the KP has left it for good, several others want to keep it at arms' length, while yet still others have half-heartedly promised to recommit themselves to it. Not a very promising state of affairs for the Kyoto Protocol.

This is, in fact, an extremely sad state of affairs – one that bodes ill not only for the future of our current climate regime but, even more so, for the lives and prospects for better and more sustainable living conditions for the billions of people that our countries represent.

Nevertheless, said Iran, the group of countries continue to believe that the Kyoto Protocol and its second commitment period remains a key component of our current international climate regime that can help move us, as a global community, towards a more ambitious and equitable pathway for effectively and urgently addressing the risks, challenges, and impacts of climate change. It would allow us to keep, as binding treaty commitments of Annex I Parties, the reduction of a significant proportion of global greenhouse gas emissions even as we seek, through the work of the AWG-LCA and the AWG-DP, to ensure the full, effective, and sustained implementation of the Convention and enhance our actions under it, in an ambitious and equitable manner.

The joint statement stressed that Doha must lay a firm foundation for our further work under the Convention to address climate change in an ambitious and equitable manner. For the Kyoto Protocol negotiations to be successful, the following must be considered as the benchmarks: Annex I Parties to the KP must commit at Doha to ambitious QELROS to be provisionally applied as of 1 January 2013, with such QELROS putting them on a pathway to reducing their emissions to at least 40-50% below 1990 levels by 2020. This means that developed countries, as a whole, must keep their emissions by 2020 to below 9 gigatons from the more than 20 gigatons that they emit today.

However, their weak pledges, together with accounting loopholes, could result in emissions of well over 20 gigatons in 2020 by the developed countries – almost half of the global budget of 44 gigatons as defined by UNEP for keeping us in a 2 degrees C world – for only one-seventh of the world's population, leaving the rest of the globe –

6 billion people, most of them poor - to survive and develop on the remaining half. This is clearly not ambitious and just as clearly not equitable.

Iran said that success in Doha requires three elements. First, an ambitious and legally binding second commitment period that includes a fair and science-based contribution by Annex I Parties towards closing the ambition gap. Second, an ambitious agreed outcome under the Bali Action Plan that includes comparable mitigation efforts by Annex I non-Kyoto Parties (the United States being the single most significant country) and clear commitments for finance for 2013 and through to 2020, as well as progress on other unfinished business from the Bali Action Plan. Third, greater clarity over the role and mandate of the working group under the Durban Platform, including the discussions on ambition and on negotiations towards a 2015 outcome to come into effect in 2020. In the absence of these elements, we must continue our work under the current AWGs (on KP, and on long-term cooperative action under the UNFCCC dealing with the Bali Action Plan).

These outcomes must be carefully balanced, reflecting the careful balance struck in the Durban package. We cannot see closure of working groups if they have not finished their work. Nor can we, in good conscience, accept un-ambitious outcomes that would place us almost irrevocably on path for warming that is dangerous.

In Durban, according to the group of countries, we strongly proclaimed that Africa will not be the graveyard of KP. In Doha, neither will we allow KP to be buried in the sands of Asia.

The Democratic Republic of Congo spoke on behalf of the Coalition for Rainforest Nations (32 out of the 52 countries of the Coalition endorsed the statement). It emphasized the need for the AWG-KP to finalize as soon as possible issues such as the translation of pledges to QELROs, carry-overs and legal options to avoid gap between the first and the second commitment periods, so that the second commitment period can start smoothly on 1 January 2013. It added that the Kyoto Protocol regime is suffering from the lack of ambition and political commitment of Annex B Parties (developed countries and economies in transition) and once again we strongly call for deeper greenhouse gas emission reduction commitments by those Parties.

It said that REDD+ can offer a significant contribution to the closure of the ambition gap

provided that finance to support results-based actions based on a national MRV process is enhanced.

(REDD+ refers to reducing emissions from deforestation and forest degradation in developing countries, the role of conservation, sustainable management of forests and enhancement of forest carbon stocks.)

Nicaragua spoke on on behalf of the Central American Integration System (SICA): Belize, Costa Rica, the Dominican Republic, El Salvador, Honduras, Nicaragua, and Panama. It expressed deep concern on the slow progress in the negotiation during the Bangkok session and called on Parties to intensify all efforts in accordance with the principle of equity and common but differentiated responsibilities, to ensure the establishment of the CP2 of the Kyoto Protocol by January 1, 2013, as agreed in Durban.

It said further that the possibility of being unable in this group to avoid any gaps before the ratification of the CP2 and to establish ambitious targets for reducing emissions, is very real and disturbing. Now, more than ever, it is urgent to engage in good faith in this negotiating process to increase emissions reductions by countries with reduction legally binding commitments under the Kyoto Protocol.

Nicaragua said that regarding voluntary pledges, as some have mentioned, we wonder if it will develop the necessary confidence and compliance system in reaching the requirements that science is recommending. The SICA countries despite being economies highly dependent on their natural resources and having no legally binding obligations are continuing to make meaningful mitigation actions voluntarily, using our own and scarce resources, which are urgently needed in our struggle for poverty eradication and sustainable development. We are doing more than what we are obliged, therefore the developed countries must comply with their obligations and provide us with all the necessary means of implementation for financing and new adequate, predictable resources and in addition to the ODA (official development assistance).

Being also highly vulnerable to climate change, the SICA countries continue to face and suffer the consequences of the unwillingness of Annex I Parties to comply and commit to increasing their emission reduction targets for a meaningful GHG emissions reduction to avoid a greater impact of climate change in our countries, it stressed.

Switzerland, speaking for the Environmental Integrity Group (Mexico, South Korea and Switzerland) considered the discussion in Bangkok to have been very useful and that it allowed us to streamline options for Doha. Though Parties did not reach a final decision there was better understanding on the outstanding issues. We have a text that the Chair will prepare for us with all the elements to ensure smooth transition to a CP2 and successful conclusion of the work of the AWG-KP in Doha.

Australia, for the Umbrella Group (a loose coalition of non-European developed countries and for this statement endorsement was from Australia, Japan, Kazakhstan, Norway, Russian Federation and Ukraine) spoke about the need to ensure smooth transition and managing that transition to the CP2 from 1 January 2013 and to ensure that the KP infrastructure and mechanism continue to deliver. It added that securing the smooth transition will ensure flow of environmental and economic benefits to achieve the global goal (of emissions reduction). A strong KP will ensure a global carbon market.

It said that the group stands behind its pledges wherever they are inscribed; the KP played a part and with the CP2 covering a fraction of the global emission it is not a solution for the future. It said

that including the Durban Platform will make Durban a reality.

The **European Union** said it left Bonn with mixed feelings and Bangkok with a good mood. It set out the need for Doha to adopt a ratifiable amendment to the KP for a CP2; inscribe QELROs in Annex B; agree on an 8-year CP2, to be combined with a review process. It noted that the CP2 coverage is significantly less than the first commitment period, and expressed disappointment that some Parties are not ready to reconsider their position regarding participation in the CP2. It also said that to ensure we do not lock into the current insufficient level of ambition, we will increase ambition by 2020 and have by then a single legally binding commitment (referring to the Durban Platform outcome).

(Observers within the negotiations venue noted that the EU itself could do more but prefers to condition a higher ambition on increased commitments by developing countries through a new agreement. Meanwhile outside the Bangkok meeting venue, protesters cried shame on the EU for its weak pledge/QEROL that, coupled with the KP flexible mechanisms and accounting loopholes, means that effectively there will be insignificant reduction within the EU itself for the CP2.)