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Response measures: Avoidance of negative trade impacts of unilateral measures reaffirmed

Kuala Lumpur, 5 January (Hilary Chiew) – After much wrangling over the language concerning the negative economic and social impacts of response measures to combat climate change, Parties to the United Nations Framework Convention on Climate Change (UNFCCC) adopted text to address contentious unilateral measures by developed countries at the recently concluded 18th Conference of the Parties in Doha.

Unilateral measures, particularly those that affect international trade, have been consistently raised by many developing countries as a barrier to their over-riding objectives to eradicate poverty and attain economic development.

The final document from the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) *reaffirmed that Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties, thus enabling them better to address the problems of climate change; measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade.*

Parties also decided that they will continue to participate in the forum on the impact of the implementation of response measures convened under the UNFCCC Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI), including the sharing of views on policy issues of concern, such as unilateral measures.

(COP 16 in Cancun in 2010 requested the Chairs of the SBSTA and the SBI to convene, at their 34th and 35th sessions in Bonn and Durban respectively, a forum on the impact of the implementation of response measures with the objective of developing a work programme under the SBs to address these impacts, with a view to adopting, at COP 17 in Durban, modalities for the operationalization of the work programme and a possible forum on response measures.

COP 17 then adopted a work programme on the impact of the implementation of response measures under the SBs, with the objective of improving the understanding of the impact of the implementation of response measures in 8 areas, and modalities for the operationalization if the work programme. The same decision also established a forum on the impact of the implementation of response measures to be convened by the SBSTA and SBI Chairs under a joint agenda item of the SBs and to operate in accordance with the procedures of contact groups. The forum will initially meet twice a year in conjunction with the SBs sessions and the second one took place in Doha on 27 – 29 November.)

During the arduous negotiations in Doha, developed country Parties refused to engage on the economic and social consequences of unilateral measures of response measures by pointing out that the matter is being discussed in the forum (under the SBs) and do not want to have any text on the overall issue in the AWG-LCA track. However, developing countries argued that political decisions need to be taken at the COP level on this crucial matter and thus cannot be left to the SBs.

The differences were evident as Parties deliberated on the social and economic impacts of response measures in the three sessions of the In-forum workshop of the Forum on Response Measures that took place on 27 – 29 November in Doha.

Developing countries stressed that they cannot bear the extra burden from such measures implemented by developed countries and that transition to a low carbon economy must respect national circumstances and be predicated on financial and technical support from developed countries in accordance to the principles and provisions of the UNFCCC.

Developed countries said it had taken steps to address the consequences, and assessment of impacts must include positive effects and combating climate change requires broad participation.

At the first session on 27 November, Parties discussed area (a) of the work programme: Sharing of information and expertise, including reporting and promoting understanding of positive and negative impacts of response measures. This was chaired by Richard Muyungi of Tanzania, the SBSTA Chair.

The Group of 77 and China, four developing countries, the European Union, the Organisation of Petroleum Exporting Countries (OPEC) and inter-governmental organisation South Centre were among the presenters.

The G77 and China said developed countries are not reporting enough on the social and economic consequences from their implementation of response measure to combat climate change on developing countries.

Presenting the views of the group, **Argentina's Julia Hoppstock** said a survey of National Communications showed that 11 out of 25 Annex I (developed country) Parties reported nothing on the matter while of those that reported, some reported purely domestic efforts such as technology co-operation and others only described their measures.

She highlighted the lack of clear reporting guidelines for developed country Parties on this matter in the following aspects: consideration if the special economic and social conditions of developing countries were taken into account in the design and implementation; information about consultation with potentially affected developing country Parties; inclusion of scientific basis of the measure, and an assessment if it is the most effective means to achieve the objective of combating climate change; information about specific support to developing countries in relation to the measure, in terms of transfer of technology, financial resources and capacity building.

Hoppstock said the workshop helps to give full consideration to what actions are necessary to meet the specific needs and concerns of developing country Parties arising from the impact of the implementation of response measures, in a context in which all developing countries face economic and social consequences of response measures (actual and potential) in different ways, and research on the matter is a new field.

It also helps to promote understanding of the nature and magnitude of economic and social consequences for developing country Parties of different response measures taken by developed country Parties and assist the former in identifying and addressing the impact of response measures taken by the latter, sharing information, promoting and cooperating on issues relating to response strategies and exploring ways to minimise negative consequences, particularly in developing countries.

She also said there is a need to discuss the consequences of trade-related response measures in pursuant to Article 3.5 of the UNFCCC which reads: "*The Parties should cooperate to promote a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, thus enabling them better to address the problems of climate change. Measures taken to combat climate change, including unilateral ones, should not constitute a means of arbitrary or unjustifiable discrimination or disguised restriction on international trade*."

As a general framework, Hoppstock said when dealing with social and economic consequences of response measures, there is a need to observe the guiding principles and provisions of the Convention, in particular the principle of common but differentiated responsibilities and to bear in mind that the UNFCCC discusses the economic and social impacts of response measures including the unilateral ones.

China said unilateral measures adopted by developed countries as part of their response measures to address climate change are harmful to developing countries.

Dr. Wang Mou highlighted the negative impacts from the adoption of carbon tariffs on energy-intensive goods would reach US$6 billion at the rate of US$50 per tonne of CO2-equivalent based on the country's 2006 data of 112mil tonnes of CO2-eq to the EU and 120mil tonnes of CO2-eq to the United States and the inclusion of aviation in the European Union – Emission Trading Scheme (EU-ETS) will cost Chinese airlines US$2.9 billion by 2020.

He said the priority of developing countries is development and they cannot bear these extra costs. Although China is the second largest economy, he said its per capita income is only US$4,300, a mere one-third of the world's average. It is faced with high disparity of economic development in different regions with 36 million people living on US$0.5 per day.

Wang said China's industrialisation is characterised by transferred emission in that export commodities account for 30% of its national energy consumption in 2005. It is still heavily reliant on coal with coal accounting for 72% of total energy consumption in 2010 and its energy mix is unlikely to change in the near future.

Outdated technologies still occupy a relatively high proportion in China's key industries. Energy-efficiency is about 10% lower than that of the developed countries and its per unit energy consumption of energy-intensive products is about 40% higher than the advanced international level.

He said negotiation under the UNFCCC and enhancing international cooperation and multilateral approaches instead of implementing unilateral measures is the way forward.

Saudi Arabia said positive impacts from response measures taken by developed countries are welcomed but the measures must be driven by the environmental cause while distortion of trade, imbalance in competition should be avoided.

Khalid Abulief said developing countries' concerns are over the negative effects which are already happening now in terms of taxation, levies, duties, subsidies, border tariffs adjustments, trade and market barriers in vital economic sectors.

In agriculture, he said, subsidies, taxation and eco-labelling are impacting developing countries' exports, including food security concerns, in reference to the development of bio-fuel. Poor countries and vulnerable segments of society will be the most affected.

New standards and policies in developed countries will affect energy-intensive industries in developing countries, particularly those that are heavily-dependent on a single-source of income.

He pointed out that major shifts towards a low-carbon world and mitigation policies have far-reaching and long-lasting consequences in labour markets, enterprises and workers in both developing and developed countries. And there is also the concern of environmental degradation and negative impacts on bio-diversity due to fuel production from food sources.

To address the negative impacts, he said Parties need to look into information needed to be reported by Parties to enhance understanding of the impacts of response measures, the available modelling tools to assess the impacts of the implementation of response measures; if uncertainties and risks addressed in the existing methodologies and how those areas can be quantified and reflected.

Venezuela shared its specific economic circumstances, resulting from its condition of high dependence on exports of fuels and hydrocarbon which account for 95% of total export which is recognised by international organisations like the World Trade Organisation.

Due to this, Venezuela is disadvantagedly-positioned in light of policies and measures to address climate change.

Its presenter, Ramiro Rodriguez Contreras, pointed out that shale gas exploitation (as a substitute to fossil fuel) is not sustainable as it pollutes the soil and natural water resources.

He said Venezuela is diversifying its economy but it has to be based on financial support from the oil income. To become non-oil dependent, some oil-dependence is first required. It also looked towards bilateral and regional agreements to strengthen mechanisms to diversify its economy.

Like China, **South Africa** said it is a carbon-intensive economy with 90% of electricity generated from coal and 40% of its greenhouse gas emissions is linked to carbon-intensive export goods.

It is a middle-income developing country confronting the triple challenges of unemployment, poverty and inequality, within the context of environmental sustainability.

Furthermore, it faces the challenge of being the second most vulnerable country on a trade-weighted distance basis (referring to distance on the international trade route), after Chile.

It is vulnerable to potential border carbon adjustments (BCA) regime as its exports contained a high level of embodied carbon with 28.1% of its export to the European Union potentially attracting taxes with a study showing the potential costs of BCA rising to US$720mil per annum, impacting its key growth sectors.

It shared concern about the growth of 'voluntary' one-size-fits-all environmental labelling schemes which are not based on internationally agreed science and methodologies but create obstacles to market access and undermining South Africa's just transition of its workforce.

South Africa requires a massive technological shift from a capital-intensive and resource-dominated economy to a relatively more valueadding, labour-intensive and less carbon-intensive economy.

Mariama Williams of South Centre said while response measures are implemented for beneficial effects and with good intentions, they may have unintended and often adverse social and economic consequences for developing countries' economies.

Therefore, the economic and social consequences of such actual and potential response measures are an important issue for all developing countries, noting that such measures may have positive effects, if on balance they support improved access to energy, health care, poverty reduction and decent employment in developing countries and help to bolster sustainable development.

She said subsidies for climate-friendly products have positive effects but could also affect developing countries that are trying to diversify into new products and technologies while BCA instruments can have a negative impact on the role of international trade as a tool for economic development in poor countries.

Citing the example of the inclusion of aviation in the EU-ETS which effectively imposed a 'global ETS' (now suspended), she said the measure bypasses the multilateral system and does not take into account the development dimensions, potentially setting a precedent for other forms of unilateral measures which are contrary to the principle of common but differentiated responsibilities of the UNFCCC where it is only the Annex I Parties that have legally binding emissions reduction obligations. The EU aviation measure effectively treats Annex I and non-Annex I Parties the same.

In general there is no World Trade Organisation (WTO) guidance on BCA, they have not been challenged, though ostensibly they could be under most favoured nation, national treatment and the general exception clauses of the WTO.

However, she noted that trade-related response measure can bring positive impacts if: it is agreed to multilaterally and avoid unilateral measures as far as possible; avoid trade protection as it is an important aspect that enables diversification of developing economies; ex-ante impact assessment of the impact of carbon tariff or border adjustment taxes.

Williams called for a development-friendly approach where national or international measures are designed in a manner that does not disadvantage developing countries; avoid use of standards and labels as trade protection measures; assist developing countries to upgrade standards so that they can diversify into new products and technologies but noted that these approaches are impacted by technology policies, technology transfer and development.

Taking into account the commodity vulnerability and limited capacity of developing countries, she said response measures implemented by developed countries therefore must be based on a precautionary approach and operate on the principle of 'do no harm'.

This meant that there must be ex-ante impact assessments to ascertain the likely impacts of proposed/planned response measures on developing countries before the measures are implemented, she said, adding that it is often too late to wait for 'on the ground impacts'.

Parties that implement response measures must be fully accountable for the consequences of these measures through the provision of insurance/compensation fund, finance and technology transfer as well as capacity building to support developing countries' economic diversification in order to achieve the intended objective of the response measure proposed or implemented.

Transparency of these response measures are also needed through an information sharing and reporting system including assessment of impacts where the UNFCCC is notified and Parties are able to comment and respond.

Response measures that need to be notified include giving of subsidies, removing or reducing of subsidies, changes in energy policies and laws such as phasing in of renewable energy or phasing out of fossil fuels, measures to tax or discourage imports or exports of certain products, labelling and fostering of or discouraging of certain technologies.

OPEC's environmental coordinator, M. Taeb recalled (UNFCCC COP) Decision 5/CP14 adopted in 1998 which guided the first workshop on the adverse social and economic impacts of response measures. The objectives states in the Decision are:

1. Identification of the impacts of the implementation of response measures under the Convention.

2. Identification of the specific needs and concerns of developing country Parties arising from such adverse effects and impacts defined through inter alia the national communications from non-Annex I Parties.

3. Identification and consideration of actions, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns referred to in the decision.

He said the need to address the above has consistently been raised through many workshops and experts meetings under the Convention and its Protocol in the past 14 years. They remain valid today.

He called upon the Secretariat to produce a synthesis report elaborating on existing institutions under the Convention and its Protocol that could address the issue of sharing of information and expertise, challenges of reporting, modalities for promoting understanding and how to identify both negative and positive impacts of response measures, among others.

Paul Watkinson of France, representing the EU presented that the group assess the impacts and analyse how undesired effects can be avoided, minimised or mitigated and these are done for both internal and external impacts. He said the EU actively engaged with its partners bilaterally and regionally and have open exchanges and consultations.

He said the EU is open to find new ways of effectively improving the manner in which it collects and shares information with third parties and use this information in the context of policy development.

The United States said Parties had only scratched the surface of this issue and noted that it had made a submission prior to this meeting which suggested to look at the positive impacts and not just the negative ones.

In-forum workshop on work programme area (h): building collective and individual learning towards a transition to a low greenhouse gas emitting society on 28 November

This session was chaired by the SBI Chair Tomasz Chruszczow of Slovenia.

In its presentation, the **G77 and China** pointed out that low greenhouse gas emitting society and transition to a low greenhouse gas emitting society are not defined in the Convention. Any transition needs to be understood under the UNFCCC principles and provisions, in particular common but differentiated responsibilities and Parties' different socio-economic contexts and specific conditions and in the broader context of the transition towards sustainable development, stressing that the Convention relates to the achievement of sustainable development.

It also emphasised that the transition will entail adjustment and incremental costs. And hence policies and measures taken by developed countries to combat climate change shall not undermine the development nor constitute a means of transferring the burden of climate change mitigation to developing country Parties taking into consideration the importance of ensuring a just transition of the workforce, the creation of decent work and quality jobs, in accordance with nationally defined development priorities and strategies.

Venezuela, Saudi Arabia and South Africa again presented besides the OECD and the International Trade Union Confederation (ITUC) (power point presentations available on the UNFCCC's website).

In its intervention, **Ghana representing the African Group** said the continent acknowledged the need to begin a transition to a low greenhouse gas emitting societybut it will be costly for Africa and require a mix of finance: public concessionary finance, public-private financing, green bonds, grant aid, foreign direct investment, among others. African countries will need to obtain such support for their sustainable structural transformation. It will be important to discuss the financing needs of African countries and the different financing options.

African countries will require considerable cooperation and support from more advanced developed countries in climate change technologies, including sustained technology transfer and diffusion.

It said measures taken to combat climate change by developed country Parties should not be implemented unilaterally or designed in a protectionist manner, thereby distorting international production and trade. African countries may be adversely affected and trade constrained by these measures makes Africa unable to provide comparable support or subsidies to our industries; unable to meet new standards or introduce our own; and have little real access to technology and finance.

For example, unilateral BCAs contemplated by a number of developed countries will have a devastating impact on African countries and compound their challenges as they transit to alow greenhouse gas emitting society.

The WTO rules on climate change are unclear and clearly inadequate to address current challenges in climate change. The WTO will need to negotiate new rules that include the principles of Special and Differential Treatment for developing countries. However, this process can only take place once the current negotiations in the UNFCCC have advanced sufficiently and incorporated the principle of Common but Differentiated Responsibilities into its outcomes.

Given the state of Africa's human, institutional and technological capacities, we will need sufficient policy space to enable infant economic activities to develop. This is necessary to enable economic diversification in general, to make the leap to lower-carbon economies and to achieve competitiveness in producing environmentally friendly goods and services. African countries should thus be allowed the policy space to apply measures that will help them achieve economic diversification.

Commenting on the G77 and China's presentation, **Brazil** said at Rio+20, countries reaffirmed priority of sustainable development and that eradication of poverty is the greatest challenge facing the world. It asked if the concept of low greenhouse gas is universal and stressed that respect for national circumstances is important, adding that Brazil has achieved 45% of renewable energy usage whereas OECD countries only 7%. So it does not make sense to talk of transition to low carbon society for Brazil.

Echoing the African Group, China, Brazil and Saudi Arabia, Argentina said developing countries' mitigation efforts must be carried out in the context of sustainable development and taking into account national circumstances.

In response to the OECD's presentation about removing environmentally harmful subsidies,
Argentina asked the OECD if it is considering phasing out agricultural and fisheries subsidies that are harmful to climate change, adding that fossil fuel subsidies in developing is for the poorest.

In reply, the **OECD** said agricultural subsidies amounted to US$366 bil in 2010 but noted that fossil fuel subsidies in non-Annex I countries to be US$400 bil while it is US$15 bil in Annex I countries.

In-forum workshop on work programme area (f): on relevant aspects relating to the implementation of Decisions 1/CP10, 1/CP13, 1/CP16 and Article 2.3 and 3.14 of the Kyoto Protocol on 29 November

This session was chaired by SBSTA Chair Muyungi.

Speaking on behalf of G77 and China, Argentina welcomed the discussions on the relevant decisions and articles of the Kyoto Protocol (KP) that are important for addressing the adverse impacts of response measures on developing countries.

It believed that there is need to focus on what gaps in implementation remain in order to give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the impact of the implementation of response measures.

Even if these decisions and KP articles have many relevant aspects in relation to response measures, the Group would like to make the best use of our time available (in Doha), and focus particularly on the issue of reporting by Annex I Parties on how they "… shall strive to implement policies and measures in such a way as to minimize adverse effects on developing country Parties…"

It highlighted three aspects of this issue being:

1. Provisions and obligations for developed countries for reporting related to response measures

2. Status of the implementation of those obligations and of the progress made

3. What remains to be done in terms of gaps in implementation.

In relation to the provisions and obligations for developed countries of reporting, Decision 1/CP10 *requests* Annex II Parties to provide detailed information, including in their nationalcommunications, on progress made on support programmes to meet the specific needs and circumstances of developing country Parties arising from the impact of the implementation of response measures.

In relation to the provisions and obligations in the KP,it said it is worth to recall Article 3.14that constitutes the foundation for the commitments on reporting with respect to Annex I Parties minimizing the adverse effects of their measureson countries identified in Article 4.8 and 4.9 of the Convention. Those Parties are also further required in the Kyoto Protocol to incorporate information in their annual inventories that allows confirmation of their compliance with this requirement.Also Article 7 states that the COP/MOP will develop guidelines for the preparation of this supplementary information.

It stressed that there is a gap in implementation by developed countries in terms of their compliance with their reporting obligations for response measures, calling for a structured manner for reporting. Thus, it said G77-China looks forward to discussing here how the gaps in implementation can be overcome and the progress made by developed countries in fulfilling their reporting obligations.

The United States said the issue (referring to reporting) was already being addressed and noted that there is a special situation for Decision 1/CP10 where it believed that concerns over impacts of response measures are already covered in the forum and the adaptation issue is covered by a number of agenda items created since then. It believed 1/CP10 does not have any more role and can have an official closure.

(Decision 1/CP10 is also known as the Buenos Aires programme of work on adaptation and response measures. Paragraph 18 reads as: *Requests Annex II Parties to provide detailed information, including in their national communications, on progress made on support programmes to meet the specific needs and circumstances of developing country Parties arising from the impact of the implementation of response measures; …*)

It was supported by **Australia** which said that the issue had been taken up by other bodies especially on adaptation and reporting of response measures exist in national communication. It further said that it is important to streamline and make continued improvement but do not see the need for additional requirement for reporting at this stage.

In response, **Saudi Arabia** said Parties need to re-evaluate their work based on the decision as they learnt (from the in-forum workshop) that there is a need for a clear guideline for reporting and if such guidelines exist, it wished to have them in the national communication of developed countries. But what Parties have heard is that there is not enough effort in this aspect and the development of clear guidelines with set forth the needs and Parties can happily close this matter.

The **European Union** said it has taken its obligations under Article 3.14 seriously with guidelines and the review process. It said it is important to make clear that the reporting is not a static process and over time it does improve, insisting that it has an existing reporting guideline.

Saudi Arabia said it is not disagreeing about learning and improving but the process it wished to see is to review how effectively the obligations had been met as it is concerned over the lack of a comprehensive framework that will guide work under Article 3.14.

It said a proper solution is to establish a process to ensure monitoring and observation of this process which up to now is a loose arrangement. After years of debate and resistance by developed countries, the final Doha decision was thus a signifcant step forward for developing countries.