

CBDR must guide work on international transport emissions, say several developing countries

29 November, Durban, (Chee Yoke Ling) – Several developing countries stressed that work undertaken at the International Civil Aviation Organisation (ICAO) and the International Maritime Organisation (IMO) must be guided by the principles of common but differentiated responsibilities and equity, and cautioned against unilateral measures and revenues from market-measures as a possible source of climate finance.

These issues arose at the opening plenary session of the Subsidiary Body for Scientific and Technical Advice (SBSTA) on 28 November under Agenda Item 9(a) on “emissions from fuel used for international aviation and maritime transport” after presentations by the two specialized UN agencies that had submitted reports to SBSTA on recent updates on their respective activities.

Cuba speaking on behalf of Argentina, China, Brazil, Cuba, India, Saudi Arabia, Thailand, Egypt and Algeria said there is no consensus at this stage for ICAO to move towards a global framework for market-based measures, nor for global objectives on emission reduction targets for the international aviation, and this should be clearly stated in the reports presented by the ICAO.

The joint statement of these developing countries also expressed deep concern that the IMO had not accurately reported on the July 2011 adoption of an energy efficiency standard that creates new treaty obligations under the International Convention for the Prevention of Pollution From Ships (MARPOL) where a number of Member states there had strongly objected to or even voted against the amendment to Annex VI of MARPOL.

[Mandatory measures to reduce emissions of greenhouse gases from international shipping were adopted by Parties to MARPOL Annex VI represented in the Marine Environment Protection Committee of the IMO that met 11-15 July 2011. A

State that becomes party to MARPOL must accept Annex I and II. Annexes III-VI are voluntary annexes. This is “the first ever mandatory global greenhouse gas reduction regime for an international industry sector”. The amendments to MARPOL Annex VI Regulations for the prevention of air pollution from ships, add a new chapter 4 to Annex VI on Regulations on energy efficiency for ships to make mandatory the Energy Efficiency Design Index, for new ships, and the Ship Energy Efficiency Management Plan for all ships. Other amendments to Annex VI add new definitions and the requirements for survey and certification, including the format for the International Energy Efficiency Certificate. The regulations apply to all ships of 400 gross tonnage and above and are expected to enter into force on 1 January 2013.)

Cuba speaking on behalf of Argentina, China, Brazil, Cuba, India, Saudi Arabia, Thailand, Egypt and Algeria said that in addressing greenhouse gas emissions of international aviation and maritime transport, article 2.2 of the Kyoto Protocol must be respected. The article states the following: “the Parties included in Annex I shall pursue limitation or reduction of emissions of greenhouse gases not controlled by the Montreal Protocol (on ozone depleting substances) from aviation and marine bunker fuels, working through the International Civil Aviation Organization and the International Maritime Organization, respectively”.

It said that in this context, the treatment of emissions of international transport for both organizations shall be guided by the principles of the Convention, of equity and common but differentiated responsibilities, and the promotion of a supportive and open international economic system that would lead to sustainable economic growth and development in all Parties, particularly developing country Parties.

It said that in this sense, the IMO and ICAO shall respect the differentiation between developed and developing countries as established in the UNFCCC and not create binding commitments for developing countries, in particular in terms of quantified emission reduction targets. In addition, measures should not result in an increase of the costs of international transport, and, therefore, should not affect international trade, paramount for the legitimate priority needs of developing countries of economic and social development as well as the eradication of poverty.

In this regard, Cuba said that any market-based measures for the international aviation and/or maritime transport sector should be decided on the basis of mutual consensus of all involved Parties in a multilateral process, and no actions should be implemented unilaterally.

The joint statement further said that unilateral measures intended for implementation by some developed Parties in relation to emissions of aviation and/or maritime international transport, like the EU Directive of inclusion of civil aviation in the EU Emissions Trading System, undermine the spirit of multilateralism, transferring unfairly the mitigation costs to developing countries and are inconsistent with the principles and provisions of the Convention and of its Kyoto Protocol.

The group of countries also expressed their serious concern at the proposals to include, among the alternative sources of finance for climate change, possible revenues from market-measures applied to international aviation and/or maritime transport. Those type of measures would have political, economic and social implications and penalize international transport, increasing its costs, and, thus, affecting international trade, particularly in developing countries.

The statement added that there is a need for the adoption and implementation of concrete actions to make effective international cooperation in terms of transfer of technologies, provision of financial resources and capacity-building, to developing countries, with the aim to increase the efficiency and improve the environmental performance of the international aviation and maritime transport sector in those countries, emphasizing the sustainable development dimension of the sector.

Cuba then highlighted some of the specific points of the reports presented by the ICAO and the IMO

that it said, “deserve special attention” at the current SBSTA session.

In relation to the ICAO report submitted to SBSTA, it said that with regard to the Resolution A37-19, we have to acknowledge that several ICAO Members, both from developed and developing countries, presented reservations (for different reasons) to paragraphs of the Resolution.

Cuba said that it had presented the “Cuba Declaration” on behalf of itself, Argentina, Brazil, China, India and Saudi Arabia, through which reservations were presented to paragraphs 6, 12, 14, 15 and 16 of the Resolution. These reservations were made due to the fact that those paragraphs are not consistent with the principles of the Convention, in particular equity and common but differentiated responsibilities, principles that should guide ICAO in its work relative to international transport emissions.

In this regard, Cuba in the joint statement of 9 developing countries at the SBSTA opening session in Durban said the ICAO report and its future presentations should reflect clearly that Resolution A37-19 has reservations from almost all countries that were involved in negotiating it, and that those reservations form an integral part of the Resolution. This means that there is no consensus at this stage for ICAO to move towards a global framework for market-based measures, nor for global objectives on emission reduction targets for the international aviation, and this should be clearly stated in the reports presented by the ICAO.

Cuba also highlighted the importance of the adoption by the ICAO, at its 194th Council in November 2011, of a Declaration that urges the EU and its Member States to refrain from including civil aviation operations in its emission trading scheme from and to non State Members of the EU, and that states that it is inconsistent with international law. The approval of this Declaration shows that unilateral measures like the ones referred are not the appropriate solution to climate change and that, therefore, should not be implemented nor applied to aviation operators of third States in an extra-territorial manner. It stressed that such measures are against the spirit of multilateralism and the possibility of reaching a mutually agreed solution to this matter.

With respect to the IMO report on the results of the Marine Environmental Protection Committee held in July 2011, the joint statement of the 9

developing countries considered that the IMO decisions should not prejudice the result of negotiations of the UNFCCC, fora of primary competence for climate change, and that, therefore, should send the signals to both the IMO and ICAO of how to address the issue of the emissions of international aviation and marine transport.

Cuba added that the amendment to Annex VI of the MARPOL had not been adopted by consensus, and was not approved even with strong objections expressed by several developing countries, such as China, Brazil, Saudi Arabia, Chile, Kuwait, India, Argentina, South Africa, and Cuba. Only States that are Parties to Annex VI of the MARPOL were allowed to vote, therefore, developing countries such as India and Argentina could not cast a vote, and countries such as China, Brazil, Saudi Arabia (Parties to Annex VI) voted against the amendment.

It further said that the possible development of market-based measures for international maritime transport, as well as the impact of those policies for developing countries are still under discussion in the IMO.

Moreover, said Cuba, given the current existing uncertainty related to the effectiveness and impacts of market-based measures, mainly on developing countries, there is a need to undertake additional and comprehensive studies about their direct, indirect and spillover effects, and to continue discussing, on the basis of those studies, the convenience and opportunity of those type of measures before any possible decision on this matter.

China said that regarding the IMO ship efficiency regulations (adopted in July 2011) many countries showed their great efforts and flexibility to incorporate the principles of CBDR (common but differentiated responsibilities) into those regulations. Nevertheless, it regrets that the IMO has adopted the regulation through a vote, despite the fact that many technical problems remained unresolved.

It said that the adoption of the regulations by 49 yes-voting countries cannot represent the interests and positions of 170 IMO Member States. This undermined all the efforts toward consensus and the basic understanding of international communities in addressing climate change through multilateral cooperation and common vision, and resulted in the division among IMO Member States and is detrimental to the sustainable development of the international shipping industry.

It said the final texts neither reflect the CBDR principle in a full and objective manner, nor consider the rights for economic and social development of developing countries, and that the energy efficiency regulations did not actually provide the technological and financial support to developing countries.

China said it opposed the IMO report that referred to the regulations as “the first ever legally binding and global CO2 standard agreed for an industry sector”. It said that it is the general understanding of IMO Member States during the (IMO) discussion that the improvement of ships’ energy efficiency would promote the reduction of CO2 emission, but the regulation itself does not prescribe CO2 emission standards as claimed in the IMO report.

Furthermore, it said, in the IMO covering resolution of the regulations, the text states that “RECOGNISING ALSO that the adoption of the amendment to Annex VI in no way prejudices the negotiations held in other international fora, such as the UNFCCC, nor affect the positions of the countries that participate in such negotiation ...”. Therefore the IMO regulations should not constitute a benchmarking or precedent.

On the reduction of aviation emissions, China said it continues to support the ICAO to work under UNFCCC principles and framework and requests the ICAO to take into consideration the different responsibilities and capacities between developed and developing states, and to develop rigorous feasibility studies with regard to aspirational goal of international aviation emissions reduction and market based measures based upon its facilitation of the safe, orderly and sustainable growth of international air transport, in particular, that in developing states as well as the international obligation of developed states to support developing states in terms of technology, finance and capacity building.

It added that it firmly opposes any unilateral and mandatory actions which will constrain the development of international aviation and expressed appreciation for the position taken by the ICAO Council (at its 194th session) against the EU’s unilateral action and reiterated its support for the ICAO declaration against the EU’s unilateral inclusion of international aviation in its emissions trading system.

China also reiterated that the principle of CBDR enshrined in the UNFCCC and its KP is the fundamental principle for the international community to address climate change and the basis for further consultation. It believed it necessary that, when dealing with aviation and maritime emissions, this principle should be complied with, and that a multilateral, transparent and negotiation mechanism by consensus should be developed, and the difference between developed and developing states should be recognized.

Argentina in supporting the joint statement by Cuba and the intervention made by China reiterated that the work of ICAO and IMO on this matter shall be guided by the terms of Article 2.2 of the Kyoto Protocol, and by the principle of common but differentiated responsibilities.

In this sense, with respect to the ICAO's reference to its current work on States' action plans, Argentina highlighted that it considers for developing countries those plans are in the context of nationally appropriate mitigation actions by developing countries, and not under the possibility of States undertaking a global goal in the sector, as this has been reserved by Argentina in the last ICAO General Assembly.

It added that the States' action plans in developing countries could only be undertaken if they would be adequately supported by transfer of financial resources, technology and capacity building by developed countries to developing countries.

Moreover, those plans should be defined at national level, attending the specific capacities, conditions, and development priorities, in particular of developing countries, said Argentina.

It stressed that the development of action plans in the ICAO should not prejudice the UNFCCC negotiations, the only forum with competence on climate change.

In relation to the reference both by ICAO and IMO to market-based measures, Argentina said there is a need to highlight that there is still ongoing discussion in both fora in relation to the effectiveness and convenience of those measures, and that this issue received several reservations in

the last ICAO General Assembly. Given the existing uncertainty in relation to these measures, there is a need for further studies on their effectiveness and impacts on developing countries, and therefore, to continue addressing those measures before any particular possible decision on this matter could be taken.

Saudi Arabia supported the statements of Cuba, China and Argentina. While supporting the continued work of ICAO and IMO on transportation it said it had problem especially at the (July) meeting of the IMO. It also expressed concerns over market-based measures, called for the consideration of CBDR, as well as financial support, technology transfer and capacity building for developing countries.

India supported the interventions of Cuba, China, Argentina and Saudi Arabia adding that the IMO failed to take cognizance of Article 2.2 of the Kyoto Protocol and the principles of CBDR enshrined in the UNFCCC and Kyoto Protocol.

Cook Islands said that as a shipping state it supports the work of the ICAO and IMO and that any measure must have environmental integrity without more economic burden on SIDS.

Singapore said it is happy to be part of the ICAO and IMO decisions and **Panama** said that it welcomed the IMO making significant progress.

Japan welcomed the IMO regulations and said the ICAO and IMO are the best venues for considering issues on bunker fuels and that they should continue exercising leadership.

Republic of Korea said that CBDR is inconsistent with the non-discrimination principle. It proposed the use of revenues (from aviation and maritime emission reduction measures) from developed countries to help developing countries and revenue from developing countries for own actions. This compromise could resolve conflict.

The **European Union** said these issues are political and there should be discussions in the AWG-LCA (Ad Hoc Working Group on Long Term Cooperative Action under the Convention) and that a strong signal should be sent to the ICAO and IMO.