

Deep disagreements as Kyoto Protocol talks begin

Durban, 30 Nov (Lim Li Lin) – The Ad hoc Working Group on further commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) opened its session in Durban on 29 November with strong calls by developing countries to adopt a second commitment period of the Kyoto Protocol, and not allow Durban to be the Kyoto Protocol's burial ground, but instead the birthplace of the second commitment period.

Developed countries however want a new treaty to replace the Kyoto Protocol.

At the opening session, **Argentina, speaking on behalf of the G77 and China**, said their Ministers adopted a Declaration in September which concluded that an “appropriate treatment of mitigation, as determined in the Bali Roadmap, demands a decision on establishing the commitments of the second commitment period under the Kyoto Protocol” here in Durban.

It said that the current pledges by developed (Annex I) countries are insufficient vis-a- vis what is required by science, equity and historical responsibilities, and that a clear commitment by developed countries to amending Annex B of the Kyoto Protocol for the second commitment period was required. This would be the basis for comparable Annex I emission reduction commitments for non-Kyoto Parties. It emphasized that the Kyoto Protocol is the cornerstone of the climate change regime and an essential instrument to maintain and increase the levels of ambition for emission reduction commitments of developed countries. The adoption of the second commitment period is central to a successful outcome in Durban, it said.

Argentina said that the Kyoto Protocol and its mechanisms, rules and compliance system must be “preserved and strengthened for the preservation of the legally binding international multilateral rules-based system created under the Convention”. Any

other decision “would put in doubt our shared commitment to multilateralism and to the decisive action needed if we are to maintain a realistic chance to limit the increase in global mean temperature as required by science”. It repeated that Durban should be the birthplace of the Kyoto Protocol's second commitment period.

The **Democratic Republic of Congo, speaking for the African Group**, said that it supported ambitious and global efforts to mitigate emissions of greenhouse gases, and that agreement to the second commitment period under the Kyoto Protocol is absolutely essential. African heads of state and government in the African Union have endorsed the position that Annex I Parties must take ambitious quantified legally binding commitments of at least 40% below 1990 levels by 2020 and 85-95% below 1990 levels by 2050. It said that rules on land use, land use change and forestry (LULUCF) should be completed and forest management should be mandatory in the second commitment period. It will not support the use of projected reference levels as the appropriate baseline for forest management accounting, and has tabled a proposal that guarantees environmental integrity to the future work of the Kyoto Protocol.

It said that the planet cannot afford to waste 13 years of negotiations. The Kyoto Protocol has detailed rules and the entire Kyoto Protocol should be retained. Just because several Parties refuse to continue with the multilateral rules based system does not mean that all must abandon a good instrument. It repeated that the African Group will not allow African soil to be the graveyard of the Kyoto Protocol.

Grenada, speaking for the Alliance of Small Island States (AOSIS) said that the Kyoto Protocol and its machinery is the well-respected engine room of climate change mitigation efforts. It outlined its position as: 1) to adopt a decision that establishes a 5 year second commitment period of

the Kyoto Protocol, with a single legally binding base year of 1990 as part of two track outcome. This must include adoption of a mandate to negotiate a legally binding instrument under the Ad hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) by 2012, to ensure legally binding commitments and actions by all major emitters by 1 January 2013; 2) there must be a ratifiable amendment for the Kyoto Protocol's second commitment period with clear agreement that it will be provisionally applied to take legal effect from 1 January 2013; 3) commitment in the second commitment period should be in the form of quantified emission limitation and reduction objectives (QELROs) so that they can be compared against the first commitment period; 4) loopholes in LULUCF, surplus assigned amount units (AAUs), additional gases with high global warming potential must be closed, and extending the share of proceeds included; and 5) Annex I Parties must increase their mitigation ambition, moving up to the higher end of their pledges and identify additional mitigation opportunities in the short term.

The length of the second commitment period should be no longer than 5 years, as the current emission reduction pledges are not consistent with pathways that can deliver a limit to temperature increase of 2 or 1.5 degrees Celsius. As such, this insufficient level should not be locked in for 8 years. It also said that it could not wait until 2020 to reflect the next IPCC (Intergovernmental Panel on Climate Change) report, which would be released in 2013-2014, or the review of long term global goal in 2013-2015. Delaying appropriate action in response to key scientific input 9 years from now is unconscionable and unsupportable, and would be too little, too late, it said. Present pledges are consistent with 2.5 degrees or more, and this would seal the fate of the world for hundreds of years to come.

Gambia, speaking for the least developed countries (LDCs), said that it has been 14 years since the birth of the Kyoto Protocol, and we are now here to rescue it from death or paralysis. This is because some Parties are not willing to commit to its continuity, not because it cannot be done. These Parties face mere political or economic difficulties, but the survival of its people is at stake and cannot be compromised on, it said.

These are the exact reasons why we must preserve the Kyoto Protocol, as those who are leaving it want to do less, not more and some of those leavers still want to use the Kyoto Protocol's market mechanisms. Markets are conditional on ambitious legally binding commitments under the second commitment period, beyond those that are already pledged. The second commitment period should be provisionally applied in 2013. Loopholes must be closed as well as the emissions gap, by 2020. Warming must be kept to 1.5 degrees Celsius. There should be no delay, excuses or pre-conditions to action, it said. There is no compromise on these issues, and no Plan B. Every child understands that games have rules, and will say "not fair you cheated" when this happens. Grown-ups are less clear and not willing to point this out, Gambia said.

Australia, on behalf of the Umbrella Group, said that it supported a new international climate regime that is balanced, fair and effective and that the Kyoto Protocol has been a milestone and an important step. It said that Annex I Parties are collectively on target to meet their first commitment period, all Annex I Parties are taking mitigation action, and have indicated that they will take mitigation commitments under a new framework. Kyoto Protocol rules and mechanisms, including market mechanisms will continue beyond the first commitment period and will form collective efforts to shape the new regime, it said.

Australia said that the emission reduction pledges by (developed and developing) countries cover 80% of global emissions and is the most substantial common effort put forward, whereas the Kyoto Protocol covers barely a quarter of global emissions and this is dwindling. A second commitment period may cover even as little as 17% at best, and by 2020 this may be 13%. The Kyoto Protocol cannot of itself deliver emission reductions required for keeping temperature increase to 2 degrees Celsius, without legally binding mitigation targets by all major economies, it said.

It said that negotiators are expressing 'all or nothing' demands for the second commitment period, but Ministers for those same countries have expressed pragmatic and middle ground options. It urged for explore the middle ground, as without engaging in this kind of discussion early on, it is difficult for Ministers to make a deal for the period beyond 2012.

Switzerland, speaking for the Environmental Integrity Group, supported quantified emission reduction commitments for Annex I Parties individually and in aggregate using the rules and the mechanisms of the Kyoto Protocol after 2102. Full clarity is needed on accounting rules including for LULUCF, flexible mechanisms, length of commitment period after 2012, converting pledges into QELROs and the carry over or surplus AAUs. Achieving agreement on these issues is key for the formalisation of further commitments using Kyoto Protocol rules and mechanisms, and is what the market needs, it said.

Switzerland emphasised that global effort by all countries is necessary, without which it is not sufficient for reaching the ultimate objective of the Convention. The two negotiating tracks are inter-related, it said. The market mechanisms are among the ways and means available to developed countries to meet their obligations, and contribute to sustainable development. It supported continuing, improving and expanding their scope, and for new market based mechanisms to be established in Durban.

The **European Union** said that the opportunity to keep the below 2 degree objective is closing faster than previously expected and as such it supports a multilateral, strong and ambitious rules-based system with broad participation, notably from major economies. It said that it is “open to the Kyoto Protocol playing an important role in the transition towards a global, comprehensive and legally binding framework for all, in line with the dynamic principle of common but differentiated responsibilities and respective capabilities”. A limited outcome would be politically unacceptable to our leaders, it said. The negotiations of this framework should start immediately and be completed by 2015, and reassurances that it can build on the essential elements of the Kyoto Protocol are needed. A possible second commitment period should last no longer than 2020, and be compatible with the timeline for the development and entry into force of a future global and comprehensive legally-binding framework engaging all Parties, it said.

The EU said that it is open to a second commitment period of the Kyoto Protocol as part of a transition to a wider legally binding framework, provided that there is: 1) an agreement for a robust roadmap with a clear timeline for a new legally binding framework engaging all Parties, and 2)

improving the environmental integrity of the Protocol and ensuring the provision of new market mechanisms. It said that it would like to find consensus on the form and content of a second commitment period, including workable alternatives to full ratification by 2013, clarifying Annex I commitments and level of ambition, ensuring continuity of the rules-based system and clarity on the rules that will apply after 2012, ensuring continuity of the market mechanisms and addressing a limited second commitment period participation.

The session also heard reports for the Cartagena Dialogue meeting in Chile as well as the informal consultations on legal form hosted by the governments of Spain, Mexico and South Africa.

Contact group

Later in the afternoon (29 November), the first contact group session was held. The Chair of the AWG-KP, Adrian Macey from New Zealand requested the group to “consider compromise solutions and middle ground”. He said that in Durban, compromise is sought, otherwise there will be no satisfactory result. Only the resolution of a few key issues will be dealt with by South Africa, the COP and CMP Presidency. The outcome of the AWG-KP will be part of a wider outcome, and many Parties have highlighted the linkages, he said. The Chair asked the group to focus on those issues that are within ambit of group and which can deliver results, as the Presidency would consider more cross cutting issues.

St Lucia, speaking for AOSIS, supported by **Tuvalu**, speaking for the LDCs, objected to a focus on finding the middle ground. However, New Zealand, Australia, the EU and Norway supported the Chair’s proposal.

St Lucia said that we have an emergency, and as such it will continue to pursue legally binding QELROs, and a ratifiable amendment that will be provisionally applied. The AWG-KP has a specific mandate, and the work should be done very soon, it said. Tuvalu said that there needs to be legal certainty about how the Kyoto Protocol moves forward, and cautioned against a piecemeal outcome that does not resolve everything.

The EU said that the outcome for Durban will be piecemeal as not all Parties are willing to move forward with the Kyoto Protocol, however the technical work needs to move forward quickly.

Switzerland requested the Chair to remodel his proposed text in order to have more clarity on the choices, to facilitate decision-making. This would involve separating political/policy decisions and technical decisions, it said. In response, the Chair said that he would be happy to formulate precise questions, which could help the discussions, but would not re-work the text as yet.

Algeria, speaking for the African Group said that some technical issues are not important or relevant to conclude, and there should be a possibility to disconnect technical and policy issues. What is required is political will, and not for pre-conditions to be concluded. It said that the clean development mechanism (CDM) is available for Annex I Parties to meet their QELROs but without QELROs in a second commitment period, there will be no CDM. This was supported by Bolivia.

New Zealand said that we need to decide in Durban about what comes next, and the role of the Kyoto Protocol in a smooth transition to a broader agreement, where Parties move together in step. It said that there has been an all or nothing approach to the Kyoto Protocol (by developing countries) but the world is not quite so simple. Negotiators here see the situation in black and white, yet their Ministers see it in shades of grey, it said.

It said that a second commitment period will not be a replica of the first commitment period - there is a

smaller group of Parties, and the way will be different as if it must be ratified, there is no time left for it to enter into force to avoid a gap between the commitment periods. It said that CMP decisions would be immediately implementable, as they do not require ratification. As there is a need to ensure smooth continuity after 2012, there should be a roadmap under AWG-LCA. If it is robust with a clear legal outcome, and with all Parties moving in step, it may be possible to articulate a second commitment period. It said that provisional application would not be consistent with its treaty making processes, and therefore is not a possibility for it, and the world cannot wait for a full ratification process.

Tuvalu said that listening to the proposals by developed countries, it seems that instead of moving forward at the same pace, it appears that we are moving backward at same pace. Developed country proposals would lock in Kyoto Protocol rules and low ambition for long period, and lock out legal certainty of the second commitment period. Developed countries are proposing that the Kyoto Protocol continues or only its rules, without the second commitment period, it said.

China said that after seven years of discussion, the group must urgently accomplish its task in Durban. It emphasized the mandate of our AWG-KP to adopt an amendment to Annex B.