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Panama City, 2 October (Lim Li Lin) --The Kyoto Protocol negotiations opened in Panama City on 1 October with developing countries continuing to insist that the second commitment period of emission reductions for Annex I (developed country) Parties is the cornerstone of the Durban outcome at the end of the year, and that this must be part of the two track outcome. Developed countries instead pressed for a single comprehensive framework which includes all major economies.

The opening plenary meeting of the Ad hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) was followed by a contact group meeting in the afternoon, where a heated debate between developed and developing countries ensued concerning the continuity of the Kyoto Protocol's market mechanisms in the absence of a second commitment period.

At the opening plenary, several groupings of countries expressed strong views.

Argentina, speaking on behalf of the **G77 and China**, said that the primary objective of this session is to reach a second commitment period under the Kyoto Protocol, and stressed that the Kyoto Protocol is a key cornerstone of the multilateral climate change regime. It said that substantive discussions on the scale of emission reductions in aggregate as well as joint and individual contributions of Annex I Parties must be concluded to overcome the wide gap between the pledges put forward by Annex I Parties and what is required by science, equity and historical responsibility. It said that it is clear that the political will to have a second commitment period is the key for the technical issues to go forward productively.

Democratic Republic of Congo (DRC), speaking for the **African Group**, said that agreement to a second commitment period under the Kyoto Protocol is absolutely essential. This has been confirmed by African Ministers representing over 50 countries at the African Ministerial Conference on Environment and Development. They stated that "the UNFCCC and its Kyoto Protocol constitutes the fundamental global legal framework" and that the climate negotiations "should produce two outcomes in line with the Bali Roadmap, regarding an agreed outcome on long-term cooperative action ... and an amendment to Annex B of the Kyoto Protocol regarding further mitigation commitments of Annex I Parties for a second commitment period from 2013 to 2017...".

It said that the most visible obstacle is the lack of political will by developed countries to meet their legal obligation under the Kyoto Protocol, and that without a second commitment period, there is no legally binding instrument for the reduction of emissions of Annex I Parties. This failure in leadership is unacceptable to the future of the multilateral process, it said.

DRC said that developed countries must reduce greenhouse gas emissions by at least 40% below 1990 levels by 2017 and at least 95% below 1990 levels by 2050. There must be full separation between the two negotiating tracks (AWG-KP and the Ad hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA)) and the AWG-LCA should not be used as a way to delay the negotiations on the second commitment period. It expects the international community to have a precise strategy for adopting the amendment for the second commitment period, and this must be agreed here in Panama.

The **European Union** said that there should be continuity from the first commitment period. It said

that there is a strong link between the two negotiating tracks, and there is a need for both to deliver in a balanced way in terms of process and substance. It said that it was willing to consider a second commitment period but it alone cannot solve the problem as it is only responsible for around 16% of emissions. It emphasized that there should be a post 2012 global and comprehensive framework based on coherent and stable rules, including all major economies. It supported a multilateral rules based approach based on the Kyoto Protocol, and said that the Kyoto Protocol should be reformed to preserve environmental integrity.

Australia, speaking for the **Umbrella Group**, said that it was committed to making a transition from the past to the new global framework with all major emitters, although a new global agreement is not a prospect in Durban. It said that the Kyoto Protocol cannot provide for environmental integrity as only 27% of emissions, and falling, are covered. It said that all developed countries have put forward ambitious economy wide emission reduction pledges, and many of them are contained in national laws and implementing policies and tools. As such, they will continue with their mitigation efforts even without a new agreement. Progress on rules, and cross cutting issues that will promote a comprehensive outcome was important, it said.

Gambia, speaking on behalf of the **LDCs**, attached great importance to reaching conclusion on the Kyoto Protocol work in Durban. Panama is the last opportunity to resolve all the issues, and present the necessary amendments to the Kyoto Protocol in Durban, it said. It also said that legal issues should be addressed, including ways to ensure that there is no gap between the commitment periods.

Grenada, speaking for the **Alliance of Small Island States (AOSIS)**, said that internationally binding mitigation commitments by Annex I Parties under the Kyoto Protocol must be delivered in a timely manner. The second commitment period from 2013 to 2017 should be part of the two-track outcome that includes a legally binding outcome under the AWG-LCA. There should be provisional application of new and more ambitious commitments in the amendment for the second period pending its ratification and entry into force, in order to avoid a gap between the commitment periods.

Grenada rejected the idea of a “political commitment period”, and said that any outcome that is based on decisions only is a “non starter”, and would be a major step back for the regime and a blow to tangible

emission reductions. Only a legally binding outcome can deliver emission reductions consistent with what science demands. Temperature rise limited to well below 1.5 degrees C from pre-industrial levels is a goal supported by over 100 countries, it said.

Bolivia, speaking for the **Bolivarian Alliance of the Peoples of Our America (ALBA)** said that the work must meet the needs of all, and not just the interests of some. Rules must be complied with and not ignored as they were in Cancun. It said that a second commitment period is the key objective and must be adopted in Durban. A legal vacuum in the ratification of the second commitment period must be avoided. It is essential to discuss applying international legal mechanisms to address the failure of developed countries to comply with their obligations, and the negative impacts that this will have on the planet, it said.

In the afternoon, the first contact group meeting under the AWG-KP was held. The Chair of the working group, Mr. Adrian Macey from New Zealand identified a number of issues for discussion. He asked to what extent is it possible to quantify the mitigation pledges as quantified emission limitation and reduction objectives (QELROs)?

On rules and commitments, he said that both need to happen together, but if Parties achieve the rules set they are seeking, would it be sufficient or are there other conditions as well? On increased mitigation efforts, how do we move from the lower to the higher end of the mitigation pledges? There is also the issue of the aggregate level of emission reductions, he said. On the gap between the commitment periods, he said that it was difficult, if not impossible to avoid a gap between the commitment periods, and there are a number of options to ensure continuity including provisional application. Is this viable, he asked, and are there other options? He also said that the spin-off group on numbers should resolve the current differences on Option B of the text on the amendment for the second commitment period.

Brazil said that on Option B, there is no consensus that it is under the mandate of the AWG-KP. However, St Lucia and the EU supported discussing Option B, as they had made proposals contained in that option. The EU considered that the mandate of the AWG-KP was broad enough to cover proposals made under Option B.

Brazil said that it was premature to discuss the gap between the commitment periods before Durban, as there is still time to avoid the gap. St Lucia supported

discussing provisional application in order to ensure that there is no gap.

A heated debate also took place on the future of the CDM in the absence of a second commitment period. The EU said that instead of talking about a gap, the better starting point should be how to ensure continuity after 2012, as it already has legislation and will seamlessly move from 2012 to 2013. As such, there would be continued demand for the Clean Development Mechanism (CDM) and emission reduction credits.

Australia said that the gap is inevitable as it has made clear its conditions for a second commitment period which is that there must be a balancing agreement that covers all major emitters, and this has not been met yet. It agreed that there should be work towards practical continuity, as it has a target which will continue and access to the market mechanisms is important, and this has broader relevance, and is not just restricted to the Kyoto Protocol.

Venezuela said that without a second commitment period, there would no longer be a CDM. It said that the purpose of the CDM is to help Annex I Parties comply with their emission reduction commitments. There should not be selective application of the Kyoto Protocol. This was supported by Bolivia, Brazil, Nicaragua and China.

The EU responded that it was better to have internationally recognized credits, approved through the machinery of the UN. If this ends in 2013, there would have to be duplication of the structure to ensure environmental integrity. A lot has been invested to set up a credible crediting system, which should be allowed to continue with the CDM, as a multilateral rules-based system. A broad application of the system would be take us forward, while developing another system would take us backwards, it said.

Venezuela said that the issue is a multilateral versus a bilateral approach. The Kyoto Protocol rules are multilateral, but a domestic approach for emission reductions is being proposed after 2012. A list of pros and cons of each approach should be produced, it said.

The EU argued that some Parties are no longer interested in staying with the Kyoto Protocol, and in order to ensure that Parties stay committed to the battle against climate change, it might require that they have access to emission reduction mechanisms. With a bilateral approach to the markets, they will be fragmented and complicated, and this would be

expensive for the private sector. This would not attract countries to join the battle against climate change, and would look like a disaster to the outside world. It stressed that continuity of the CDM is important after 2012, and that predictability and certainty to the private sector is important. The mechanism should not be abandoned but improved, it said.

Japan said that the CDM is supposed to assist developing countries in achieving sustainable development and to help Annex I countries comply with their targets.

In relation to increasing the level of ambition, St Lucia said that loopholes should be closed and there should be discussion on the aggregate level of ambition. In addition to moving to the higher end of the pledges, there should also be discussion of moving beyond the ranges pledged. However, Japan and Australia questioned the necessity of discussing the level of ambition as said that this should be discussed in the larger context. Australia also said that the quantification of QELROs should be discussed in the larger context of what all other major emitters are doing, as the accounting rules should be linked.

New Zealand said that it was prepared to undertake a second commitment period in the context of a comprehensive global agreement by all major emitters. This cannot be concluded by Durban, either under that new agreement or the Kyoto Protocol. It said that the second commitment period will not be followed by a third, and that the agreements will merge.

It said that one group had said that the only acceptable outcome was a full legally binding amendment with provisional application of QELROs. It appealed for not rejecting a political CMP (Conference of the Parties serving as the meeting of the Parties) decision, and asked if a legally binding second commitment period is not possible, was it better to have nothing at all? Don't let the perfect be the enemy of the good, it said. One Parties' perfection is another's impossibility. This risks no agreement or only one that cannot be ratified. We should focus on what is achievable to protect the Kyoto Protocol that we value so highly, it said.

New Zealand said that its domestic programme for domestic action does not end in 2012, whether or not there is a legal agreement in Durban. It said that there would be certainty of reciprocity in a global agreement, and we need to transition to a

comprehensive global framework. There are national circumstances, but Parties have much in common, and all want a rules-based system. What we do here forms the basis for the bridge to the bigger agreement, it said.

At the opening session of the AWG-KP, Ambassador Mxakato-Diseko from South Africa briefed Parties on the informal consultations that it has been conducting since the last meeting in June. She said that the climate conference in Cancun last year had mandated South Africa as the incoming Presidency of the Conference of the Parties (COP) to conduct informal consultations. She informed Parties that consultations have been conducted in Berlin, Auckland, Pretoria and New York. In Pretoria, the consultations were preceded by consultations with stakeholders and also included Ministerial level consultations. In New York, consultations were with heads of state representing the major groupings.

Diseko stressed the importance of multilateralism and reaffirmed the integrity of the UN Framework Convention on Climate Change (UNFCCC) process. She also emphasized the principle of transparency and need for inclusiveness, and said that the consultations were not meant to supplant the formal negotiating process. The central issue is the resolution of the second commitment period of the Kyoto Protocol, she said, and this cannot be discussed in isolation, as it is inextricably linked with the legal status and form of the future climate regime.

At the consultations in Germany, it was emphasized that Durban should provide political guidance to the future shape and legal form of the climate architecture. A multilateral rules-based system,

building on existing work with an agreed time frame and milestones was also emphasized, she said.

She said that in New Zealand, the focus was on key mitigation issues - measurement, reporting and verification (MRV). The rules based system needs to be flexible to accommodate national circumstances, she added. The inadequacy of the mitigation pledges was of concern, and the difficulty from moving from pledges to formal targets was also identified.

Diseko said that in South Africa, President Zuma called for the Durban outcome to adhere to the following principles: (1) preserving and strengthening the multilateral response, (2) environmental integrity, (3) common but differentiated responsibilities and respective capabilities, (4) equity, and (5) honouring international commitments. Ministers stressed that progress on finance should not be confined to institutional arrangements only. The Green Climate Fund should be capitalized and operational by 2012, and there should be delivery and disbursement of fast start finance. The technology mechanism should be fully operational in 2012, as well as the Cancun adaptation framework.

She informed Parties that in New York, Heads of State exchanged views on the future climate change regime, with a focus on operationalising the Cancun agreements.

Diseko said that she planned to continue informal consultations in Panama. Parties would be asked to respond to specific questions and stakeholders will also be consulted. Her Minister will be arriving in Panama, and interacting with Parties.