

Statement by the Third World Network at the AWG-LCA informal group on legal options, 6 October 2011, Panama City

We do not support any outcome that undermines or terminates the Kyoto Protocol, or that enshrines a weaker system than the Kyoto Protocol in international law. A bottom-up domestic pledge and review system represents just such a weak, deregulated system. And the negotiations certainly seem to be headed in that direction.

Developed countries say that a new comprehensive treaty is necessary as the Kyoto Protocol only covers 27% of global emissions. But this was exactly why in Bali, a three-pronged approach was agreed to by *all* Parties, to deal with 100% of emissions from all countries – 1) Kyoto Parties would undertake emission reduction commitments under a second commitment period of the Kyoto Protocol, 2) the United States would undertake emission reduction commitments or actions in a comparable manner under the Convention (1bi), and 3) developing countries would undertake NAMAs under the Convention, enabled and supported by technology, finance and capacity building (1bii). That was only 4 years ago, but the goalposts are already being shifted.

In addition, a number of detailed studies have clearly demonstrated that developing country pledges amount to more mitigation than developed country pledges. So, the problem lies not with developing countries, and yet attempts are being made to shift the burden from developed to developing countries through a new treaty. The mandate of these

negotiations is to *implement* the Convention, not to re-negotiate it.

In this respect, we also do not support agreeing up-front to a legally binding mitigation treaty that will sit alongside the Kyoto Protocol (the so-called two protocol approach), as it is likely to have the same effect of terminating the Kyoto Protocol, by legally superceding it. Such a treaty may provide a new ship for Annex I Kyoto Parties to jump to, thus rendering the Kyoto Protocol a meaningless shell. Unless there are assured and credible ways to safeguard against Annex I Kyoto Parties abandoning the Kyoto ship, this would mean agreeing up-front to the eventual demise of the Kyoto Protocol.

Attempts to re-negotiate Annex I and non-Annex I, and hence the Convention, are likely to lead to much further delays and risks the collapse of the system. Categorizing countries as “major emitters” fails to take into account a fair and principled burden sharing approach with includes historical responsibility and per capita emissions.

One African negotiator reminded me of the story of the dog and the bone – a dog, carrying a bone in its mouth, saw its own reflection in a river. It hastily dropped the bone it was carrying in an attempt to get the bone from the other dog it thought was carrying a larger bone. In doing so, the greedy dog lost the bone it already had, and watched it sink to the bottom of the river.