



### HIGHLIGHTS FROM THE FCCC SUBSIDIARY BODIES MEETINGS SATURDAY, 5 JUNE 1999

The Joint Working Group on compliance met in the afternoon. Contact groups were convened on: the Protocol mechanisms; land use, land-use change and forestry (LULUCF); Annex I communications; and non-Annex I communications. An informal consultation on activities implemented jointly (AIJ) was held.

#### JOINT WORKING GROUP ON COMPLIANCE

The G-77/CHINA identified elements relevant to procedures and mechanisms relating to compliance under the Kyoto Protocol. She noted that the principle of common but differentiated responsibility is regarded as the cornerstone in the design and implementation of the compliance regime. Aspects to be considered in the development of a compliance regime include the need for, *inter alia*: the elaboration of relevant principles; modalities and guidelines for verification, reporting and accountability under the Protocol's mechanisms; the potential application to the Protocol of any multilateral consultative process (MCP) adopted under the Convention; and a critical evaluation of the Convention and the Protocol's financial mechanism as a means of assessing both the obligations of Annex I Parties and the adequacy of the mechanism in assisting non-Annex I Parties to comply with the Protocol.

The G-77/CHINA also stated that only Parties that are in compliance with their obligations and are bound by a compliance regime should be allowed to participate in the Protocol mechanisms. Binding consequences for non-compliance are essential, as they will enhance the Parties' collective ability to deter non-compliance. She said it may be desirable to identify cases and/or activities that may constitute non-compliance. She supported an indicative list of non-compliance consequences, depending on the cause, type, degree and frequency of non-compliance, including:

- appropriate assistance, including technical and financial expertise and capacity building;
- issuing cautions;
- suspension of rights, including the ability to participate in Article 6 (joint implementation), 12 (clean development mechanism) and 17 (emissions trading); and,
- penalties, including financial penalties for Annex B Parties.

She said financial penalties resulting from a non-compliance procedure should be made available to meet the cost of adaptation. If necessary, an appropriate institution or body may be required. Such an institution should be based on the principle of equitable geographic distribution. The G-77/CHINA also circulated a list of questions on a compliance system, including: what should be the principles that guide the development of procedures to implement

Article 18 (non-compliance) of the Protocol and what procedures and mechanisms under Article 18 entail binding consequences. The questions also focus on specific provisions of the Protocol that may require binding consequences and raise issues with regard to the expert review teams contemplated in Protocol Article 8 (review of information).

JAPAN, the US and AUSTRALIA said the proposal would form a useful basis for beginning a dialogue, and expressed their intention to raise questions at the working group's next meeting. The CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW proposed a "compliance fund." If Parties reach the end of a commitment period and find that their emissions, minus removals, exceed their assigned amount, they would be obligated under the Protocol to purchase credits or parts of assigned amount (PAA) to cover their overage. However, if there are insufficient credits or PAA available from the market, they would have to purchase the required credits from the compliance fund, which would invest the money in the highest quality emission reduction and removal projects.

Following a discussion on ways to proceed, Co-Chair Rønneberg invited delegations to submit additional questions. These, along with the G-77/China's and the Secretariat's list of questions, will be compiled into a revised list. These questions and a draft work programme will be considered on Tuesday.

#### CONTACT GROUPS AND INFORMAL CONSULTATIONS

**Mechanisms:** The contact group on the Protocol mechanisms adjourned its meeting until Monday afternoon to allow the regional groups to finish their deliberations.

**LULUCF:** The LULUCF contact group met in the afternoon to consider draft conclusions on relevant policy and procedural issues. Delegates considered three flow charts tabled by Australia on behalf of several Parties, and one tabled by the EU. The charts outlined processes to advance LULUCF-related issues with the aim of helping facilitate agreement on the draft conclusions. Participants exchanged ideas on how to incorporate the four charts into one. Suggestions for issues to be included in the chart included, *inter alia*: requesting IPCC to develop a work plan to address methodological issues on LULUCF for Convention reporting; elaborating at SBSTA-10 the intent behind the sentence in Protocol Article 3.4 (other land use activities) that calls on Annex I Parties to provide data to establish 1990 carbon stock levels prior to COP/MOP-I; requesting Parties to make submissions on wood products; inviting submissions from Parties on draft text on modalities rules and guidelines for LULUCF at COP-5; and holding a workshop or



special event at COP-5 on the draft IPCC Special Report on LULUCF, as well as a workshop prior to COP-6 to consider the published IPCC report.

AUSTRALIA noted that the group's consideration of the charts had clarified issues and would help advance negotiations. He suggested that it had moved the discussion beyond the current draft conclusions. With CANADA and NEW ZEALAND, he suggested incorporating these new ideas into revised draft conclusions. The G-77/CHINA expressed concern at the charts, which look beyond COP-5, and said the Secretariat should not be instructed to incorporate ideas from the charts into the draft guidelines. He suggested resuming discussion on the current draft guidelines. The group agreed that Parties could make additional submissions that will be incorporated into the current draft guidelines to reflect ideas emerging from the contact group's discussions.

**Annex I Communications:** The contact group on Annex I communications continued its consideration of the draft common reporting format tables and began discussing draft conclusions on Protocol Articles 5 (methodology), 7 (communications) and 8 (review of information). The group also considered whether reporting of total emissions should include emissions and removals from LULUCF.

**Non-Annex I Communications:** The non-Annex I communications contact group met in a morning session to hear presentations on enabling activities and capacity building by the Secretariat, the GEF and UNEP. The group discussed a G-77/China proposed draft decision on initial and subsequent non-Annex I communications. The Secretariat referred to COP decisions on guidelines for the preparation of communications by non-Annex I Parties and noted that the Secretariat was mandated to provide assistance to Parties through the preparation of regional workshops and fora. The PHILIPPINES said enabling activities went beyond capacity building and highlighted the importance of identifying difficulties faced by non-Annex I countries such as the lack of financial resources and technology to, *inter alia*, gather data for national communications. UGANDA and LAOS pointed to the need for capacity building on GEF procedures, including for the implementing agencies in the field. The EU emphasized the value of adequate information for the quality of communications. GEORGIA suggested that CDM activities be a component of second non-Annex I communications and called for capacity building to achieve this.

The GEF referred to seven projects on capacity building and enabling activities, including regional workshops, and presented a chart summarizing countries' views in Africa and Latin America on difficulties in preparing elements of national communications and rating the usefulness of assistance received. He noted that most countries encountered difficulties regarding adaptation measures and abatement analysis. UGANDA, with CHINA and ARGENTINA, indicated that national communications were a continuous process and emphasized the need for ongoing assistance for data collection. BARBADOS referred to vulnerability as one of the main components of non-Annex I communications and pointed to difficulties in obtaining financial assistance. MEXICO noted its satisfaction with UNDP regional workshops on communications. TOGO called for workshops tailored to the specific needs and circumstances of individual countries. ARGENTINA emphasized that experts' qualifications are essential to the workshops' success.

UNEP made a presentation on a National Communications Support Programme (NCSP) and said the projects' aim is to improve the quality, comprehensiveness, and timeliness of non-

Annex I Parties' initial communications through the operation of a "help desk" and through thematic and regional exchange workshops. He said the purpose of the "help desk" was to provide additional technical assistance to countries preparing national communications. ARGENTINA asked for information on workshops in Latin America. The PHILIPPINES sought clarification on the meaning of "timeliness" of non-Annex I Parties' communications as an objective. BARBADOS pointed to difficulties in attending the workshops given that no financial assistance for participation was provided. The EUROPEAN COMMISSION proposed including project beneficiaries in the NCSP's steering committee to enhance its effectiveness.

Participants considered a draft decision tabled by the G-77/China on initial and subsequent non-Annex I communications. The discussion focused on a provision establishing a non-Annex I Group of Experts, with a view to enhancing support for preparation of communications, identifying difficulties faced by countries and improving non-Annex I communications. The US inquired how the expert group would feed back into national processes and cautioned against duplication of work. The EU expressed interest in the proposal and asked about its linkage to intergovernmental processes. The group decided to reconvene during the week to continue its discussions and further consider the G-77/China's proposed draft decision.

**AIJ:** Informal consultations chaired by Margaret Mukahanana (Zimbabwe) and Jos Delbeke (European Community) were held on the draft conclusions of the SBI and SBSTA Chairs on the AIJ pilot phase. Discussions focused on elements for the review of the pilot phase, including an analysis of factors contributing to the current geographic distribution of AIJ projects and whether conclusive decisions on the pilot phase should be taken at COP-6 or by the end of the decade as stated in decision 6/CP.4. The discussions also addressed whether the current review process should refer to links between AIJ and Protocol Articles 6 (JI) and 12 (CDM) projects.

### IN THE CORRIDORS

Delegates were heard commenting that they have had to temper their expectations for the pace of work on the Protocol mechanisms given the state of preparedness within the G-77/China. Meetings planned originally for Thursday onwards and rescheduled for Friday evening and Saturday morning were postponed to next week as the G-77/China had yet to formulate its positions. Some delegates said the slow pace of negotiations within the G-77/China could be attributed to the complex and highly advanced nature of discussions combined with the radically differing starting points and presumptions on which they are based. Some felt that differences within the group on the extent of expected financial flows from the mechanisms were in part responsible for differing starting points. There is a growing recognition that complexity in itself is a factor that will demand attention in future planning of the negotiating process. Some observers have recommended convening informal preparatory sessions during the year to address this concern and help meet upcoming deadlines, notably those from the Buenos Aires Plan of Action.

### THINGS TO LOOK FOR

**Contact Group on Mechanisms:** The contact group on mechanisms will meet in the afternoon.

*Consult the meeting board for time and location of other meetings.*