

## AWG-LCA 11 AND AWG-KP 13 HIGHLIGHTS: TUESDAY, 3 AUGUST 2010

The AWG-KP concluded its in-session workshop on the scale of Annex I parties' emissions reductions on Tuesday morning. It subsequently held discussions in contact groups on Annex I emission reductions, "other issues" such as LULUCF, and legal matters. The AWG-LCA resumed work in its main contact group, which agreed on the organization of work for the rest of the week. Delegates then split into closed drafting groups that met late morning and throughout the afternoon. Three groups convened on Tuesday, focused on: mitigation; adaptation; and finance, technology and capacity building. The groups started discussions on the Chair's revised text (FCCC/AWGLCA/2010/8).

### AWG-LCA

**AWG-LCA CONTACT GROUP:** AWG-LCA Chair Mukahanana-Sangarwe said Monday evening's discussion on organization was regrettable and acknowledged the Russian Federation's concerns about transparency. Based on the views expressed, she outlined a revised plan and a draft schedule that included four drafting groups and outlined the number of times each would meet during AWG-LCA. She explained that the groups would focus on mitigation (8 meetings), shared vision and review (3 meetings), adaptation (7 meetings), and finance, technology and capacity building (8 meetings). After further discussion, delegates approved this general approach and split into drafting groups.

**MITIGATION DRAFTING GROUP:** The drafting group on mitigation, facilitated by Chair Mukahanana-Sangarwe, met on Tuesday morning and afternoon. Discussions focused on textual suggestions to the Chair's draft text (FCCC/AWGLCA/2010/8) regarding nationally appropriate mitigations commitments or actions by developed country parties (Bali Action Plan paragraph 1b(i)). Parties made suggestions on a range of topics, including: the baseline and target years; aggregate reduction ranges; the legally-binding nature of the agreement; relationship to the Kyoto Protocol, including inscription of targets and flexible mechanisms; the use of other market mechanisms and eligibility for participation; the nature of, and changes to, Annex I; comparability of efforts; reference to "commitments" or "objectives"; response measures; MRV

provisions; LULUCF; compliance guidelines; reporting and national communications; sectoral sustainable consumption and production; historical emissions; and the development by all parties of low-emission plans.

The group will begin textual suggestions for draft text on nationally appropriate mitigation actions (NAMAs) by developing country Parties (BAP paragraph 1b(ii)) on Wednesday morning.

**ADAPTATION DRAFTING GROUP:** Facilitated by Kishan Kumarsingh (Trinidad and Tobago), the group started by focusing on institutional arrangements and how to give adaptation and mitigation more equal treatment in the Chair's text (FCCC/AWGLCA/2010/8, Chapter 1, paragraph 13, and Chapter 2). Parties disagreed over the logic of tackling less problematic issues before delving into more controversial issues. Many developing countries noted a lack of attention to loss and damages.

Some delegates expressed concerns that the cross-cutting nature of adaptation was leading to its fragmentation among the new drafting groups. It was also suggested that the text should include references to timing in order to enhance understanding of when implementation of various elements in the text are meant to occur.

In the afternoon, Facilitator Kumarsingh introduced a framework for the group's discussion based on the following issue clusters: institutional arrangements; objective and scope of adaptation; shared vision; implementation; and support. On institutions, differences emerged among parties on whether a new institution is necessary. Many developing countries advocated a new adaptation body due to complexity of new functions required, while developed countries generally urged the use of current institutions, after identifying and eliminating gaps in their functionality. In terms of institutional form, suggestions were made to create an Adaptation Committee under the Convention or a Subsidiary Body for Adaptation with a more oversight-oriented role. To clarify what is understood by a "country driven" approach to adaptation, one developing country noted that this should refer to the identification of needs, not the burden of action. Many parties argued that if a simplified, expedited form of adaptation governance is the aim, then an additional level of bureaucracy will not help.

**FINANCE, TECHNOLOGY AND CAPACITY**

**BUILDING DRAFTING GROUP:** This group was facilitated by Dan Reifsnnyder (US). Delegates began by discussing financing issues, particularly the proposed fund on mitigation, adaptation, capacity building and technology transfer, and institutional linkages to thematic bodies that may have advice on funding (FCCC/AWGLCA/2010/8, Chapter 1, paragraph 60, and Chapter 3, paragraphs 9-14). A number of speakers focused on possible “specialized funding windows.” One delegate stressed that the COP should give guidance on funding, based on inputs from relevant thematic bodies. Another said any process for funding should include policy advice, a decision on funding allocation and accountability for such decisions. Several speakers expressed concern about how funding windows would operate, while others warned against an overly bureaucratic process, preferring a simple process leading to expedited funding. Comments also focused on governance structures, national implementation bodies and whether too many windows could dilute funding.

Parties then began a paragraph-by-paragraph consideration of the text. Several speakers noted that agreement on this text had almost been reached in June. On language establishing the fund, developing countries suggested affirming the COP’s authority over the fund. One developing country group preferred removing specific reference to REDD-plus (which was cited in the text as a mitigation activity), but this was opposed by another group. One developing country speaker proposed a reference to funding for carbon capture and storage (CCS), but this was opposed by another delegate. An Annex I party noted duplication of text and suggested consolidating them.

The group will reconvene on Wednesday morning, and is expected to resume consideration of the fund, as well as the proposed new body of the financial mechanism (Chapter 3, paragraphs 14-15).

**AWG-KP**

**IN-SESSION WORKSHOP:** On Tuesday morning, participants reconvened for the final part of the in-session workshop on the scale of Annex I parties’ emission reductions, which had started on Monday afternoon. Discussions continued on: the quantitative implications of the use of LULUCF, emission trading and project based mechanisms on the emission reductions by Annex I parties; national circumstances; and their implications on emission reductions by Annex I parties.

CHINA expressed concern with discussing developing and developed countries together and at creating a “common space,” which she said was “already established by the Convention and Protocol.”

In response to questions about AAU demand, POINT CARBON said she assumed a very low surplus AAU demand, due to both transaction costs and preference for CERs from pure project-based mechanisms. THIRD WORLD NETWORK noted that emission reductions loopholes should be addressed to ensure the level of ambition required by science. She also expressed concern with non-additionality issues under CDM accounting and that the current proposed scale of offsets allows developed countries to shift the mitigation burden to developing countries.

**Part III:** Discussions focused on enhancing transparency of pledges for emission reductions of Annex I Parties under the Kyoto Protocol.

SWITZERLAND said environmental and technical information is essential to ensure the transparency of pledges and as a basis for discussions on level of ambition and comparability of efforts. She identified key issues, including expected use of flexibility mechanisms, domestic reductions measures and use of LULUCF.

BOLIVIA said that in order to ensure a maximum temperature rise of 1.5-2°C, the remaining atmosphere emissions budget must be allocated according to selected criteria, supporting both equity (based on population) and historical responsibility. He noted that developed countries have “over used” atmospheric space, resulting in a climate debt owed to developing countries. He said Annex I pledges under the Copenhagen Accord for the next ten years represent emissions of 133 Gt CO<sub>2</sub>, while the total “budget” for the next 20 years in the 2°C scenario is only 120 Gt CO<sub>2</sub>, which means developed countries will use more than their fair share of atmospheric space.

UGANDA said every country should pay according to its historical contribution to climate change and money raised could be used to address emission reductions, avoiding a global overuse of the atmosphere. NEW ZEALAND said national communications include information relevant to comparability of efforts, but noted that some useful elements such as mitigation potential are not considered.

AWG-KP Vice-Chair Macey noted several recurring themes in the discussion, including: the advantages of LULUCF rules and mechanisms but also uncertainties of impacts on individual countries; and the impacts of rules and mechanisms, including surplus AAUs, on markets.

**“OTHER ISSUES” CONTACT GROUP:** AWG-KP Vice-Chair Adrian Macey (New Zealand) introduced documentation on LULUCF (FCCC/KP/AWG/2010/6/Add.2), flexibility mechanisms (FCCC/KP/AWG/2010/6/Add.3), and the basket of methodological issues (FCCC/KP/AWG/2010/6/Add.4).

Parties agreed that LULUCF would be considered in informal consultations facilitated by Marcelo Rocha (Brazil) and Peter Iversen (Denmark) and spin-off groups on flexibility mechanisms and the basket of methodological issues facilitated by Vice-Chair Macey. AWG-KP Vice-Chair Macey asked parties for guidance on issues that need the most attention while noting progress on the narrowing of options. He clarified that during the workshop on forest management accounting, there had been no unanimity on reference levels, but there was “widespread willingness” to explore this approach and possibly to clarify and address assumptions underpinning reference levels through a robust review process.

AOSIS underscored the need for further discussion on, *inter alia*, extending share of proceeds, compliance, new gases and AAU surplus carry over. The EU called for discussions on amendments in relation to mechanisms and said LULUCF should focus on reference levels, *force majeure*, and harvested wood products (HWP).

**LULUCF:** In the afternoon, the “Other Issues” contact group broke into informal consultations on LULUCF. Facilitator Marcelo Rocha invited parties to provide input on *force majeure*, HWP, reference levels and caps in order to prepare a non-paper for consideration under the AWG-KP Chair’s future text. Discussions focused on *force majeure*, with countries identifying

relevant issues, including definition, relation with reference levels, and “time out” for land recovering from human induced or non-human-induced events.

**ANNEX I PARTIES’ EMISSION REDUCTIONS (“NUMBERS”) CONTACT GROUP:** In the afternoon contact group, discussions focused on the outcomes of the in-session workshop and the Co-Chair’s draft text (FCCC/KP/AWG/2010/6/Add.1). Co-Chair Lefevre noted that the workshop allowed for good technical discussions on assessing current levels of pledges, the quantitative implications of LULUCF and mechanisms, and enhancing transparency.

SAUDI ARABIA, with BRAZIL, SUDAN, INDIA and CHINA, emphasized that many of the presentations at the workshop were outside of the mandate of the AWG-KP, in particular those covering non-Annex I parties. He said the workshop summary should reflect only those issues within the group’s mandate. CHINA expressed disappointment with the workshop presentation by Japan, noting Japan’s comment that the mandate of the AWG-KP is politically and technically unattainable and assumes no future commitment periods under the Kyoto Protocol. She emphasized a level of ambition sufficient to satisfy both scientific necessity and historical responsibility and said parties should strive to close the loopholes one-by-one.

The EU noted the importance of addressing the impact of carry over of surplus AAUs and LULUCF accounting rules on overall targets to avoid undermining environmental integrity. Underscoring the importance of the wider context, the EU, JAPAN, RUSSIAN FEDERATION and NEW ZEALAND called for a factual and balanced representation of the views presented at the workshop.

The AFRICAN GROUP said the workshop was useful in broadening understanding of a possible gap between commitment periods. AOSIS said parties should be guided by “what the atmosphere sees” to ensure the effectiveness of pledges.

On the Co-Chair’s draft text, AOSIS said her submissions, including proposals on extending the share of proceeds, expanding the list of greenhouse gases, and carry over of AAUs, had not been incorporated.

The EU said his submission included a proposal to amend the Protocol in terms of surplus carry over of AAUs, inclusion of new market mechanisms, and the possible transference of the units generated under these mechanisms in a fungible manner.

**LEGAL MATTERS CONTACT GROUP:** The group focused on the Secretariat’s paper on the legal considerations relating to a possible gap between the first and subsequent commitment periods (FCCC/KP/AWG/2010/10). The Secretariat began by emphasizing that the text should not be viewed as a “plan B by the UN or the Secretariat” and that it does not address all legal options. He added that parties may propose alternatives and that the interpretation of adoption of legal instruments is the prerogative of individual parties. The paper outlines several legal options for addressing the commitment gap, including: changing the amendment procedures to allow for expedited entry into force such as an opt-out or tacit agreement or a lower threshold of instruments of acceptance; provisional application of amendments as provided for in the Vienna Convention on the Law of Treaties; or extension of the first commitment period. He noted that provisional application, in particular, might face compatibility issues with national laws, but that these would have to be addressed on a case-by-case basis.

On implications of a possible gap, the Secretariat noted that all elements of the Kyoto Protocol other than commitments under Article 3.1 (QELROs) were created for an indefinite period. He indicated that if mechanisms or institutions are characterized as assisting parties in meeting their obligations under Article 3.1, then it is “doubtful” they would continue to exist. Concerning mechanisms, he said that if these are characterized as having a broader objective to promote clean development consistent with the ultimate objective of the Convention, then the gap would not interrupt these institutions.

SAUDI ARABIA, with BOLIVIA, said their participation in this session did not imply any acceptance of a possible gap and that focus should be retained on the agreement for a second commitment period under the Kyoto Protocol. CHINA questioned the value of the legal issues discussions, observing that based on Annex I parties’ previous statements in negotiations, they do not appear eager to continue the Kyoto Protocol at all. He also wondered if Annex I parties genuinely wanted to “avoid the gap.”

AUSTRALIA said he wishes to avoid the gap and regretted other countries’ assumptions to the contrary. He suggested discussing technical issues. The EU said it is unclear if the CDM would continue if there was a gap, but said it is up to parties to decide, and that he believes the CDM could continue. He emphasized that all efforts should be made to avoid the gap and that the real solution to climate change could only be addressed by the AWG-KP and AWG-LCA.

JAPAN said the paper demonstrates the negative legal consequences of a gap, which could also present negative environmental consequences. He emphasized, however, that the environmental consequences of failing to achieve a universal agreement that includes all major emitters would be much greater. He underscored that creating a new legal framework that is fairer and more effective is the best way to address the gap issue.

### **IN THE CORRIDORS**

Most delegates seemed pleased to have started their detailed work in contact groups and drafting groups on Tuesday, in spite of some early disagreements in several groups about how to proceed. While some participants wanted to start with a general exchange of views, others clearly wished to launch straight in to paragraph-by-paragraph negotiations. However, by the end of the day, discussions had entered negotiating mode. “I’m happy to be talking about text. I was getting sick of negotiating how to negotiate,” opined one diplomat. Not everyone was pleased with progress, though, with several participants in the finance group expressing concern that they were repeating some of the discussions from June.

Meanwhile, several developed countries expressed satisfaction that the legal group had started its work: “This finally gives us the space to discuss broader issues,” said one. Developing country participants appeared more cautious, fretting that such talks should not imply any acceptance of a “Plan B” or a gap in commitment periods. “We still insist on a second commitment period,” explained one member of the G-77/China.





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- ▶ **Expert Panel on Ocean Acidification**, 3 September 2009, UN Headquarters, New York, US
- ▶ **World Climate Conference-3**, 31 August - 4 September 2009, Geneva, Switzerland
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- ▶ **Dialogue on Climate Change Adaptation for Land and Water Management**, 16-17 April 2009, Nairobi, Kenya
- ▶ **International Policy Dialogue on Financing the Climate Agenda: The Development Perspective**, 19-20 March 2009, Berlin, Germany
- ▶ **5th World Water Forum**, 16-22 March 2009, Istanbul, Turkey
- ▶ **Third International Workshop on Community-Based Adaptation to Climate Change**, 18-24 February 2009, Dhaka, Bangladesh
- ▶ **Meeting of the Pew Commission on Whale Conservation in the 21st Century**, 9-10 February 2009, Lisbon, Portugal