

DURBAN HIGHLIGHTS: THURSDAY, 1 DECEMBER 2011

Delegates met in contact groups and for informal consultations on a wide range of agenda items under the COP, COP/MOP, AWG-LCA, AWG-KP, SBI and SBSTA. In many cases, negotiators began working on texts that are expected to form the basis of outcomes from these bodies in Durban.

CONTACT GROUPS AND INFORMAL CONSULTATIONS

TECHNOLOGY EXECUTIVE COMMITTEE (COP): TEC Chair Gabriel Blanco (Argentina) presented a draft decision text on modalities and procedures to the contact group, and delegates provided comments and suggested amendments. Chair Blanco said a revised text based on this discussion would be available on Saturday. The group will meet for informal consultations on Monday and for a final contact group meeting on Wednesday.

ADAPTATION FUND (COP/MOP): A contact group, followed by informal consultations, took place on Thursday to address the report of the Adaptation Fund Board (AFB) (FCCC/KP/CMP/2011/6) and the review of the Adaptation Fund. AFB Chair Ana Fornells de Frutos (Spain) presented on the terms of reference for the report and an overview of how the performance review was conducted. She noted that regional workshops held recently in Senegal and Panama had been viewed as "very productive." The UNFCCC Secretariat noted that two remaining workshops are expected for 2012, one in Asia and the other in the Pacific. Parties then reflected on a recent consultant's report on the Performance Review of the secretariat and Trustee, noting concern over the low price of CERs and implications on AFB operations. On the review of the Adaptation Fund, one country requested greater independence of the AFB Secretariat. A draft Co-Chairs' text on the Board's report will be prepared by Saturday, and discussions on the review will resume on Saturday.

CDM (COP/MOP): During the contact group, Co-Chair Carolina Fuentes Castellanos (Mexico) summarized the positions expressed during the COP/MOP plenary on Wednesday. Parties then made additional comments, reiterating many of their key positions. A draft text drawing on parties' interventions during the plenary and contact group, as well as recommendations by the Executive Board, was made available on Thursday evening.

COMPLIANCE (COP/MOP): This contact group took up agenda items on the report of the Compliance Committee (Agenda Item 9a) and the appeal by Croatia against a final decision of the Committee's enforcement branch in relation to the implementation of Decision 7/CP.12 (level of emissions for Croatia's base year).

On the Compliance Committee's report, the EU supported extending the eligibility for funding related to the costs of travel and participation in Committee meetings to all members and alternate members, provided that such funding stays within the current budget. BOLIVIA noted that it is still developing its position on matters relating to privileges and immunities. Parties agreed to work on a draft text that reflects these concerns.

On Croatia's appeal, parties agreed that the COP/MOP should note that Croatia has withdrawn its appeal.

NATIONAL ADAPTATION PLANS (SBI): A new draft text was circulated on Thursday evening, for discussion in the informal group on Friday.

AWG-LCA STOCKTAKING: In a contact group on Thursday morning, the co-facilitators of the various informal groups reported on progress. These included reports from the groups addressing review, shared vision, developed country mitigation, developing country mitigation, adaptation, market and non-market approaches, finance, technology and capacity building. In addition, SBI Chair Robert Owen-Jones and SBSTA Chair Richard Muyungi reported on work being undertaken under their auspices that is related to the work of the AWG-LCA.

AWG-LCA Chair Daniel Reifsnyder said that by Saturday he would prepare an amalgamation document of the draft text emerging from the informal groups. This document would present an intermediate "snapshot" providing an early overview of the entire AWG-LCA outcome aimed at identifying gaps, lack of balance and areas that require streamlining and strengthening. He said that during the plenary meeting on Monday, parties will be given an opportunity to react to the document with a view to improving it.

LEGAL OPTIONS (AWG-LCA): During the informal consultations held on Thursday morning, delegates exchanged views based on the list of elements collected from previous discussions on "what we want to achieve." This included, *inter alia*, the following language: enhanced implementation of the Convention in accordance with its principles and provisions; ambition that meets the Convention's ultimate objective and the 2°C target; multilateral; rules-based; certainty/trust; equity; environmental integrity; flexible; and a facilitative, non-punitive framework.

VENEZUELA said the lack of a second commitment period under the Kyoto Protocol could be considered a "wrongful act" under international legal obligations. She suggested adding language on "exception of non-performance" and said she would provide text clarifying this option for the next meeting on Friday.

Grenada, for AOSIS, said he supported adoption of a second commitment period under the Kyoto Protocol and a legally-binding framework. He said legal form and level of ambition are mutually reinforcing, and that he would submit a proposal. INDIA said “those who do not learn from the past are bound to repeat it,” urging parties to focus on implementing the Convention rather than rewriting or reinterpreting it.

Referring to the Chair’s list, BOLIVIA said he does not “trust” voluntary pledges, and supported implementing clear commitments under the Kyoto Protocol. With TRINIDAD AND TOBAGO, he opposed a “facilitative and non-punitive framework,” saying this would hamper implementation. SAUDI ARABIA said form should follow content and opposed discussing any proposals in detail. The Gambia, for LDCs, favored a legally-binding agreement encompassing the BAP, contingent on adoption of a ratifiable second commitment period. He said he would submit a proposal.

The EU supported a multilateral, rules-based, legally-binding treaty. He said empirical evidence indicates that treaties are superior to voluntary commitments in terms of ensuring compliance, stressing that they inspire confidence in governments and markets to act.

AUSTRALIA supported a new legally-binding instrument, with specific obligations for a broad set of parties, while PALAU called for a new protocol. TUVALU favored quickly establishing a legally-binding outcome. He also highlighted the importance of considering sound science and the IPCC’s Fifth Assessment Report. The PHILIPPINES said the elements in the synthesis list are already in the Convention and that renegotiating the Convention would open a “Pandora’s box.”

JAPAN supported a new, single, legally-binding instrument with participation of all major economies.

The US supported a legally-binding agreement including commitments from all major economies. He suggested that this is not the appropriate venue to discuss a mandate for a process for a post-2020 regime, and said common but differentiated responsibilities is a concept with “evolving applicability.”

The MARSHALL ISLANDS suggested reflecting convergences and, with COLOMBIA, starting work towards a decision text. He called for recognition that the Kyoto Protocol is not adequate to deliver on the ultimate objective of the Convention. GRENADA noted that some parties have a “2012 vision” rather than a 2020 vision and supported consideration of the survival of, and the impact on, the most vulnerable. CHINA said the mandate of the group is to discuss proper legal form, such as the possibility of a legally-binding instrument or COP decisions, rather than substance. CLIMATE ACTION NETWORK requested adoption of a mandate for a legally-binding instrument by 2015, stressing that “the world cannot afford a dead decade on climate change.”

FINANCE (AWG-LCA): On Thursday evening, delegates met in an informal group to provide initial feedback on revised draft texts on the proposed Standing Committee of the Convention’s financial mechanism and on long-term finance. These texts had been circulated earlier in the evening. Discussions will continue.

REDD+ (AWG-LCA): In the afternoon informal group, facilitator Tony La Viña (Philippines) said the group should focus on a text that reflects the relevant elements to integrate in the AWG-LCA amalgamation document. Many parties agreed to the preparation of a non-paper containing, *inter alia*: elements on linkages among forest reference levels and forest emission reference levels, safeguards, MRV and financing; language on markets that could provide the funding for results-based actions; and a request to the Secretariat to provide a technical paper on financing. Regarding a proposal that the Secretariat’s technical paper be reported to the SBSTA and that discussions continue in that body, BRAZIL and INDIA opposed merging AWG-LCA and SBSTA work.

Many parties highlighted the need for flexibility on financing sources for REDD+ and that it should be up to each party to decide what sources to use. Drawing attention to the multiple values of forests, BOLIVIA supported the development of new alternative mechanisms, considering forests and non-commodities, and forests and living systems. Among key elements to consider in a draft text, Mexico, for the EIG, highlighted: a flexible combination of sources, including markets; and ensuring equal distribution and the participation of relevant stakeholders. With the PHILIPPINES, the EIG also drew attention to interlinkages with ongoing work on the GCF and the need to strengthen these linkages. A non-paper will be prepared.

RESPONSE MEASURES (SBI/SBSTA): In the morning, parties convened in a contact group to review the “Report on the special event held in the context of the forum on the impact of the implementation of response measures” (FCCC/SB/2011/INF.5). The report outlines the objective of the event, proceedings and main issues raised. In the afternoon, delegates reconvened for a joint SBI/SBSTA forum on the impact of the implementation of response measures, with presentations made by several parties and organizations. The contact group will meet again on Friday to elaborate a draft outcome text.

LOSS AND DAMAGE (SBI): Facilitator Robert Owen-Jones invited comments on the draft text. Several speakers welcomed the text as a good basis for discussions. The US, EU and LDCs also suggested that the text on thematic areas could be further elaborated. On the form of the outcome, the Cook Islands, for AOSIS, preferred a COP decision rather than SBI conclusions. The EU suggested focusing first on content, then on the nature of the outcome. Facilitator Owen-Jones invited written inputs and indicated that the text would be revised in light of these.

IN THE CORRIDORS

Some delegates detected a quicker tempo on Thursday as a few groups considered inputs for drafting new text, while others focused on refining and streamlining language brought forward from Panama. With more than fifty items under consideration, many delegates were struggling to keep track of the dozens of contact groups and informal meetings. With negotiators being asked to have their various texts ready by Saturday, one veteran worried, “it’s hard for us to see the forest for the trees on such a short timetable.”

On the subject of forests, negotiations under both tracks seemed to move in a positive way, with delegates engaging in streamlining or drafting text. The SBSTA group on REDD+ welcomed a non-paper that advanced the Cancun Agreements’ mandate. Some delegates even enthusiastically suggested bringing forward issues that had been intended for consideration by COP 18.

Meanwhile, in another informal lunchtime consultation (or “Indaba”) convened by the COP Presidency, delegates were asked to move beyond fixed positions and think creatively about the bigger picture. Observers noted that several countries had taken up the challenge and had begun hinting at options for a cross-cutting package. However, with four days until Ministers arrive, many participants flagged that philosophical differences remained evident on the second commitment period, the level of ambition and the form and/or substance of a rules-based system. “With key parties holding such strong bottom-line positions, we’re definitely walking a minefield here,” said one negotiator. “There is a deal to be had, but it’s not completely clear what the details of a Durban outcome will be,” said another.