

## DURBAN HIGHLIGHTS: SATURDAY, 3 DECEMBER 2011

The SBI and SBSTA closing plenaries began on Saturday afternoon and concluded late Saturday night. Contact groups and informal consultations were also held on a wide range of agenda items under the COP, COP/MOP, AWG-LCA and AWG-KP, with negotiations continuing throughout the day.

### SBSTA

**PROTOCOL ARTICLES 2.3 AND 3.14 (ADVERSE IMPACTS):** Parties adopted joint draft SBI/SBSTA conclusions (FCCC/SBSTA/2011/L.21).

**REPORTING GUIDELINES ON ANNEX I PARTIES' ANNUAL INVENTORIES:** Riitta Pipatti (Finland) reported that work had not been completed on this item. The SBSTA adopted draft conclusions (FCCC/SBSTA/2011/L.23) and invited COP 17 to provide further guidance on this issue.

**RESPONSE MEASURES:** This joint SBI/SBSTA item was taken up under both bodies. Noting that discussions on this item had not yet yielded an agreement, the SBSTA agreed that the matter would be brought to the attention of the COP President for further work in Durban.

**OTHER SBSTA AGENDA ITEMS:** The SBSTA adopted draft conclusions on the following agenda items, with little or no further discussion:

- technology transfer (FCCC/SBSTA/2011/L.22);
- fuel used for international aviation and maritime transport (FCCC/SBSTA/2011/L.19);
- carbon capture and storage as CDM project activities (FCCC/SBSTA/2011/L.24);
- afforestation/reforestation issues under the CDM (FCCC/SBSTA/2011/L.19); and
- materiality standard under the CDM (FCCC/SBSTA/2011/L.18).

The SBSTA also adopted draft conclusions and a draft COP decision on the following items:

- the Nairobi work programme (FCCC/SBSTA/2011/L.26 & Add.1);
- research and systematic observation (FCCC/SBSTA/2011/L.27 & Add.1); and
- methodological issues relating to REDD+ (FCCC/SBSTA/2011/L.25 & Add.1).

On REDD+, the AFRICAN GROUP, AUSTRALIA and others welcomed progress on this issue.

Regarding the agenda item on methodological issues relating to HCFC-22 and HFC-23, parties agreed to resume their discussions at SBSTA 36.

**CLOSE OF THE SESSION:** SBSTA 36 adopted its report (FCCC/SBSTA/2011/L.17).

Argentina, for the G-77/CHINA, welcomed outcomes on several agenda items, including on the Nairobi work programme and on research and systematic observation. She expressed disappointment at lack of agreement on a draft decision on response measures.

The EU welcomed progress on the Nairobi work programme and technology transfer, and indicated research dialogue and CCS in the CDM as areas for further work.

The Democratic Republic of Congo, for the AFRICAN GROUP, highlighted adaptation and response measures as key issues.

Grenada, for AOSIS, said efforts to mitigate climate change must meet the highest standards of environmental integrity and that Annex I parties should report on all gases with high global warming potential.

SBSTA Chair Richard Muyungi thanked participants and closed SBSTA 35 at 11:23pm.

### SBI

**COMPLIANCE:** On amendment of the Protocol in respect of procedures and mechanisms relating to compliance, parties agreed to resume discussions at SBI 36.

**PROTOCOL ARTICLES 2.3 AND 3.14 (ADVERSE IMPACTS):** Parties adopted joint draft SBI/SBSTA conclusions (FCCC/SBI/2011/L.29). Noting that agenda items on these issues have been taken up by SBI and SBSTA over several years, SAUDI ARABIA expressed disappointment that discussions remain procedural and have not yet become more substantive. He hoped for progress at the next session.

**APPEALS AGAINST CDM EXECUTIVE BOARD DECISIONS:** Kunihiko Shimada (Japan), who had co-chaired discussions on this issue, noted progress on the form and some features of the possible appeals body. However, he reported that parties had not found agreement on the mandate to establish the appeals process. The SBI adopted conclusions (FCCC/SBI/2011/L.30), taking note of the revised draft co-chairs' text and agreeing to resume discussions at SBI 36.

**PROGRESS ON DECISION 1/CP.10 (BUENOS AIRES PROGRAMME OF WORK ON ADAPTATION AND RESPONSE MEASURES):** On draft conclusions (FCCC/SBI/2011/L.25), the Gambia, for LDCs, sought to add reference to LDCs in one section. SAUDI ARABIA and VENEZUELA both raised concerns about the text. Parties agreed to hold further informal discussions on Saturday evening. However, these did not result in an agreement and parties agreed to take up the issue again at SBI 36.

**NATIONAL ADAPTATION PLANS:** Chair Owen-Jones detected progress towards an agreement and asked parties to consider draft conclusions (FCCC/SBI/2011/L.36). Noting that the entire text would remain bracketed, he suggested bringing the issue to the attention of the COP President. Parties agreed to this approach.

**LOSS AND DAMAGE:** The SBI adopted draft conclusions and a draft COP decision (FCCC/SBI/2011/L.35 & Add.1). Chair Owen-Jones congratulated parties on the positive outcome.

**NON-ANNEX I COMMUNICATIONS:** Parties adopted conclusions (FCCC/SBI/2011/L.31) and a draft COP decision (FCCC/SBI/2011/L.31, Add.1) on the work of the Consultative Group of Experts. They also adopted SBI conclusions on further implementation of Convention Article 12.5 (FCCC/SBI/2011/L.32) and the provision of financial and technical support (FCCC/SBI/2011/L.33).

**CAPACITY BUILDING:** On capacity building under the Convention, the SBI adopted conclusions and a draft COP decision (FCCC/SBI/2011/L.37 & Add.1).

On capacity building under the Protocol, the SBI adopted conclusions and a draft COP/MOP decision (FCCC/SBI/2011/L.38 & Add.1).

**RESPONSE MEASURES:** Noting that discussions on this item had not yet yielded an agreement, the SBI agreed to Chair Owen-Jones' suggestion that he bring this matter to the attention of the COP President for further work in Durban.

**OTHER SBI AGENDA ITEMS:** The SBI adopted draft conclusions on the following agenda items, with little or no further discussion:

- technology transfer (FCCC/SBI/2011/L.34);
- implementation of the headquarters agreement (FCCC/SBI/2011/L.28);
- international transaction log (FCCC/SBI/2011/L.23);
- LDCs (FCCC/SBI/2011/L.23); and
- annual compilation and accounting report for Annex B parties under the Protocol for 2011 (FCCC/SBI/2011/L.26).

On budget performance for 2010 and the continuing review of the Secretariat, the SBI adopted draft conclusions and draft COP and COP/MOP decisions (FCCC/SBI/2011/L.27, Adds.1 & 2).

On the financial mechanism, the SBI adopted draft conclusions and a draft COP decision on the report of the GEF (FCCC/SBI/2011/L.41 & Add.1). On support for the LDC Fund, the SBI adopted draft conclusions and a draft COP decision (FCCC/SBI/2011/L.40 and Add.1).

Consideration was not completed on the agenda item on Annex I communications, including sub-items on the fifth national communications, as well as on further implementation of Convention Article 12.5. As a result, the item will be included on the agenda for SBI 36.

**OBSERVER STATEMENTS:** BINGOs proposed developing new channels for input from observer organizations. CLIMATE ACTION NETWORK said COP 18 should explore a range of approaches on loss and damage, including a mechanism. The INSTITUTE FOR AGRICULTURE AND TRADE POLICY said the work programme on loss and damage should actively consider agriculture and food security. YOUTH urged the GEF to provide more funding for adaptation, and said the technology mechanism must be fully operational by 2012.

**CLOSE OF THE SESSION:** The SBI adopted its report (FCCC/SBI/2011/L.24). In their closing remarks, delegates applauded the decision on loss and damage. Argentina, for the G-77/CHINA, expressed concern over the lack of voluntary contributions to the Adaptation Fund, and stressed that national adaptation plans must be a viable and implementation-driven process. The EU noted a positive outcome on the budget. She said discussions on response measures must be streamlined and address not only economic and social impacts, but also opportunities and benefits of climate policies. Burkina Faso, for the AFRICAN GROUP, urged conclusions on national adaptation plans to ensure the process can be launched as soon as possible. El Salvador, for SICA, called for direct contributions to the Adaptation Fund from all the flexibility mechanisms

The Gambia, for LDCs, expressed disappointment that work on national adaptation plans has not moved forward as much as hoped. The PHILIPPINES said national adaptation plans should be expanded to other vulnerable developing countries.

Delegates also thanked Robert Owen-Jones for his successful tenure as SBI Chair.

SBI Chair Owen-Jones thanked participants and closed SBI 35 at 12:22 am.

#### **CONTACT GROUPS AND INFORMAL CONSULTATIONS**

**GREEN CLIMATE FUND (COP):** COP President Nkoana-Mashabane presided over open-ended informal consultations, asking parties to present not just concerns but solutions.

JAPAN acknowledged concerns over the Fund's legal personality and ambiguity in the relationship between the Fund and the Convention, but said the newly-established Board could address these concerns.

EGYPT, INDIA, NAMIBIA and the LDCs said the Fund should have full juridical personality to ensure direct access. Along with KENYA, SAUDI ARABIA and the SUDAN, they also stressed the importance of ensuring the GCF's accountability to the COP.

FIJI said the GCF is needed immediately and called for complementarity with other funding instruments and institutions. NIGERIA, TANZANIA and ZAMBIA warned against overreliance on the private sector.

The EU recognized concerns, but said he was confident the COP would be able to agree on the draft instrument and that parties should focus on interim arrangements to get things off the ground. He stressed that the Board should begin its work as soon as possible.

NIGERIA identified a "strategic imbalance" in the negotiations, with mitigation discussions far ahead of those on adaptation. SWITZERLAND said EITs should have access to the Fund.

**ADAPTATION FUND BOARD (COP/MOP):** Parties considered draft decision text on the report of the Adaptation Fund Board and agreed to provide final written comments by Monday. On the review, Parties agreed to forward the performance analysis and relevant comments to the Adaptation Fund Board for its consideration. These compiled comments will be forwarded to SBI 36 for the development of conclusions, with a view for adoption at COP/MOP 8.

**AWG-LCA STOCKTAKING:** On Saturday morning, AWG-LCA Chair Daniel Reifsnyder introduced an amalgamation document of draft texts in preparation of a comprehensive and balanced outcome to be presented to COP 17 (FCCC/AWG/LCA/2011/CRP.37 and Add.1). He said it contained draft text resulting from the work of the informal groups and was intended to provide a “snapshot” for parties to identify gaps, and opportunities for streamlining. He explained that information on technical aspects, including on biennial reports, biennial update reports, IAR and ICA, were also incorporated in an annex.

On shared vision, Chair Reifsnyder noted the lack of significant progress. On developed country mitigation, he said the text reflects progress made on the biennial reports and ICA, and that the amalgamation text contains draft decisions that reflect “a fairly mature stage of issues.” On developing country mitigation, he said the text reflects progress made on biennial update reports and ICA. On REDD+ finance, he described a “significant and very helpful advance.”

On sectoral approaches, Chair Reifsnyder said parties are expected to keep working towards streamlining text on international aviation and shipping.

On response measures, he said no common text has been reached and six proposals from parties have been submitted. On legal options, he said that the options discussed by parties were included in a text developed under the facilitator’s responsibility, and therefore it is not considered a negotiating text.

**BOLIVIA** expressed concerns with the continuation of markets for parties not subscribing to targets under a second commitment period. He stressed the need for discussing intellectual property rights in the context of the Technology Committee.

The US said that text on Chapter 2a and 2b (nationally appropriate mitigation commitments or actions by developed and developing countries) needs to reflect parties’ views. Suggesting that the text is a good start, SAUDI ARABIA called for further work to be conducted in a party-driven process and for progress on response measures, as one of the main elements of the Bali Action Plan and as part of a complete package. ECUADOR proposed splitting the text into several different COP decisions addressing each of the BAP pillars.

**ANNEX I EMISSION REDUCTIONS (AWG-KP):** In the spin-off group on numbers, one developing country submitted a draft text on surplus and carryover of AAUs, which was discussed by delegates. The co-facilitators then distributed an overview chart of options on the table, which delegates also discussed.

**LULUCF (AWG-KP):** In afternoon informal consultations, delegates discussed a revised non-paper by the co-facilitators. On definitions, a party discussed his proposal on a definition

on forests, noting that this would introduce a comprehensive vision of forests as systems of life that have multiple functions. One party noted that changing the definition of forests for a second commitment period could bring difficulties in terms of implementation and accounting. A group of countries presented their revised baseline proposal to account for forest management. Parties will continue working on the text until Monday and any additions will be integrated in a new revised version of the non-paper.

### **IN THE CORRIDORS**

Reflecting on the first week in Durban, some delegates pointed to a less frenzied atmosphere than the highly-charged Copenhagen COP or the more positive but “logistically-challenged” Cancun COP. That said, there was some excitement in Durban on Saturday, with thousands of protesters marching outside, while inside delegates worked feverishly on a multitude of texts. SBI and SBSTA plenaries met and concluded their work, although they forwarded several issues to the COP.

With more than 130 pages of AWG-LCA text to review and revise, negotiators left the conference center late Saturday night with plenty of homework for Sunday and early Monday. Large sections of the text have been under discussion since Panama. However, parties will need to do more work on level of ambition, market mechanisms and long-term financing, among others, if they are to get to a “party-driven, balanced and equitable outcome.” Under the AWG-KP, three options on the form and limit of a second Kyoto commitment period were emerging, though participants noted that no consensus had yet emerged.

As expected, the COP Presidency quietly moved the “indaba” sessions among the parties behind closed doors to encourage frank conversations. Some delegations were suggesting that “subtle changes” could be detected and that, rather than simply making demands, parties were starting to seek “mutual reassurances” that divides could be bridged. The dynamics within the BASIC group were still unclear to some, as was the broader response to the EU’s proposal for how a package deal might emerge and its desire for a timetable towards a broader agreement.

As participants discussed how a package might take shape, many noted that the future of the Kyoto Protocol and its mechanisms are at the heart of the matter, along with operationalizing the Green Climate Fund and the other elements of the Cancun Agreements. Another major question being asked in Durban is whether the AWG-LCA will finish its work four years after it was created. Many felt it may need more time.

The complexity of knitting these elements into a coherent and acceptable Durban outcome with just one week remaining has many participants worried. “We see good progress on some technical issues, but the geopolitics are difficult and it is just not clear that all the trade-offs can be reconciled,” said one delegate.

As negotiations resume on Monday, there will be a push to complete agreement on a further round of issues and to sharpen options for ministers when they step in on Tuesday.



## Sustainable Development Policy & Practice

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