



Earth Negotiations Bulletin

A Reporting Service for Environment and Development Negotiations

Vol. 12 No. 53

Published by the International Institute for Sustainable Development

Wednesday, 6 August

HIGHLIGHTS FROM THE MEETINGS OF THE SUBSIDIARY BODIES OF THE FCCC 5 AUGUST 1997

The Chair of the *Ad Hoc* Group on the Berlin Mandate (AGBM) conducted an observer briefing in the morning. The non-group on quantified emission limitation and reduction objectives (QELROs) met in the morning, and the non-group on elements related to institutions and mechanisms met in the afternoon. The Subsidiary Body for Implementation (SBI) concluded its work in a morning session and the Subsidiary Body for Scientific and Technological Advice (SBSTA) concluded its work in the afternoon.

OBSERVER BRIEFING

AGBM Chair Raúl Estrada-Oyuela (Argentina) convened a morning briefing for observers on the previous day's progress. The Chair of the non-group on QELROs confirmed that Parties had decided to define the framework of an agreement before proceeding to specify QELROs. He said it was unlikely that numbers would be discussed this week and suggested that an attempt to do so might embarrass some Parties. The Parties would, however, discuss distribution of QELROs. He added that some Parties continued to oppose flexibility, i.e. trading and joint implementation. The text on these topics would remain in brackets. He will also prepare a text on measurements and communications.

The Chair of the non-group on institutions said that discussion had concentrated on the final part of the Protocol, and specifically addressed the question of linking the Protocol with the FCCC. A protocol would be independent but some delegates expressed confusion as to how this could be reflected in the protocol.

The Chair of the non-group on Article 4.1 indicated that its text would be altered due to consultations that had taken place since the weekend. The Chair of a newly formed non-group on policies and measures reported that some delegates believe that there is no reason to have a section on policies and measures given the provisions in the FCCC. Others support a full section with elements on the major sectors related to energy.

SUBSIDIARY BODY FOR IMPLEMENTATION

Chair Mohamed Ould El Ghaouth (Mauritania) noted that most decisions by the contact groups were outlined in the draft report (FCCC/SBI/1997/L.2). The Rapporteur commented on the SBI informal workshop considering updated information from the national communications of Annex I Parties. He noted that four presentations were made by the Secretariat on: national inventories - actual trends between 1990-1995; methodological issues arising from submitted inventories; projections to 2000 and 2020; and policies and measures and their specific effects. He noted that the Secretariat plans to have additional information in time for the next session of the subsidiary bodies.

The Chair called for consideration of the results from the contact groups. The draft conclusions on communications from Annex I Parties (FCCC/SBI/1997/CRP.5) were adopted including, *inter alia*, that the Secretariat should submit a report at SBI-7 on the progress of Annex I Parties in returning to their 1990 levels of GHG emissions. The US noted that their acceptance of the term

"individually or jointly" in the draft text did not prejudice its position on other texts being negotiated. The PHILIPPINES called for the inclusion of a specific reference to Article 4.2 (b).

The Chair presented draft conclusions on communications from non-Annex I Parties (FCCC/SBI/1997/CRP.4). He noted that the contact group did not find sufficient time to conclude the issue and will continue its consideration at the October meeting. On review of the financial mechanism, the Chair presented draft conclusions (FCCC/SBI/1997/CRP.3) and stated that the group will continue to consider the issue in October. A number of delegates noted concern that a sub-paragraph in the draft report called on Parties to submit their views on the financial mechanism by 8 September 1997. The Executive Secretary noted that if the submissions are late, delegations will have little time to consider the inputs. A compromise date of 15 September was agreed.

On division of labor between SBSTA and SBI, delegates confirmed the decision to recommend the draft decision for adoption by COP-3. On volume of documentation, delegates approved the draft decision for adoption by COP-3. The draft notes, *inter alia*, the efforts of the Convention secretariat to reduce the volume of documentation (FCCC/SBI/1997/12). On mechanisms for consultations with NGOs, the chair noted that a contact group will be created at SBI-7 for consideration of this item. The SBI urged all Parties to submit their views on this item by no later than 25 August. The Chair presented draft conclusions on arrangements for intergovernmental meetings (FCCC/SBI/1997/L.3; FCCC/SBI/1997/L.4; FCCC/SBI/1997/CRP.6). On arrangements for COP-3, the delegates accepted the draft conclusions including, *inter alia*, that: COP-3 place on the Agenda for COP-4 the second review of Article 4.2 (a) and (b); and that the paragraph considering an informal dialogue among Ministers and other Heads of Delegations be deleted. On arrangements for COP-4, delegates accepted the draft conclusions including, *inter alia*, that COP-4 be held in November 1998 in Bonn unless a proposal by a Party to host the conference is received before 30 September.

The Chair presented the draft conclusions on the programme budget for 1998-1999 (FCCC/SBI/1997/CRP.2), and noted that this will be a formal annex. The annex was adopted. The EU said a fifteen percent increase in the budget over two years shows the importance that the EU attaches to the implementation and further development of the Convention. The Executive Secretary expressed his appreciation for early closure on this issue but noted that five of the ten largest contributions for the year have still not been received.

Parties adopted the report of SBI-6 while taking into account the need to incorporate late decisions. The Chair reminded Parties that they were duty bound to complete their work in October as there would be no SBI meeting at COP-3.

SUBSIDIARY BODY FOR SCIENTIFIC AND TECHNOLOGICAL ADVICE

Delegates discussed the remaining issues on their agenda and considered a revised draft report of the meeting (FCCC/SBSTA/1997/L.4). Delegates adopted the draft conclusions on the division of labor between SBI and SBSTA that were adopted by SBI. The Chair of the contact group on methodological issues presented the

group's revised draft conclusions. He noted that the revised conclusions, *inter alia*, request the Secretariat to prepare a progress report on the work programme on methodologies and noted that SBSTA-7 will begin consideration of terms of reference for expert contributions and the review of technical documents. The conclusions also contain an indicative budget for the methodological work programme.

On methodological issues related to joint implementation, the Chair recalled that the US, Canada, Norway and China had held informal consultations. CHINA reported that the group had not reached consensus. The Chair proposed that the report of the meeting state that SBSTA had considered the issue and decided to defer it for consideration at a future session. CHINA proposed deleting the reference to future consideration. The PHILIPPINES asked if the issue would again be considered as a separate agenda item or together with methodological issues. The US indicated the need for further discussions and noted that the clearly divergent views are evidenced by the fact that there are no conclusions on this matter. Delegates agreed to the Chair's proposal.

On national communications from Annex I countries, delegates heard a presentation on the SBI workshop on Annex I communications and agreed to take note of the methodological issues outlined in the workshop report. On non-Annex I communications, delegates agreed to refer to the conclusions adopted by SBI.

On transfer of technologies, the revised draft conclusions stated that SBSTA took note of the Secretariat's progress reports and the technical report, and supported the Secretariat's plans to prepare reports on the role of the private sector and on enabling activities of governments related to technology transfer. Under the draft conclusions, SBSTA also encouraged the Secretariat to extend its cooperation with other organizations with the aim of, *inter alia*, improving the availability of climate relevant data.

The draft conclusions also state that SBSTA discussed the subject of intergovernmental technical advisory panels (ITAPs) and noted that the Secretariat had been requested to prepare a report on its experience in using the roster of experts. It recalled that the subject of ITAPs, including their possible establishment, would be considered by SBSTA-7. SBSTA noted that the Secretariat had made use of the roster in three expert meetings on technology and technology transfer issues and recalled its request to Parties to nominate experts for the roster. Delegates recalled the conclusions that had been adopted at the last SBSTA meeting and adopted the report of the meeting as amended.

NON-GROUP ON QELROS

The non-group on QELROS met in the morning and discussed issues pertaining to coverage and distribution. Coverage discussions were based on a draft text by the Chair. The draft text proposed an Annex containing a list of six GHGs to which QELROs would apply. The text included a provision for the review of the gases listed under the Annex at the first session of the COP after entry into force of the agreement and at regular intervals thereafter. Criteria for the addition of a GHG to the list were also included.

Some delegations objected to the inclusion of certain criteria such as the availability of a reliable value for the relative global warming potential of the gas and the availability of a comparable methodology for estimation and assessing the relevance of the gas to climate change. Paragraphs on these topics were bracketed. The Chair indicated that most countries agree on a comprehensive approach according to which QELROs should apply to all GHGs. He predicted that enlarging the GHG list would not find objection as long as it is possible to measure emissions and judge the relative global warming potential of other gases in comparison to CO₂.

A number of delegations requested that a reference to the Berlin Mandate be included in the draft, and noted that a comprehensive approach had been incorporated in the FCCC and the Berlin Mandate. The Chair indicated that he would seek guidance from the AGBM Chair on inclusion of references to the Berlin Mandate and produce a new draft on coverage based on the discussions.

There was a general exchange of views on distribution of QELROs among Annex I countries. The discussion focused on whether distribution should be based on a differentiated approach

or a flat rate target. Several delegations favored the differentiated approach and underscored the need for different commitments according to country-specific conditions. These delegations indicated that the differentiated approach sets the right trend for the future and points to an equitable outcome. There was a suggestion that countries should be able to negotiate their own targets.

Other delegations favored the flat rate approach and indicated that targets could be met either individually or jointly. They noted that time constraints would make it difficult to reach agreement on indicators for differentiation before Kyoto. A delegation commented on "fairness" and indicated that some flexibility should be allowed through emissions trading and joint implementation. Another delegation indicated that no negotiations could start until targets are on the table.

NON-GROUP ON INSTITUTIONS AND MECHANISMS

The non-group on institutions and mechanisms continued discussions on proposals for Final Elements. Virtually every item discussed remained in brackets at the end of the meeting, with some delegates privately conceding that certain proposals are being placed "on ice" until some of the encompassing issues at the AGBM have been cleared. On the relationship to other agreements, a number of Parties opposed a proposal on derogation on the grounds that it would subordinate the Protocol to other pre-existing institutions, particularly the World Trade Organization (WTO). Another group of countries wanted to establish that nothing in the Protocol would prejudice the rights and obligations of WTO members. In a paragraph on a Party's rights under international law, a number of Parties argued that the proposal was simply a statement of the current legal state of affairs, but others said the reference should be retained.

Some Parties also argued that a paragraph on provisional application of the instrument was redundant. Others suggested that the provision could prove useful in helping to overcome domestic legal obstacles. The fate of a paragraph on ratification was linked to the outcome of discussions on a proposal laying down restrictions under the Protocol for regional economic organizations.

On entry into force, two main positions emerged. Some supported ratification based on the number of signatories. Others supported a "weighted entry into force" linking ratification to the percentage contributions to GHG emissions of ratifying countries. A number of Parties supported a proposal that would ensure that a Party's withdrawal from the Protocol would not operate to limit its liability for any claim accruing against it as a result of economic injury sustained by developing countries.

IN THE CORRIDORS

Delegates say that the brief discussions of joint implementation during SBSTA and SBI on Tuesday, point to abiding sensitivities between Annex I and non-Annex I Parties over implementation and potential future commitments. Wary of exploring JI before completing the pilot phase of activities implemented jointly (AIJ) between developed and developing countries, a number of developing country delegates say that opening the issue in the subsidiary bodies could establish it as an issue in future AGBM negotiations, a result they oppose. They also want to ensure that language on "returning individually or jointly" to earlier emissions levels applies only to Annex I Parties. Developed countries supporting JI say that it is an appropriate element of future commitments that should be pursued in current negotiations. Although text on JI is being examined in contact groups, this week's decisions are not expected to resolve differences on the issue.

THINGS TO LOOK FOR TODAY

Non-Group on Institutions: The non-group meet at 10:00 am in the Beethoven Room.

Non-Group on Policies and Measures: The non-group will meet at 10:00 am and at 3:00 pm in the Maritim Room.

Non-Group on QELROs: The non-group is expected to meet at 3:00 pm in the Beethoven Room.