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FCCC COP-5 HIGHLIGHTS THURSDAY, 28 OCTOBER 1999

Delegates met in a morning session of the Subsidiary Body for Scientific and Technological Advice (SBSTA) to continue consideration of research and systematic observation and the roster of experts following discussions on technology transfer and development on Wednesday evening. The Joint Working Group (JWG) on compliance discussed procedures and mechanisms relating to compliance under the Kyoto Protocol. Contact groups met to consider: adverse effects; Annex I communications; capacity building; land use, land-use change and forestry (LULUCF); national systems, adjustments and guidelines under the Protocol; non-Annex I communications; and the Protocol mechanisms.

SBSTA

TECHNOLOGY TRANSFER: Delegates considered the report on the meeting of the IPCC and the Montreal Protocol's Technical and Economic Assessment Panel on ways and means of limiting hydrofluorocarbons (HFCs) and perfluorocarbons. The meeting highlighted, *inter alia*: the complexity of links between ozone depletion and climate change mitigation activities; the multiplicity of solutions required to address these global change issues; and the desirability of solutions tailored to regional or national needs.

SWITZERLAND emphasized the need to standardize testing procedures for technologies in developing countries. GREENPEACE called for action to avoid dumping of potentially harmful technologies in developing countries. ARGENTINA, supported by KENYA, the RUSSIAN FEDERATION and POLAND, called for attention to the medical use of HFCs in metered dose inhalers. Discussions will continue in informal consultations.

On coastal adaptation technologies, AOSIS noted that financial and human resource limitations have stifled progress in adaptation and urged the development of long-term approaches under the FCCC. He highlighted the potential of the clean development mechanism (CDM) in this regard. On other matters, the Secretariat reported on its cooperative activities aimed at improving climate data from reporting systems.

RESEARCH AND SYSTEMATIC OBSERVATION: The Global Climate Observation System (GCOS) reported on progress in enhancing global observatory systems and noted that deficiencies are a result of inadequate equipment, poor infrastructure and insufficient funding. The Global Oceans Observation System (GOOS) outlined its work and stressed the need for better measurement, organization and partnerships to overcome observation deficiencies. The EU and others supported the GCOS call for more systematic reporting. JAPAN encouraged GCOS, in cooperation with the WMO, to monitor the status of implementation with a view to utilizing recent technologies to fill the gaps in climate observing systems. AUSTRALIA called for a more diversified

funding strategy. The GEF pledged additional funds to build observational capacity for certain developing countries. Susan Barrell (Australia) will conduct informal consultations on this issue.

ROSTER OF EXPERTS: The US said expansion of rosters should only be done in response to additional tasks. NEW ZEALAND supported the Secretariat's proposal to integrate the different rosters. While the EU objected, CANADA supported additional rosters for inventory reviews.

Following requests by some Parties, the Chair convened a contact group to consider national systems, adjustments and guidelines.

JOINT WORKING GROUP ON COMPLIANCE

The JWG on compliance heard four diagrammatic submissions illustrating a compliance system. The US said that its design for the compliance system is focused on Protocol Article 3 (GHG reduction and limitation commitments) and provides for both facilitative and enforcement functions to be dealt with "by two different sets of people." She said the goal of enforcement is to ensure compliance through binding consequences that are known in advance. In presenting its preliminary views, JAPAN proposed a single compliance body and outlined steps ranging from assistance to recommendations to be exhausted before the entry into force of consequences. The EU explained that its compliance committee would have a facilitative branch and an enforcement branch, with a possible referral from the former to the latter. Issues would be channeled automatically to the branches. SAMOA stressed two features of the AOSIS diagram: avoidance of polarization between the facilitative and enforcement functions, since they overlap, and an eligibility committee responsible for the determination of mechanism eligibility. He added that an *ad hoc* appeal body would hear quasi-judicial appeals on the imposition of binding penalties.

On eligibility to raise issues, the UK explained that the mere provision of information would not "trigger" the compliance procedure, but that it would be triggered by whatever causes the compliance procedure to start considering a claim. Many delegates agreed that a Party could raise an issue about its own compliance, and that a Party or group of Parties could raise an issue about another Party's compliance. CANADA said sufficient evidence should be provided to support cases. IRAN said only a group of Parties could trigger a case of another Party's compliance. The EU, CANADA, CHINA, JAPAN, IRAN, SOUTH AFRICA and the US opposed a triggering role for the Secretariat. Delegates emphasized its information gathering function and the need for it to preserve objectivity and neutrality.

Regarding the Expert Review Teams (ERTs), the EU said the ERTs' reports would be automatically submitted to the compliance committee through the Secretariat. CANADA said the reports were the factual basis that determined the need for further steps. CHINA, with IRAN, KUWAIT, BRAZIL and ARGENTINA said it was inappropriate to give ERTs, a simple fact finding body, a triggering

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role. SOUTH AFRICA explained that doing so could endanger the objectivity of the ERTs. The US and AUSTRALIA suggested guidelines for a possible referral to the compliance body.

On the role of the COP/MOP, many delegates said it should give policy guidance to the compliance body. SWITZERLAND, the RUSSIAN FEDERATION and CHINA proposed that the COP/MOP should have a triggering role as well as the competence to decide on the findings of the compliance body. SOUTH AFRICA expressed concern about due process if the COP/MOP was given both these functions. BRAZIL suggested that the COP/MOP only take note of the compliance body report. Several delegates said a triggering role would delay and politicize the process. SAUDI ARABIA said the COP/MOP should play a role "at the beginning, at the end and in the middle" of the compliance process.

On sources of information, AUSTRALIA and the US said that due process required the defending party to be able to present necessary information and rebut evidence against it. Parties suggested several sources of information, including: the expert review teams; outside experts; and intergovernmental organizations. SAMOA suggested any source the compliance body deemed appropriate, while IRAN said Parties should be the only source. BRAZIL said sources should bear responsibility for their information.

The EU, with BRAZIL, stressed the need to ensure confidentiality of information submitted in confidence by Parties. SOUTH AFRICA and SAUDI ARABIA called for clear rules for information gathering. CHINA sought criteria for the use of information. IRAN raised the issue of financing developing countries' efforts to provide information.

CONTACT GROUPS

ADVERSE EFFECTS: This contact group focused on four issues: information gaps; the merits of holding another workshop; the types of possible preliminary actions to be taken to mitigate the adverse effects of climate change and response measures; and the manner in which Protocol Article 3.14 should be dealt with by the contact group. Co-chairs Salamat (Iran) and Kjellén (Sweden) suggested that the discussion's purpose was to provide further information to enable them to propose a draft text to the contact group.

ANNEX I COMMUNICATIONS: This contact group continued consideration of the co-chairs' draft text on guidelines for reporting other issues in Annex I communications. Participants discussed guidelines for reporting of: financial resources and technology transfer; general policy and funding of research and systematic observation; and national circumstances relevant to GHG removals. Among the issues raised in the discussion on financial resources were: whether to provide details of measures or detailed information of the activities undertaken to implement Annex I commitments; and how to format the reports. A smaller group will continue consideration of the technical review guidelines.

CAPACITY BUILDING: Delegates considered the co-chair's draft proposal on a draft decision on capacity building based on the G-77/CHINA's written proposal and integrating submissions from the EU and the Umbrella Group. Issues raised included: the question of whether to use the draft as a basis for negotiation; the fact that EITs' capacity building needs were not being addressed; concern over the statement whereby capacity building is a prerequisite for meaningful developing country participation; provision for an additional workshop; lack of a country-driven and country-specific approach; and the question of whether the submission of information on capacity building at SB-12 would result in a recommendation for a decision by COP-6. The co-chairs will prepare a revised draft on the basis of this discussion and further submissions.

LULUCF: This contact group considered a draft schematic timetable on the process and timing for the analysis of information provided by the IPCC Special Report due in 2000 and the relationship of this report to a decision-making framework regarding Protocol Articles 3.3 (net changes in GHG emissions and

removals), 3.4 (additional human induced activities related to changes in GHG emissions and removals), 7.1 and 7.4 (guidelines for necessary supplementary information). The group also discussed the need for country-specific data and information, as well as their relationship to consideration of the IPCC Special Report and to a decision-making framework in the context of Protocol requirements. Questions were raised on, *inter alia*: the need for, purposes and uses of country-specific data and information; data requirements under specific Protocol provisions; and types of data according to these provisions. The group will continue consideration of data in relation to verifiability, transparency and consistency.

MECHANISMS: Chair Chow (Malaysia) took the participants through the Synthesis of Parties' Proposals on Mechanisms (FCCC/SB/1999/8). He highlighted certain sections, noted areas of convergence and divergence, and suggested issues for consideration. The EU, NORWAY and the US suggested ways of consolidating and tightening the text. On the CDM, the G-77/CHINA pointed to deficiencies in the text, including the absence of a section on "nature and scope" and the lack of a determination of what the driving force of the CDM should be. On a general note, SAUDI ARABIA reiterated its reservation on aiming for a draft negotiating text by SB-12, as this was premature. The G-77/CHINA said technical appendices complicate the issue and stressed the need to address the technical issues. He also noted the need for Parties to meet in their regional groups.

NATIONAL SYSTEMS: This contact group considered draft conclusions on national systems, adjustments and guidelines under Protocol Articles 5 (methodology), 7 (communication of information) and 8 (review of information). The group was unable to agree on wording for a paragraph on when adjustments related to Protocol Article 5.2 (methodology) should be applied. The group then considered an annex to the draft conclusions that sets out a preliminary list of basic elements for national systems under Protocol Article 5.1 (national systems for GHG emissions and removals). JAPAN presented an alternative draft of the annex, which he said aimed at greater clarity. A smaller group will consider this matter and report to the contact group at its next meeting.

NON-ANNEX I COMMUNICATIONS: Participants considered a draft text compiling proposals by the EU, the G-77/CHINA and others. Chair El Ghaouth (Mauritania) noted that he had undertaken informal consultations and said the text did not intend to exclude country positions. He highlighted non-Annex I communications as one of the few agenda items that was a candidate for a COP-5 decision, and adjourned the meeting to hold informal consultations.

IN THE CORRIDORS

Concern over perceived shortcomings of the GEF in delivering on its role as an operating entity of the FCCC's financial mechanism once again reverberated in the Maritim corridors. A number of participants criticized the rigid eligibility criteria by which the GEF interprets and weights proposals submitted by countries as unrealistic, and said these criteria can delay the process of implementing national actions. While some felt that the problems arise from inadequate guidance given to the GEF by the COP, others attributed them to difficulties in co-ordinating the interests and mandates of two intergovernmental bodies. In response to these concerns, a number of participants called for a country-led review of the GEF's role so as to facilitate implementation of the FCCC, particularly by the least developed countries.

THINGS TO LOOK FOR TODAY

JWG: The JWG on compliance will meet in Plenary II at 3:00 pm.

JOINT SBSTA/SBI: SBSTA and SBI will meet in Plenary I at 6:00 pm.

CONTACT GROUPS: Contact groups will be held throughout the day. Consult the announcement board for details.