

AWG-LCA 7 AND AWG-KP 9 HIGHLIGHTS: TUESDAY, 6 OCTOBER 2009

Throughout Tuesday, various contact groups and informal consultations were held to consider adaptation, mitigation, finance, technology and a shared vision under the AWG-LCA, as well as Annex I emission reductions and other issues under the AWG-KP.

AWG-LCA CONTACT GROUPS AND INFORMAL CONSULTATIONS

MITIGATION (sub-paragraph 1(b)(ii) of the BAP):

Facilitator Mukahanana-Sangarwe invited comments on further consolidation of the non-paper on mitigation by developing countries.

The EU, supported by the US, CANADA and NEW ZEALAND, proposed that paragraphs on sources and principles of funding be discussed in the contact group on finance. The PHILIPPINES, supported by EGYPT, INDIA, SOUTH AFRICA, BRAZIL, BARBADOS, CHINA and other developing countries, opposed this, noting that support for NAMAs through finance and technology transfer should be discussed in this sub-group on 1(b)(ii) of the BAP.

The US, with CANADA, proposed moving the cluster on plans and strategies after the cluster on definition and scope of NAMAs, with CANADA clarifying that plans and strategies provide framing for NAMAs. BARBADOS suggested retaining a distinction between NAMAs, and plans and strategies, noting that the former is part of the latter and not vice versa.

A second non-paper with new consolidated text will be made available on Wednesday.

MITIGATION (sub-paragraph 1(b)(iii) of the BAP):

In the morning's contact group, Facilitator La Viña proposed three drafting groups on safeguards, focusing on: stakeholder participation, led by Paraguay and Australia; environmental safeguards, led by Indonesia and Canada; and governance, led by the EU and Guyana. GUYANA, PARAGUAY and PAPUA NEW GUINEA underscored the need to address permanence and leakage, with AUSTRALIA noting that environmental safeguards should be worked into the operational language. INDIA called on parties to use the term "sustainable management of forests" to ensure environmental integrity. Switzerland, for the ENVIRONMENTAL INTEGRITY

GROUP, with THAILAND, noted a weakness in terms of linkages among elements throughout the text. The EU highlighted reporting requirements.

TUVALU and NEW ZEALAND noted the need to define the role of developed and developing country parties in the safeguards chapeau. TUVALU underscored provisions on prior informed consent and, with the SOLOMON ISLANDS, stressed the need to consider biodiversity. GABON expressed unease with "full and prior consent." BOLIVIA, with MALAYSIA, INDONESIA and COLOMBIA, stressed that the text needs to be consistent with national legislation. TANZANIA said social safeguards should reflect the right to sustainable development in forest and rural communities. CHINA called for consistency with the objectives of national forest programmes.

NORWAY asked parties to consider the best placement for eligibility requirements. NORWAY and SINGAPORE called for a broadened focus on governance issues without challenging national sovereignty. BRAZIL, with THAILAND, LIBERIA and BANGLADESH, called for a quick and simple establishment of REDD. BRAZIL, supported by CHINA, PAPUA NEW GUINEA and PARAGUAY, highlighted the three-phased approach, and suggested that the text avoid using terminology that links REDD to the flexibility mechanisms. BRAZIL said these discussions on mechanisms should be avoided until the third phase. The PHILIPPINES said statements on safeguards should be general principles and not mandatory for implementation.

In the afternoon, the sub-group held informal consultations. Discussions focused on social safeguards with most parties highlighting the importance of reflecting the concerns of indigenous peoples and local communities in the text. Several parties expressed support for language on "full and effective participation of stakeholders," while diverging on the need for "full prior and informed consent." Parties also discussed whether they were attempting to create principles or operational text. Some parties proposed specific text on social safeguards and a number of parties underscored that many of the proposals had suitable language.

MITIGATION (sub-paragraph 1(b)(v) of the BAP): Parties discussed a non-paper on various approaches to enhance cost-effectiveness of mitigation actions, including markets, and how to approach further streamlining and consolidation of the text.

VENEZUELA emphasized that “99% of the text” reflects proposals by developed countries on market mechanisms and stressed that the text should better reflect proposals by developing countries. SOUTH AFRICA, with CHINA and INDIA, VENEZUELA and SINGAPORE, stressed that this sub-paragraph of the BAP addresses “various approaches,” not just markets. EGYPT, noting that less than two weeks of negotiating time remain, proposed elucidating general principles for further discussion following COP 15. He also stressed that market mechanisms should complement public finance for mitigation actions. TUVALU stressed that no new offsetting mechanisms should be created.

VENEZUELA proposed restructuring the non-paper to reflect views expressed by developing countries and deleting the text that addresses the existing flexibility mechanisms under the Protocol. Stressing that the AWG-KP is a separate process, TUVALU, SAUDI ARABIA, CHINA, INDIA, SOUTH AFRICA, ANGOLA, SINGAPORE, CHILE and many other non-Annex I countries emphasized that the Protocol’s mechanisms should not be discussed under the AWG-LCA. Several non-Annex I countries also expressed preference for focusing on the proposed new mechanisms.

JAPAN, AUSTRALIA, NEW ZEALAND and others supported considering proposed new mechanisms, but also underscored the importance of discussions on the existing mechanisms. JAPAN identified the need to retain text on his country’s proposals related to the existing mechanisms under the Protocol. The US noted that it is uncertain “what the configuration of Copenhagen might be regarding the fate of the Kyoto Protocol” and suggested addressing such uncertainty by adding language that: “the COP shall take decisions necessary to enable the applicability of the CDM under this agreement.” ALGERIA noted that countries wishing to use the CDM could ratify the Protocol.

The EU clarified that their intention is “not to step away from the Protocol,” but to build on it. He explained that their preferred outcome from Copenhagen would be an integrated instrument that incorporates key elements from the Protocol, including: binding QELROs; robust reporting consistent with Protocol Articles 5, 7 and 8; strong compliance; and the flexibility mechanisms. He stressed the intention to: strengthen the legally binding framework for all parties; retain the CDM; and integrate new market mechanisms as voluntary tools for developing countries to engage in cost-effective mitigation. He noted efforts by the EU, the Republic of Korea, New Zealand and others to consolidate their proposals on new mechanisms and provide streamlined text.

BRAZIL stressed that for his country, the continuity of the Protocol is one of “the key aspects of the Copenhagen outcome” and noted that selectively picking elements from the Protocol would weaken the entire regime. SAUDI ARABIA, with ALGERIA, CHINA and OMAN, opposed “cherry-picking” elements of the Protocol and “killing it.”

CHILE noted the need to have institutional linkages between existing and new mechanisms to enable sharing of experiences between them. CHINA said that the text should not single out technologies or greenhouse gases. MEXICO recommended including concepts relating to the voluntary nature of the mechanisms and environmental integrity.

Facilitator Flores noted that there was no agreement to delete text related to the Protocol but said the text would not be discussed by the sub-group. She said that discussions would continue focusing on proposals for new market mechanisms.

FINANCE: Vice-Chair Machado invited parties to continue considering institutional arrangements.

The Philippines, for the G-77/CHINA, explained that their proposal for funding sources in the form of assessed contributions from developed countries was based on the experiences of the Group. She said financing provided through existing institutions outside the Convention has been inadequate and, with BANGLADESH, highlighted the need for a compliance mechanism for monitoring how developed countries implement their financial commitments.

ARGENTINA described their proposal for the establishment of an adaptation fund and a mitigation fund under the Convention to be managed by two executive bodies accountable to the COP: one for finance and technology for adaptation; and the other for finance and technology for mitigation. He said the executive bodies would be supported by technical panels. INDIA proposed the establishment of a new financial mechanism under Convention Article 11 (financial mechanism). He said only funding channeled through the financial mechanism should count towards the fulfillment of Annex II parties’ financial obligations. Barbados, for AOSIS, said their proposal was coherent with the Protocol’s Adaptation Fund and would fund additional elements, such as addressing loss and damage, and insurance. BANGLADESH highlighted the establishment of a US\$ 100 million Climate Change Trust Fund in his country.

JAPAN cautioned against creating new bureaucratic organizations, noting the need to reconsider the role and scope of the existing funds under the Convention and Protocol in order to avoid duplication. The US clarified that their proposal for a global climate fund envisaged new arrangements and not the creation of a new institution.

UGANDA, for the LDCs, said the focus should be on making current institutions more responsive and less expensive due to limited resources. He expressed preference for a single fund with specific windows for mitigation, adaptation, technology and capacity building. On compliance, he proposed a two-stage compliance regime, a “naming and shaming” mechanism listing defaulters as an initial step and then the imposition of penalties as a further step.

The EU identified several issues for further consideration, including: contribution criteria based on ability to pay and responsibility for emissions; the need for assessed contributions; defining funding recipients; and determining how funding resources should be delivered. CANADA identified the need to further discuss the extent to which all funding activities could be concentrated in a single institution, cautioning against assuming that “bigger is less costly or more efficient.” He also called for ensuring broad representation and participation. He drew

attention to a conflict between country-driven processes and the position of some parties, which precludes funding provided outside the Convention from counting towards the fulfillment of developed country commitments under the Convention.

ADAPTATION: The contact group focused on the objectives, scope and guiding principles of the non-paper.

The Maldives, for the G-77/CHINA, emphasized that adaptation actions in developing countries must be supported by developed countries in accordance with their obligations under the Convention. He noted, with Bangladesh, for the LDCs, the Cook Islands, for AOSIS, Tanzania, for the AFRICAN GROUP, and BRAZIL, that action should be based on principles including, *inter alia*, common but differentiated responsibilities and “country-drivenness.”

The LDCs expressed concern that reference to integration of adaptation into development could lead to “too much integration” and detract from the value of stand-alone action. AOSIS noted that the objective should be to address the urgent and immediate needs of developing countries especially SIDS, LDCs, and African countries. She also stressed that the nature of actions to be taken, how actions will be supported and mechanisms for addressing loss and damage need to be captured as part of the scope. The AFRICAN GROUP noted the need for consistency on the definition of vulnerable developing countries throughout the text. SAUDI ARABIA called for retaining language on impacts of response measures.

The EU underscored that the focus should be on the most vulnerable developing countries and opposed language on impacts of response measures and historical emissions. BRAZIL noted the need to include the principle of participation and that integration of adaptation into development is controversial.

TECHNOLOGY: Co-Chair Kumarsingh proposed focusing on issues requiring further clarification. He said the Co-Chairs would prepare a streamlined “negotiable” text by Friday based on these discussions, to enable textual negotiations to start in Barcelona. Several parties supported the Co-Chair’s proposal. CANADA, supported by AUSTRALIA, suggested convening a stocktaking session on Thursday before making a decision. Discussions then continued on the Co-Chairs’ non-paper.

The US, supported by AUSTRALIA, stressed the need to focus on the operative sections of the text. The US added that the operative text should concentrate on national and cooperative actions. UGANDA said the text should focus on clear actions for transfer of mitigation and adaptation technologies. He also proposed a differentiation between actions that could be taken immediately and those that could be taken later, and an examination of the means of implementing these actions. COLOMBIA urged a balanced treatment of adaptation and mitigation technologies, noting the inadequacy of the treatment of adaptation technologies in the current text. With GHANA, she also highlighted the need to discuss incentives for technology transfer. BANGLADESH proposed establishing a strong financial arrangement for technology transfer alongside the necessary institutional arrangements.

CANADA suggested a discussion of: actions that must be taken at the national and international levels; regional approaches; and enabling tools, such as action plans, needs assessments and roadmaps. The EU said the issue of national and

cooperative actions to promote technology transfer, and ways of supporting these, are central to the discussions. The Philippines, for the G-77/CHINA, stressed that the group’s mandate is to consider the “full, sustained and effective implementation of the Convention,” particularly implementation of Convention Articles 4.1(c) and 4.5 (technology transfer) and urged parties not to digress from this mandate. Several parties also proposed various ways of restructuring the text, and AUSTRALIA suggested that the Co-Chairs prepare a document compiling the structural options.

AWG-KP CONTACT GROUPS AND INFORMAL CONSULTATIONS

ANNEX I EMISSION REDUCTIONS: Discussions continued on the implications of the flexibility mechanisms for Annex I parties’ emission reductions.

CHINA, with INDIA and others, stressed the importance of deep emission reductions by Annex I parties in the second commitment period for “a strong and robust carbon price.” INDIA warned that the proposed new mechanisms would “flood the market” with cheap credits. SOUTH AFRICA stressed the need for scarcity in the market to increase the carbon price, and SENEGAL highlighted that the carbon market should function as an incentive for investment.

CHINA identified the need to define the concept of supplementarity to avoid “mainstreaming” offsetting, specifying that the figure can be further discussed but that it should be below 50%. INDIA proposed that caps on the use of offsets could be scaled according to Annex I countries’ circumstances, such as historical responsibility or sustainable lifestyles. CHINA, INDIA and BOLIVIA stressed the need to consider developed countries’ historical responsibility.

SENEGAL urged consideration of sustainable development, environmental integrity and the implications of the proposals made, calling for a focus on high benefits in terms of technology and socioeconomic aspects. SOUTH AFRICA identified the need to discuss the proposed new mechanisms in a way that does not lead to a zero-sum game. He proposed setting a minimum target for Annex I parties’ domestic emission reductions and then increasing the target to include emission reductions achieved in non-Annex I countries; or setting aside a portion of Annex I parties’ AAUs for particular mechanisms, such as REDD-plus or sectoral crediting. He stressed the need for clarity on the assumptions on LULUCF and offsets underlying Annex I parties’ pledged targets.

Several Annex I parties identified the need for flexibility and cost-effective emission reductions. SWITZERLAND, JAPAN, CANADA and others stressed that quantifying the concept of “supplementarity” is not necessary. NORWAY, the RUSSIAN FEDERATION, NEW ZEALAND and others noted that where emission reductions take place is irrelevant for the atmosphere. The EU recognized the importance of supplementarity and domestic action, while also emphasizing the role of mitigation potential in determining the amount of emission reductions to be achieved through offsetting, and identified the need to “let the market play.” CANADA opposed an international ceiling on the use of credits, stressing it as a domestic policy decision, and NEW ZEALAND highlighted her country’s circumstances and uncertainty over emission trends, including from the agriculture

sector. The RUSSIAN FEDERATION said the issue of surplus AAUs is not linked to the discussion of numbers and should only be considered after 2012, when the results of the first commitment period are known.

Co-Chair Wollansky identified, *inter alia*, divergent views on the use of offsets and supplementarity, but convergence on domestic reductions being at the core of the target and the need to further explore the notion of supplementarity.

OTHER ISSUES (flexibility mechanisms): In the morning, the group on other issues held informal consultations focusing on the flexibility mechanisms. The discussions were based on a new Chair's non-paper compiling proposals for elements of draft COP/MOP decisions on emissions trading and the project-based mechanisms. Parties focused on paragraphs relating to: the development of standardized, multi-project baselines under the CDM; and improving regional distribution of, and access to, CDM projects.

On text relating to the development of standardized, multi-project baselines, some parties objected to the proposal to define standardized baselines. Others supported the proposal, while preferring that the use of standardized baselines be optional. Other parties expressed preference for making the standardized baselines mandatory and clarified that such baselines would take account of national and regional circumstances and would therefore not constitute a barrier to CDM project development.

On improving regional distribution and access to project activities under the CDM, several parties opposed text indicating that certain specified project activities "shall be assumed to meet the requirement of additionality," noting that the additionality of projects cannot be taken for granted. Several parties also opposed text on a geographically balanced system of quotas, with some noting that such a limit could affect the viability of the CDM.

IN THE CORRIDORS

Tuesday was a busy, and what some characterized as a "heated," day at the Bangkok Climate Change Talks. Various contact groups and informal consultations were held throughout the day under both AWGs. Many delegates also made their way to the technical briefing by the International Energy Agency (IEA) on a special early excerpt of the World Energy Outlook 2009 to inform the negotiations leading into Copenhagen. During the briefing, the IEA conveyed a "stark message" that continuing with today's energy policies would lead to severe climate change impacts, while also highlighting a new window of opportunity to curb climate change and build a low-carbon future. According to the IEA, the financial and economic crisis has had "a considerable impact" on the energy sector, meaning that CO₂ emissions are expected to fall in 2009, and "with the right policies put in place promptly," this could help to achieve the IEA's 450 Scenario. While many delegates saw this as a cause for optimism, others were worried: "I'm not sure 450 ppm will be adequate."

In the afternoon, AWG-LCA Vice-Chair Machado convened informal consultations on the organization of work for Barcelona. Parties reportedly agreed to continue with the current working method, comprised of contact groups and informal sessions. They also exchanged views on how to focus their work and identify key issues, given that the Barcelona session consists

of only five working days. Several parties were heard expressing concern with the scheduling of meetings and the need to avoid clashes.

Afternoon informal consultations were also held under the AWG-LCA's overarching mitigation group, which focused on proposals by several developed countries on frameworks for mitigation action by all parties. The meeting caused strong, albeit mixed, feelings among delegates. Some developed country negotiators seemed almost excited, and one was overheard saying afterwards: "I feel we are moving to the core of the discussion now. It is difficult, but it's better to have this debate earlier than later." However, some developing country delegates did not appear to share the same enthusiasm, with one commenting: "Now I realize that there is not only one elephant in the room – there are several! So many of these proposals are clearly not fathered by the Convention."

Heated discussions on the fate of the Kyoto Protocol also surfaced during the day both in contact groups and in informal consultations. Some of those participating in the AWG-LCA subgroup on various approaches to mitigation commented on the proposal by the US to introduce language that would include the CDM in an agreement reached under the AWG-LCA. "The US interest in the CDM is obviously welcome news," remarked one delegate. "I am increasingly worried about the Protocol," said another: "If we start discussing the CDM under the AWG-LCA, it means that the AWG-KP will just die - and I don't want the blood of the Protocol on my hands," he explained. "It seems that many developed countries are ready to finish off the Protocol," opined another.

The divide between developed and developing countries on the fate of the Protocol became more evident under the AWG-KP in the evening when a small group convened to discuss the legal implications of the Protocol being submerged under a new agreement. Several developing countries stressed that the question was political rather than a legal one, and opposed any discussions implying that the Protocol would cease to exist in the future. Several developing country delegates, in fact, reportedly walked out of the meeting after expressing this view. Several delegates, however, stayed on and held a technical discussion focusing on legal scenarios for the Protocol's future. Some developed country delegates emerging from the room, characterized the meeting as "constructive" and "useful." A developing country party, however, characterized it as "enlightening, but scary." "Clearly, we've still got some major obstacles to overcome to ensure success in Copenhagen, but hopefully they are not insurmountable," said one attempting to summarize the day's discussions. "Only time will tell."