



# Earth Negotiations Bulletin

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## SUMMARY OF THE FIRST CONFERENCE OF THE PARTIES FOR THE FRAMEWORK CONVENTION ON CLIMATE CHANGE: 28 MARCH - 7 APRIL 1995

The first Conference of the Parties to the UN Framework Convention on Climate Change (COP-1) met in Berlin from 28 March - 7 April 1995. In this historic city that was once the symbol of the Cold War's divisions between East and West, delegates from 117 Parties and 53 observer States found that although the Berlin Wall has fallen, the walls that divide the Parties to the Convention still remain. It took seemingly endless hours of negotiations and consultations before delegates with vastly different priorities and concerns came to agreement on what many believed to be the central issue before COP-1 — adequacy of commitments. The result is a mandate to begin a process toward appropriate action for the period beyond 2000, including the strengthening of the commitments of Annex I Parties in Article 4.2(a) and (b).

Delegates also reached agreement on a number of other important decisions, including the establishment of a pilot phase for the implementation of joint projects, agreement that the Permanent Secretariat should be located in Bonn, and decisions on the budget for the Secretariat, financial procedures and the establishment of the subsidiary bodies. Delegates, however, did not reach consensus on the Rules of Procedure. This critical issue, including a decision on the voting rules and the composition of the Bureau, was deferred until COP-2. While delegates accomplished much during the two-week session that culminated with a two-day Ministerial Segment, even the best "diplomatic back-patting" could not convince all delegates and observers that the first Conference of the Parties was an unqualified success.

### A BRIEF HISTORY OF THE FCCC

Increasing scientific evidence about the possibility of global climate change in the 1980s led to a growing awareness that human activities have been contributing to substantial increases in the atmospheric concentrations of greenhouse gases. Concerned that anthropogenic increases of emissions enhance the natural greenhouse effect and would result, on average, in an additional warming of the Earth's surface, the World Meteorological Organization (WMO) and the United Nations Environment Programme (UNEP) established the Intergovernmental Panel on

Climate Change (IPCC) in 1988. The Panel focused on: assessing scientific information related to the various aspects of climate change; evaluating the environmental and socio-economic impacts of climate change; and formulating response strategies. In 1990, the finalization and adoption of the IPCC report and the Second World Climate Conference focused further attention on climate change.

### ESTABLISHMENT OF THE INC/FCCC

On 11 December 1990, the 45th session of the UN General Assembly adopted a resolution that established the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change (INC/FCCC). Supported by UNEP and WMO, the mandate of the INC/FCCC was to prepare an effective framework convention on climate change. The INC held five sessions between February 1991 and May 1992. During these meetings, participants from over 150 States discussed the contentious issues of binding commitments, targets and timetables for the reduction of carbon dioxide emissions, financial mechanisms, technology transfer, and "common but differentiated" responsibilities of developed and developing countries. The INC sought to achieve a consensus that could be supported by a broad majority, rather than drafting a treaty that dealt with specific policies that might limit participation.

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## ADOPTION AND ENTRY INTO FORCE

The United Nations Framework Convention on Climate Change was adopted on 9 May 1992, and opened for signature at the UN Conference on Environment and Development in June 1992 in Rio, where it received 155 signatures. The Convention entered into force on 21 March 1994 (90 days after the 50th ratification).

After the adoption of the Convention, the INC met five more times to consider the following items: matters relating to commitments; matters relating to arrangements for the financial mechanism and for technical and financial support to developing countries; procedural and legal issues; and institutional matters. During these INC sessions, scientific work was done to improve the methodologies for measuring emissions from various sources, but the larger scientific problem was choosing the best methodology to estimate the removal of carbon dioxide by "sinks," namely oceans and forests. The other major task before negotiators was the difficult issue of financial support for implementation, particularly for developing country Parties who will require "new and additional resources" to obtain data and implement energy-efficient technologies and other necessary measures.

**INC-9:** The INC held its ninth session from 7-18 February 1994, in Geneva. In discussions on matters relating to commitments, delegates examined methodologies for calculations/inventories of emissions and removal of greenhouse gases, the first review of information communicated by Annex I Parties, the role of the subsidiary bodies established by the Convention, and criteria for joint implementation. Delegates also reviewed the adequacy of commitments. The need for broader action beyond the year 2000 on the commitments in Article 4.2(a) and (b) was considered, based on the understanding that the provisions of this article refer to the present decade.

In its discussions on matters relating to the financial mechanism and technical and financial support to developing country Parties, the Committee chose to focus on the implementation of Article 11. It was agreed that only developing countries that are Parties to the Convention would be eligible to receive funding upon entry into force of the Convention. There was general support for a cost-effective arrangement for the Permanent Secretariat that would encourage collaboration with other secretariats. The question of the location of the Permanent Secretariat was not resolved, but it was agreed that the Permanent Secretariat will start operating on 1 January 1996, and, in the interest of continuity, will be organized along the same lines as the Interim Secretariat.

**INC-10:** The tenth session of the INC was held from 22 August - 2 September 1994, in Geneva. The Committee agreed on the mechanisms for the first review of information communicated by Annex I Parties. Some countries expressed the need for a cautious approach to the review of adequacy of commitments, since the scientific and technical assessments upon which existing commitments are based were essentially unchanged. Some countries also felt that the first meeting of the COP would be a good occasion to make progress on the elaboration of additional commitments. On the issue of joint implementation, comments were invited on: objectives, criteria and operational guidelines, functions and institutional arrangements, and communication, review and early experiences.

On matters related to the financial mechanism, countries agreed to a stage-by-stage funding modality for adaptation measures. The temporary arrangements between the Committee and the Global Environment Facility (GEF) were also adopted. On agreed full incremental costs, the Committee concluded that this issue was complex and that further discussions were needed. Delegates also concluded that the concept should be flexible and applied on a case-by-case basis. The Interim Secretariat was requested to prepare a paper on transfer of technology and delegations were invited to submit their views on this issue. On the subject of the

Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI), the provisional recommendation to the COP was that the SBSTA will be the link between the scientific and technical assessments and the information provided by international bodies and the policy-oriented needs of the COP. The SBI will develop recommendations to assist the COP in its assessment and review of the implementation of the Convention.

With regard to procedural and legal matters, the Committee decided to continue its consideration of the draft Rules of Procedure at its eleventh session. On institutional matters, a contact group composed of five members of the Bureau, one from each of the five regional groups, was established to consider the various offers of governments and UN agencies to host the Permanent Secretariat for the Convention and make recommendations for the consideration of the Committee at its eleventh session.

Subsequent to INC-10, Trinidad and Tobago, on behalf of the Alliance of Small Island States (AOSIS), submitted a draft protocol to the Interim Secretariat. This protocol calls for a reduction of emissions of greenhouse gases by "at least 20% by the year 2005."

**INC-11:** The eleventh and final session of the INC met from 6-17 February 1995, at UN Headquarters in New York. During the two-week session, delegates addressed a wide range of issues including arrangements for the first session of the COP, location of the Permanent Secretariat, Rules of Procedure for the COP, matters relating to commitments, matters relating to arrangements for the financial mechanism, and provision of technical and financial support to developing country Parties. While delegates did agree to maintain the GEF as the interim entity operating the financial mechanism and to finance mitigation activities, little concrete progress was made on other important issues before the Committee. Delegates were unable to take action on the adequacy of commitments or to begin negotiations on a draft protocol submitted by AOSIS or the proposals for further elements of a protocol submitted by Germany. There was no progress on joint implementation. Delegates had little time to address technical and financial support to developing countries. The location of the Permanent Secretariat remained pending, although the four countries offering to host the Secretariat (Canada, Germany, Switzerland and Uruguay) were asked to negotiate among themselves so that a single nomination would be presented to the COP in Berlin. Finally, delegates were unable to reach agreement on the Rules of Procedure due to lack of agreement on voting procedures and the allocation of seats on the COP Bureau.

## COP-1 REPORT

### OPENING PLENARY

COP-1 was opened on 28 April 1995, by the Executive-Secretary of the Interim Secretariat, Michael Zammit Cutajar, who noted the need for Parties to shoulder the responsibility of the Convention's effective implementation. He said that INC-11 had recommended the election of the head of the delegation of Germany, Dr. Angela Merkel, Federal Minister for Environment, Nature Conservation and Nuclear Safety, as President of COP-1.

After her election, Dr. Merkel said that the Spirit of Rio would once again be needed in Berlin. Although climate protection is one of the greatest political challenges, it is imperative to act in accordance with the precautionary principle. She said that COP-1 must decide if the commitments of the industrialized countries were "adequate" to achieve the Convention's objectives, noting that the obligations to date were not adequate. She said that the process for a protocol must be set in motion. She hoped that the framework for a pilot phase on joint implementation could be created.

After hearing an opening statement on behalf of UN Secretary-General Boutros Boutros-Ghali, delivered by Under-Secretary-General Nitin Desai, the Plenary heard other statements

by: the Chair of the INC/FCCC, Raúl Estrada-Oyuela; the Secretary-General of the WMO, G.O.P. Obasi; the Executive-Director of UNEP, Elizabeth Dowdeswell; the Under-Secretary-General of DPCSD, Nitin Desai; the Chair of the IPCC, Bert Bolin; and Michael Zammit Cutajar. The Plenary then addressed a number of organizational matters, including adoption of the agenda, as contained in document FCCC/CP/1995/1.

**Ratification Status:** The President introduced document FCCC/CP/1995/Inf.2, and noted that 127 States have ratified the Convention. Laos and Jamaica will become Parties in early April and may participate in discussions, but do not have a vote.

**Rules of Procedure:** The President introduced A/AC.237/L.22/Rev.2 and FCCC/CP/1995/2. She noted that delegates had not reached consensus on all of the Rules of Procedure and asked for their adoption by consensus during this session. She stated there was broad agreement to proceed under the draft rules and the COP could apply the rules without formal adoption. The President announced that she would conduct consultations to resolve outstanding rules.

**Election of Officers:** The President announced the following nominations: Africa —Mauritania and Zimbabwe; Asia — India and Japan; Eastern Europe — Hungary and the Russian Federation; Latin America and the Caribbean — Antigua and Barbuda and Argentina; Western Europe and Others — Australia and Germany; and AOSIS — Samoa. It was also agreed that Mauritania would be the Chair of the Subsidiary Body on Implementation and Hungary would be the Chair of the Subsidiary Body on Scientific and Technological Advice. Kuwait and Saudi Arabia expressed difficulty with Rule 22 on composition of the Bureau. They asked if the nominations were still open, and added that they had asked for OPEC country representation on the Bureau. The President said the COP would apply the Rules of Procedure, but there will still be negotiations on outstanding questions.

**Admission of organizations as observers:** Document FCCC/CP/1995/3, which contains the list of intergovernmental and non-governmental organizations endorsed by INC-11 (Annex I) and an additional list of organizations wishing to be observers at COP-1 (Annex II), was accepted.

**Organization of work:** The President noted that the work was organized in two parts: an initial negotiating segment followed by a Ministerial Segment from 5-7 April. She hoped that the sessions of the Committee of the Whole (COW) would not seek to reopen resolved issues but would work on outstanding issues. Amb. Raúl Estrada-Oyuela was designated as Chair of the COW. The COW was asked to deal with the items where consensus was not reached at INC-11. Consequently, all other decisions recommended by the INC-11 for consideration by COP-1 were referred directly to the Plenary.

## OTHER PLENARY MEETINGS

The Plenary met several times to hear statements and receive progress reports on the work of the Committee of the Whole. The second meeting of the Plenary took place on Thursday, 30 March 1995. Delegates heard statements from: UNDP Administrator James Gustave Speth, representatives from the governments of South Africa and Ukraine, and representatives from UNIDO, UNESCO, the International Oceanographic Commission, the Convention to Combat Desertification, the Economic Commission for Europe, the International Energy Agency, the South Pacific Regional Environment Programme, the Second Municipal Leaders' Summit on Climate Change, Climate Action Network (Pacific) and the International Chamber of Commerce.

On Monday, 3 April 1995, the Plenary heard statements from Klaus Töpfer, Chair of the UN Commission on Sustainable Development, and Mohamed El-Ashry, CEO and Chair of the Global Environment Facility. Other statements were delivered by

representatives of Israel, the World Bank, the East Asia & Pacific Parliamentarians' Conference on Environment and Development, Global Legislators for a Balanced Environment, and Climate is Ripe for a Change (international youth campaign).

## COMMITTEE OF THE WHOLE

On Tuesday afternoon, 28 March 1995, the Committee of the Whole (COW) began its work. The newly elected Chair, Amb. Estrada, reminded delegates that the Plenary has asked the COW to consider the following five items: review of adequacy of Article 4.2(a) and (b), including proposals relating to a protocol and decisions on follow-up; criteria for joint implementation; roles of the subsidiary bodies established by the Convention, including their programmes of work and calendars of meetings; guidance on programme priorities, eligibility criteria and policies, and on the determination of "agreed full incremental costs;" and designation of a Permanent Secretariat and arrangements for its functioning, including budget and physical location.

During the course of the COP-1, the COW considered each of the items in a general debate and then established small consulting or drafting groups to work out the details for each decision. The following is a summary of the consideration of these items.

**REVIEW OF THE ADEQUACY OF THE COMMITMENTS IN ARTICLE 4.2(a) AND (b):** The COW considered the adequacy of commitments on Wednesday and Thursday, 29 and 30 March 1995. The Secretariat noted that INC-11 had agreed that present commitments are only a first step toward meeting Convention goals, and that the COP should take appropriate action based on this review. He noted the AOSIS protocol is contained in A/AC.237/L.23 and the German elements paper is A/AC.237/L.23/Add.1.

The Philippines, on behalf of the G-77 and China, said that implementation of current commitments should be the COP's chief concern. Responsibility should not shift from Annex I to non-Annex I Parties. He called for further discussion of a protocol. India endorsed the G-77 and China's statement and expressed concern about certain parts of the AOSIS proposal. Supported by Indonesia, he stressed the need for a protocol that imposes commitments only on Annex I Parties. Sri Lanka said developing countries should not have to share new commitments.

Samoa, on behalf of AOSIS, and supported by Fiji, Mauritius, Micronesia, Papua New Guinea, Norway and the Republic of Korea, called for adoption of the AOSIS protocol. He said the AOSIS States proposed the draft protocol because they are being hit first and hardest by climate change that they are not responsible for, adding that continuing emissions at present levels would be a disaster for all. He summarized the main features of the AOSIS protocol: an additional commitment that developed countries reduce CO<sub>2</sub> emissions by 2005 to 20% below 1990 levels; no additional commitments for developing countries; a comprehensive approach to other greenhouse gases in a phased manner; and a coordination mechanism for cooperation on economic, administrative and other implementation measures. Antigua and Barbuda said island States view sea level rise as the primary threat. The AOSIS protocol takes a universal view rather than narrowly confining its approach to the views of those living on large continental shelves. Bangladesh said there must be a definite commitment to reduce CO<sub>2</sub> emissions beyond 2000 and any country that exceeds the identified standard should be subject to some form of emissions tax.

France, on behalf of the EU, and supported by Poland and Hungary, urged COP-1 to map out a protocol mandate, which would establish an open-ended *ad hoc* working group, require a report for COP-2 and set guidelines for conclusions.

The Netherlands said that it would be irresponsible to postpone further action. Industrialized countries should significantly reduce

their emissions. The COP should agree on a mandate and guidance for negotiating a protocol to be adopted in 1997. Germany said an immediate framework for reductions is an urgent requirement. Delegates should adopt a clear mandate as a starting point for protocol negotiations. He added that only if industrialized countries agreed to reductions could other States be expected to take on commitments at an appropriate time. Switzerland said Parties should prepare a protocol by 1997. She called for an *ad hoc* working group to conduct negotiations, adopt a mandate and schedule, and take a coordinated and cooperative approach to reductions. Norway advocated joint targets for OECD countries based on equitable sharing of responsibility.

The Czech Republic and Argentina supported negotiations on a draft protocol that should use the AOSIS protocol and the German elements paper as a starting point. Slovakia said negotiations on a protocol should conclude in 1997-98. Uruguay endorsed charting a course on a protocol and establishing a working group at COP-2, including oil producing countries.

Mauritania said a universal negotiation process should be established within the COP and not in a subsidiary body.

The US said that a drafting group should work on a mandate to begin a negotiating process within the SBI, with the SBSTA working on an assessment for limiting greenhouse gases (GHGs).

New Zealand said that a clear mandate was critical for COP-1 since current commitments are not adequate, and called for a cooperative approach based on common but differentiated responsibilities. The mandate should include: work towards a protocol under the SBI with a legally-binding instrument in 1997; the inclusion of all GHGs; action for the post-2000 period; reduction efforts led by developed countries and those developing countries contributing most to emissions; and the creation of a business consultative mechanism. Australia called for clear guidelines for the negotiations of a protocol that must not limit action to one group of countries, but should involve action by all Parties within the principle of common but differentiated responsibilities.

Brazil said delegates should not prejudge the mechanisms for perfecting implementation of the Convention, which could include the drafting of a new instrument, a protocol, other measures and means, timetables and targets, or some combination of these. He said developing countries' right to development should not be compromised, and that trying to enroll developing countries in a hasty manner or by making linkages with joint implementation would not solve any problems.

China said a majority of States is not yet ready to negotiate a protocol. Full implementation of existing commitments is an essential step for Annex I Parties. China cannot accept the creation of new categories of countries and thought it inappropriate for developing country Parties to undertake new commitments. Algeria, on behalf of the African Group, said in light of the Convention's principles of common but differentiated responsibilities, the polluter pays and the right to development, African countries are not willing to accept any new commitments.

The Russian Federation stated that the AOSIS proposal lacks significant scientific basis. Thailand said the decision to negotiate a protocol should only be taken after the release of the second IPCC assessment report. Saudi Arabia said that although its approach and concerns are different, it is not blocking progress. Saudi Arabia expressed concern that it would be affected economically by the different measures to reduce consumption of fossil fuels, particularly oil. He said that the COP should not take hasty steps, but should wait for the IPCC's second assessment report.

Kuwait quoted from the report of IPCC's Working Group III that emissions scenarios are not appropriate inputs to negotiation of possible emission reductions. He said that it was premature to draft a protocol when Annex I Parties have not met current

commitments. Iran said that full implementation of commitments by Annex I Parties must be the first priority. A decision on inadequacy of commitments should wait until the release of the IPCC's second assessment report.

Venezuela emphasized that Parties must honor existing commitments before pursuing a protocol. Nigeria faces triple vulnerability: environmental impacts of climate change, the socioeconomic aspects of climate policy, and an economy dependent on oil revenue. Additional burdens are unacceptable.

The UK observed that some delegations have drawn attention to scientific uncertainty, but warned against underestimating what is already known. Commitments that only go to 2000 are inadequate, and are not reason enough to avoid setting a new time-frame.

After hearing these initial statements, the Chair asked Amb. Bo Kjellén (Sweden) to convene consultations on the adequacy of commitments. The consultative group met for the first time on Friday morning, 31 March 1995, with a standing-room-only crowd. Although the large number of delegates was not conducive to drafting, delegates were able to further exchange views on possible elements of a mandate for further consultations on the adequacy of commitments. Consultations resumed Friday afternoon, but by the end of the day it was clear that no progress could be made. The Chair requested that the G-77 and China meet to reconsider their position and report back at the next meeting.

The G-77 and China met Saturday afternoon to discuss their position. India tabled a draft decision setting forth the principles to guide consultations on strengthening the commitments of Annex I Parties in Article 4.2(a) and (b) and how the consultations should be conducted. When the G-77 appeared to be deadlocked, it was proposed that the G-77 meeting adjourn and that a meeting of "like minded States" (developing countries minus the oil-producing States) convene in its place. Kjellén's group reconvened Saturday evening and India, on behalf of 72 developing States — also referred to as the "Green Group" — tabled its proposed elements of a mandate for consultations on commitments. On Sunday afternoon, delegates agreed to base further negotiations on the paper produced by the Green Group.

Consultations reconvened Monday, 3 April 1995. The EU distributed its comments on the paper produced by the Green Group. The consultations adjourned so that the G-77 could review the EU comments. Amb. Kjellén also requested that the various groups select representatives so that a group of 24 "Friends of the Chair" could convene that evening to begin negotiations. This group of "Friends" consisted of four members of the EU, four other OECD country representatives, two OPEC countries, two Eastern European countries, and delegates from the Green Group. Some of the main issues in the discussion were: commitments for developing country Parties; setting specific and legally-binding reduction targets (e.g. the Toronto Target) within specified time-frames; combining a reduction target for Annex I Parties with measures such as transfer of financial resources and technology to developing countries; and the target date for completion of the negotiations.

Negotiations on the elements of a mandate continued throughout the day and night Tuesday and Wednesday. Some participants commented that there had been progress toward agreement on a mandate to negotiate or consult on a protocol to be adopted by 1997. The question that remained when the group adjourned Wednesday night was how forward-looking this mandate would be.

After meeting throughout the day on Thursday with little success, delegates asked their ministers to joint the consultations. The final outstanding issues included language on the goals of the next phase of negotiations on commitments, whether "targets" would be mentioned, and how the decision would treat the commitments of non-Annex I Parties. A final negotiating session began at 11:00 pm, under the leadership of COP President Angela

Merkel. In the early morning hours on Friday, the ministerial meeting adjourned and delegates, accompanied by a few ministers, separated into two rooms — one room for developing country ministers and delegates and one room for OECD ministers and delegates. Merkel conducted “shuttle diplomacy” between the two groups until agreement was reached at 6:00 am.

The document adopted during the final session of the Plenary, FCCC/CP/1995/L.14, agrees to begin a process to enable the COP to take appropriate action for the period beyond 2000, including the strengthening of the commitments of Annex I Parties in Article 4, paragraph 2(a) and (b), through the adoption of a protocol or another legal instrument. The process shall be guided by the legitimate needs of developing countries for sustained economic growth and the right to promote sustainable development; the widest possible cooperation by all countries, in accordance with their common but differentiated responsibilities and respective capabilities and their social and economic conditions; and coverage of all GHGs, their emissions by sources and removal by sinks in all relevant sectors. The process will aim for Annex I Parties to elaborate policies and measures, and set quantified limitation and reduction objectives within specified time-frames, such as 2005, 2010 and 2020, for anthropogenic emissions by sources and removal by sinks of GHGs not controlled by the Montreal Protocol. The process takes into account differences in starting points and approaches, economic structures and resource bases, the need to maintain economic growth, available technology and other individual circumstances, the need for equitable and appropriate contribution by these Parties to the global effort, and a process of assessment and analysis laid out in the decision.

The process will not introduce any new commitments for Parties not included in Annex I, but reaffirms existing commitments in Article 4.1 and continues to advance the implementation of these commitments. The process will be carried out in light of the best available scientific information, including the IPCC and other available expertise. The AOSIS draft protocol, along with other proposals and pertinent documents, will be included for consideration in the process. The process should begin without delay and be conducted in an open-ended *ad hoc* group of Parties that will report to COP-2 on progress. The group's sessions should be scheduled to ensure completion of the work as early as possible in 1997 with a view to adopting the results at COP-3.

**CRITERIA FOR JOINT IMPLEMENTATION:** The COW formally considered joint implementation (JI) on Thursday, 30 March 1995. The Chair introduced document A/AC.237/91/Add.1, which contains the text of proposals tabled at INC-11 by the G-77 and China, the EU and the US.

The Philippines, on behalf of the G-77 and China, reiterated points contained in their proposal, including the application of emission limits to only Annex I Parties and the distinction between joint activities and joint implementation. Colombia said that developing countries should not assume the same obligations as developed countries. JI should be differentiated from the transfer of technology and financial resources.

Bangladesh said single-country initiatives should not be crowded out or overshadowed by JI. Indonesia said that joint activities between developed and developing countries should be based on national priorities of the recipient country and facilitate the transfer of technology and financial resources. China expressed confusion over tradable rights and other new ideas. Emission reductions should only apply to developed countries. The provision of financial resources for JI projects should not be counted as support for developing country Parties.

Brazil strongly opposed JI and added that his delegation did not want to exchange “smoke for trees.” India said a pilot phase could be launched if no credits were allocated. JI should also be voluntary, bilateral and directly related to national development priorities. Algeria, on behalf of the African States, said that JI can

only be undertaken by Parties with the same obligations and responsibilities. JI should be approached on an experimental basis using pilot voluntary activities fully financed by Annex I Parties. Mali said that a JI pilot phase should be extended to cover developing countries, but developed countries should not assume a reduction of their commitments.

Canada supported a phased JI approach as a mechanism to encourage private sector capital and increase access to technology. JI participation does not impose new obligations on developing countries. Fiji supported a pilot phase to help the COP set firm criteria. Kuwait said that any amendment of the G-77 and China proposal would involve the danger of transferring Annex I Parties' commitments to other countries. He supported initiating a pilot phase in accordance with the G-77 criteria.

Chile said clear criteria should address the percentage of reductions of developed countries produced through projects in developing countries, with controls to prevent developed countries from escaping their commitments. JI could be linked with new commitments from developed countries as an item the developing countries could offer. Poland supported initiatives to address emissions targets at lowest cost and to create opportunities to negotiate stronger commitments. Costa Rica and the Czech Republic said JI provides a role for the private sector. Argentina called for clear instructions for a pilot phase that will do away with skepticism. Belize agreed with Costa Rica and Chile. There should be a pilot phase open to non-Annex I Parties.

Germany said that JI may be beneficial for developing countries since cooperative measures may improve access to technologies, trigger investments, and involve an exchange of experience and knowledge. He supported the pilot phase. France, on behalf of the EU, called for a pilot phase that is transparent, well-defined and credible, with no credits for Annex I Parties. JI should not be used to impose new commitments on non-Annex I Parties.

The Russian Federation said COP-1 should adopt criteria for JI and called for equality of participation by all Parties. Peru said that COP-1 should provide criteria for JI. He called for a pilot phase that accommodates national development plans.

New Zealand said that JI is a means for limiting GHGs, assisting technology transfer and promoting sustainable development. He called for the establishment of a pilot phase without credits designed to evaluate criteria and crediting issues. The US said JI has enormous potential to improve flows of environmentally sound technologies between countries and provide cost-effective ways of reduce global emissions. Japan supported a JI pilot phase without credits, and added that JI activities should be voluntary, transparent, open to all Parties, financed independently of existing ODA and provide for technology transfer.

Australia said that COP-1 should initiate a JI pilot phase with participation open to all Parties. JI should not be used as a means for avoiding commitments, and crediting should be addressed after a review of the pilot phase in 1998.

Switzerland said the COP should request the SBI to: evaluate pilot phase projects; verify information communicated; and make recommendations for the post-pilot phase period. Cameroon said supporting a pilot phase appears to endorse a structure that no one really knows anything about. The Republic of Korea said all interested Parties should go ahead and show the rest of the world the results.

The Chair said that COP-1 had to take decisions on criteria for JI implementation and that he would engage in further consultations on this matter. Over the next four days, the G-77 and China drafted their own decision on joint implementation for consideration by the COW. On Tuesday, 4 April 1995, Estrada noted that there had been progress and that the time was ripe for consultations between groups. He proposed that Mahmoud Ould El Ghaouth (Mauritania) coordinate these consultations.

The consultations began Tuesday evening with approximately 30 delegates working from the G-77 draft decision and the EU and US papers from INC-11. The consultations lasted until 6:30 am Wednesday. With the exception of credits, there appeared to be agreement on text to establish a JI pilot phase. Delegates agreed to change the name and refer to "projects implemented jointly" rather than "joint implementation" to imply that there is still no acceptance on the criteria for JI. Throughout the day Wednesday, small groups of delegates met in the corridors trying to reach agreement on the question of credits, the length of the pilot phase and under which articles of the Convention can implementation of joint projects be undertaken. Towards the end of the day, the US said that it could not indicate its acceptance of the emerging compromise until Thursday morning.

On Thursday, the consultative group reconvened and after a few countries tried to re-open previously agreed upon language, the group reached consensus on the text. On Thursday night the COW adopted FCCC/CP/1995/L.13 on activities implemented jointly under the pilot phase. Brazil noted that it had made major concessions, and that the COP should look carefully at activities implemented jointly whenever they involve Annex I and non-Annex I countries. Claiming credit for cooperation is something that runs the risk of destroying the concept that countries are responsible for their national emissions.

The final text establishes a pilot phase for activities implemented jointly among Annex I Parties and, on a voluntary basis, with non-Annex I Parties that so request. Activities implemented jointly should be compatible with and supportive of national environment and development priorities and strategies, contribute to cost-effectiveness in achieving global benefits and be conducted in a comprehensive manner covering all relevant sources, sinks and reservoirs of greenhouse gases.

Activities implemented jointly should bring about real, measurable and long-term environmental benefits related to the mitigation of climate change that would not have occurred in the absence of such activities. The financing of such activities shall be additional to the financial obligations of Annex II Parties and current ODA flows. No credits shall accrue to any Party as a result of GHG emissions reduced or sequestered during the pilot phase.

The SBSTA and SBI will establish a framework for reporting on the possible global benefits, the national economic, social and environmental impacts, and experience gained or difficulties encountered. The subsidiary bodies will prepare a synthesis report for consideration by the COP. A comprehensive review of the pilot phase will take place no later than the end of the present decade to decide on the pilot phase and the subsequent activities.

#### **ROLES OF THE SUBSIDIARY BODIES ESTABLISHED BY THE CONVENTION, INCLUDING THEIR PROGRAMMES OF WORK AND CALENDARS OF MEETINGS:**

The COW considered INC-11 Recommendation 8 on subsidiary bodies contained in document A/AC.237/91/Add.1 on Friday, 31 March 1995. Benin asked whether the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA) would meet at the same time. The Chair clarified that the subsidiary bodies would meet one after the other. The COW agreed to recommend to the Plenary that the subsidiary bodies should meet in Geneva at the following times: first session — October 1995; intergovernmental technical advisory panels and workshop on non-governmental inputs — January 1996; second session — mid-February 1996; intergovernmental technical advisory panels — April 1996; and third session — July 1996. The COW agreed to recommend COP-1 to authorize the subsidiary bodies to establish intergovernmental technical panels subject to confirmation by COP-2.

The COW also agreed to recommend to COP-1 that in the first year, the organization of workshops would depend on the host

governments and that facilities for hosting these workshops would have to come from sources external to the Secretariat budget. Additionally, the Committee agreed to recommend that the subsidiary bodies' bureaus would make a proposal to COP-2 on the relationship between the subsidiary bodies and the IPCC. The Chair suggested that on matters regarding review and synthesis of national communications, the subsidiary bodies' bureaus could submit a proposal providing guidance to COP-2. The US and Benin said that any such proposal should be reviewed by the full membership of both subsidiary bodies. The COW agreed to recommend this formulation to the Plenary. Uruguay asked about the relationship between these subsidiary bodies and other relevant UN organizations and Conventions. The Chair clarified that in all meetings of the COP and its subsidiary bodies, all organizations and Convention Secretariats who wish to attend may do so.

On Monday, 3 April 1995, Estrada introduced document FCCC/CP/1995/L.5 on the Roles of Subsidiary Bodies. He directed delegates' attention to four sections: paragraph 3, authorizing the SBSTA to establish two intergovernmental advisory panels subject to confirmation at COP-2; paragraph 6, inviting officers of the subsidiary bodies to submit proposals to COP-2 for their future cooperation with the IPCC; paragraph 9, directing the Secretariat to arrange three subsequent sessions for the subsidiary bodies; and paragraph 10, recommending that workshops and other events that are not budgeted be funded by the host country or other governments. L.5 was recommended for adoption by the COP.

It was later agreed by the Plenary that the SBSTA bureau would consist of Hungary as Chair, Mauritius as Vice Chair and Uzbekistan as Rapporteur. The SBI bureau is chaired by Mauritania, with the Netherlands as Vice Chair and Peru as Rapporteur.

**FINANCIAL MECHANISM:** On Thursday, 30 March 1995, the COW considered the report of the GEF to the COP (FCCC/CP/1995/4). The Secretariat introduced the document and noted that the report was divided into two sections, the development of an operational strategy and the initial activities undertaken by the GEF, including enabling activities for national communications and projects. The first section describes a two track approach. COP-1 may adopt a strategy of maximizing short-term cost effectiveness, long-term cost effectiveness, or a mixed strategy of short- and long-term priorities. The second section describes the initial activities undertaken by the GEF on climate change. The Chair noted that COP-1 had to decide between the various approaches described and that he would hold consultations on these matters.

On Friday, 31 March 1995, the Chair introduced document FCCC/CP/1995/L.1, a draft decision on the report of the GEF to the COP on the development of an operational strategy and on initial activities in the field of climate change. The Committee agreed to recommend that the COP adopt this decision, which accepts the GEF Council's two-track approach in 1995. Under track one, the GEF Secretariat will work to develop a long-term comprehensive operational strategy, and under track two, some project activities will be undertaken to allow a smooth transition between the pilot phase and the restructured GEF. The decision also includes a "mixed strategy" wherein projects will be selected on the basis of either long-term or short-term programme priorities.

**DESIGNATION OF THE PERMANENT SECRETARIAT AND ARRANGEMENTS FOR ITS FUNCTIONING:** On Tuesday, 28 March 1995, Executive-Secretary Michael Zammit Cutajar introduced the documentation on designation of a Permanent Secretariat and arrangements for its functioning (FCCC/CP/1995/5 and its three addenda). He gave particular attention to the following five areas where action is needed by the COP: institutional linkages between the Convention Secretariat and the United Nations; financial procedures; physical location of the

Convention Secretariat; the Convention budget for the biennium 1996-1997; and extrabudgetary funding for 1995.

Uruguay said the Interim Secretariat's budget estimates did not reflect differences in potential operating costs based on the proposals for the location of the Permanent Secretariat, which should be taken into account. He suggested that the estimates include more than the transfer costs of locating the Permanent Secretariat, and added that he could not support the sections on Uruguay in the Interim Secretariat's documents. India was willing to adopt the indicative scale of contributions outlined in the Interim Secretariat's document and asked whether proposed consultations had occurred between the countries offering to host the Permanent Secretariat. Canada said the budget figures Uruguay mentioned had not been distributed, but should be as soon as possible.

The Executive-Secretary responded that the cost figures referred to by Uruguay appeared only in a draft document and could be improved upon in any final document. Comparisons by location of staff costs, the major element of Secretariat expenses, were based on standard UN figures, not surveys of local costs. He said he had not been informed of any consultations between countries proposing to host the Permanent Secretariat. He also noted that FCCC/CP/1995/Misc.3, a letter from Canada, was the only new information received since INC-11. At the conclusion of the discussion, the Chair announced that a drafting group, chaired by Mahmoud Ould El Ghaouth (Mauritania) would be formed to consider the budget.

**Budget:** The drafting group on the budget met several times during the first week before beginning a programme-by-programme review of the budget on Friday evening. During the two-hour meeting, some OECD countries called for reductions in the budget and asked the Secretariat to provide the group with new figures on Saturday evening. The drafting group completed the first phase of its work on Monday, 4 April 1995. When El Ghaouth presented the draft decision documents to the COW the following day, he noted that some of the figures would have to be changed once the location of the Permanent Secretariat was known. The COW then recommended the following draft decisions for adoption by COP-1: the Convention budget for the biennium 1996-1997 (FCCC/CP/1995/L.4); Extrabudgetary funding for the interim secretariat for 1995 (FCCC/CP/1995/L.7); and Other voluntary funding for the biennium 1996-1997 (FCCC/CP/1995/L.8). At the suggestion of France, a footnote was added to L.4 explaining that the working capital reserve amounted to 8.3% of the operating budget, equivalent to one month's budget.

Once the decision was taken to move the Secretariat to Bonn, the drafting group on the budget met once again to revise certain figures. Although the Executive-Secretary of the Interim Secretariat noted that some costs would only be determined after further consultations with the German Government, the COP approved the Convention budget for the biennium 1996-1997, amounting to US\$18,664,200.

**Financial Procedures:** On Friday, 31 March 1995, the Chair introduced FCCC/CP/1995/L.2, a draft decision on financial procedures for the Permanent Secretariat. The Chair also introduced document FCCC/CP/1995/5/Add.1/Rev.1, containing the indicative scale of contributions from Parties to the administrative budget. Delegations then asked specific questions regarding the computation of contributions and percentages. Mauritania raised the possibility of annexing the financial rules to the proposed text. Uruguay asked whether the COP would recommend suspending voting rights for Parties that do not meet their contributions. The Chair said there are no sanctions mentioned in the basic documents for non-payment of contributions. Japan joined the consensus on contributions, but added that his delegation interprets these contributions as voluntary. The Committee then agreed to recommend the adoption of L.2 to the Plenary.

FCCC/CP/1995/L.2/Rev.1, which was adopted by the Plenary at its final session, also includes a full text of the financial procedures for the COP, its subsidiary bodies and the secretariat in Annex I and the indicative scale of contributions to the administrative budget of the Convention for the biennium 1996-1997 in Annex II. It also decides that any countries becoming Parties during the remainder of 1995 shall contribute to the expenses of the Convention, and requests that all Parties be advised of their contributions no later than 22 December 1995.

**Institutional Linkages:** On Saturday, 1 April 1995, the Chair introduced FCCC/CP/1995/L.3 on the institutional linkages between the Permanent Secretariat and the United Nations. He summarized the decision's substantive provisions including that the Secretariat be linked but not fully integrated with UN programmes, the arrangement be reviewed by 31 December 1999, a request that the General Assembly pay conference-servicing costs for future COPs and meetings of subsidiary bodies from the UN regular programme budget, and that the Interim Secretariat inform the Secretary-General of the estimated financial implications for 1996 and 1997. The document, which was later amended to reflect recommendations received from the UN Secretary-General, was forwarded for adoption by the Plenary.

**Location of the Permanent Secretariat:** Amb. Estrada held consultations on the location of the Permanent Secretariat during the first week of COP-1. On Monday, 3 April 1995, Estrada reported that no consensus was yet apparent. Various means had been considered, including an informal confidential survey of delegations' preferences by secret ballot. He said the original agreement was that a decision would be taken at Berlin and preferably prior to the ministerial session, but one of the four candidate delegations disagreed. He said he recognized that the general feeling of the house was to take a decision at COP-1. Canada said its understanding was that there is no consensus on this point. The Chair said he would wait for Canada to support his proposal.

On Tuesday, Estrada proposed an "informal survey" where each Party would indicate its preference on a piece of paper prepared for this purpose and place this paper in a box. Any paper with more than one mark or no marks would be considered invalid. If one city received the "absolute majority" it would be proposed for a consensus solution. If not, there would be a second round with three cities and, if necessary, a third round with two cities. Estrada then noted that budget implications and the need to establish a Secretariat without doubts about administrative arrangements made a decision imperative.

Canada disagreed that this was the appropriate time to decide. He said that INC-11's intent was for COP-1 to select a candidate city only if there was consensus. He urged delegates to consider using the survey later at a neutral site. Switzerland said it was not the time politically to pursue these consultations and that it would also be a bad UN precedent. The decision should be made on neutral ground, possibly at the CSD meeting in New York. The US said he was persuaded by the Canadian and Swiss concerns.

Italy, supported by Poland, said he was impressed by the Chair's suggestion, and that Article 8.3 of the Convention says COP-1 should designate a Permanent Secretariat. Germany said now is an appropriate time to take a decision. Nigeria, Costa Rica, Ethiopia, Mali, Trinidad and Tobago, Togo, Cape Verde, Niger, Mauritius and Djibouti supported the Chair's proposal. Burkina Faso said that COP-1 should take the decision, but the question should be put before the Ministerial Segment.

Canada said Article 8.3 did not require COP-1 to decide on the location. He called for a substantive discussion, including budget figures comparing costs for the four locations. The Chair said the figures had been presented in consultations on the Convention budget, and participating delegations have had an opportunity to

review them. The Chair said deferring the decision by a few weeks would be expensive and complicated. He said it was the feeling of the house that delegates should proceed, notwithstanding the reluctance of two candidates and some other delegations. He emphasized that the survey was not a decision or a vote.

Canada said that regardless of what it was called, the Chair was proposing a decision mechanism by majority vote. Canada noted his country's offer to contribute an additional \$1 million (Canadian) for five years to the Secretariat budget. Canada also distributed budget figures for staff and travel that showed Toronto costs to be 54% of Geneva, 67% of Montevideo and 70% of Bonn for 1996-1997. Switzerland said he was pleased to see his supporters backing a quick decision and that there was progress on the Chair's proposal. The US said it would not hold up progress. Uruguay agreed that a decision should be made at Berlin.

The first round of the survey was completed at 4:00 pm on Tuesday. No city received a majority and Uruguay withdrew its offer to host the Secretariat in Montevideo. The second round of the survey was completed at 7:00 pm that evening. When all of the secret ballots were counted there was still no majority and Estrada announced that the third round would take place on Wednesday and the choice would be between Bonn and Geneva. Canada then withdrew its offer to host the Secretariat in Toronto. On Wednesday afternoon the tension built and the press gathered. Finally, Estrada announced that the Parties participating in the informal survey had selected Bonn as the seat of the Permanent Secretariat. The COW adopted decision FCCC/CP/1995/L.12 on the location of the Permanent Secretariat in Bonn on Thursday night, 6 April 1995.

**TRANSFER OF TECHNOLOGY:** On Friday, 31 March 1995, the Philippines, on behalf of the G-77 and China, introduced a draft decision on technology transfer that asked the Secretariat to compile an itemized report on technology transfer activities of Annex II Parties, directed the Secretariat to prepare an inventory of potentially transferable technologies, and requested that all measures be reviewed and evaluated at subsequent COPs.

The Chair asked the G-77 and other delegations to consult among themselves and report back to the COW. On Tuesday, the G-77 and China's revised draft decision on technology transfer was distributed. The Republic of Korea, on behalf of the G-77 and China, noted that after consultations with other groups only three sets of brackets remained in the document. During the discussion that followed, the Chair tried to facilitate consensus on the remaining bracketed text. The US, supported by New Zealand, thought further substantive discussion was necessary. He asked if this decision had to set the agendas for all future COPs in paragraph 3(a) and who would provide the advice to improve the operational modalities for the effective transfer of technology in paragraph 3(b). Nevertheless, the Chair noted that the discussion must come to an end, closed the debate and suggested that the Committee adopt the text, as orally amended. Despite protestations by the US that its concerns had not been addressed, the Chair gavelled this matter to a close. The COW formally adopted the text of FCCC/CP/1995/L.10 on Thursday night, 6 April 1995.

### MINISTERIAL SEGMENT

The Ministerial Segment opened on Wednesday, 5 April 1995, and included statements from 96 ministers and other heads of delegations. Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany, urged delegates to remember the lessons of the Berlin, noting that never again must "walls of enmity" be erected between peoples, nations and States. He stated that the Rio Conference provided a clear signal of hope but the recent recession shows that sustainable development does not sufficiently determine the actions of States. He stressed three central issues: industrialized country responsibility to limit CO<sub>2</sub> emissions permanently beyond the year 2000; a negotiation mandate from this Conference for a noticeable

reduction in GHG emissions after 2000; and agreement on joint implementation to facilitate the transfer of technology.

During the two days of the Ministerial Segment, most developing States agreed on matters such as no new commitments for developing States, financial assistance and technology transfer. However, there were many different views on the consequences of action, or inaction, on climate change. Small island developing States, such as Papua New Guinea, the Marshall Islands, Solomon Islands, Samoa, Vanuatu, Micronesia, Mauritius, Jamaica and the Maldives, emphasized their vulnerability to the effects of climate change, particularly sea level rise. Since many small island States are only a few meters above sea level, they called for immediate adoption of the AOSIS protocol. Many African States, including Botswana, Nigeria, Chad, Côte d'Ivoire, Benin, Lesotho, The Gambia, Guinea Bissau, Mauritania, Senegal, Tunisia, Togo, Mozambique, Morocco and the Central African Republic, stressed the link between climate change and other problems, such as desertification and extreme poverty, and called for technology transfer and financial assistance. Most South American countries supported emission reductions for developed countries and the need for technology transfer, but joint implementation caused a rift, with Chile, Costa Rica, Venezuela, Argentina, Bolivia, Uruguay and Peru in favor and Brazil against.

Countries with economies in transition, including Croatia, Slovenia, Bulgaria, Hungary, Slovakia, Poland, Romania, Latvia, Estonia, the Czech Republic and the Russian Federation, cited the need to integrate new technologies into their inefficient industrial sectors and stated that they would lower emissions as much as possible given their weak economies. Most Asian countries, including the Philippines, Indonesia, Malaysia, Thailand, Mongolia, Pakistan, Sri Lanka and Nepal, focused on the inadequate obligations of Annex I Parties and provision of financial resources and called for adoption of the "Green Paper." India and Bangladesh cited their environmental vulnerability and recent natural disasters as reason for immediate action on a protocol.

Oil-producing developing countries said the Conference should not rush forward but should base its action on solid scientific information. Kuwait expressed concern about the economic and social impacts of lowered emissions, and Saudi Arabia said that considering emission reductions impeded the progress of the Convention and overlooked possible positive effects of climate change on agriculture.

Developed countries agreed that the current commitments for Annex I Parties were inadequate but not on the extent to which they should be strengthened. The EU, Denmark, Austria, Finland, the Netherlands, New Zealand, Liechtenstein, the UK, Australia, Ireland, Switzerland, Italy, Portugal, Greece, Sweden and Monaco urged the Conference to produce a mandate for a protocol to be concluded by 1997. Many called for stronger and more specific emission reduction targets and commitments beyond the year 2000. Germany called for stabilization of emissions and cited its goal of halving GHGs, expressed in CO<sub>2</sub> equivalents, by 2005. Japan agreed that the next step was a protocol, and Canada stressed "technological twinning" between developed and developing countries. The US stated it was committed to the current reduction aims and that the Conference should produce a mandate to negotiate an agreement.

### CLOSING PLENARY

On Friday morning, 7 April 1995, President Angela Merkel opened the final session of the Plenary and introduced document FCCC/CP/1995/L.14, review of the adequacy of commitments in Article 4.2(a) and (b). She said that the industrialized countries' agreement to specific measures and the developing countries' agreement to reaffirm and advance existing commitments meant that the process would advance. She thanked all the delegates for



their diligence, flexibility and constructive attitude. After the decision was adopted, a number of delegates asked for the floor.

India said the decision to launch a process to strengthen the commitments made COP-1 a success, noting that consultations were not easy. He thanked environmental NGOs for their support.

The EU stated its understanding that the wording "developed countries/other Parties" in section II(2)(a) must be interpreted as "developed countries and/or other Parties" and means that this sub-paragraph applies to Annex I Parties within the European Community, individually or jointly among themselves, in accordance with Article 4.2(a) and (b) of the Convention.

After the first few speakers, the Plenary was interrupted by a group of protesters who ran down from the balcony and shouted that the delegates were not doing enough. Others draped banners and flung leaflets onto the Plenary floor. The security officers led them away as many supporters applauded. President Merkel remarked that the group had now heard another opinion, but added that overall NGOs had played a constructive role.

The US proposed, in light of Germany's efforts in organizing the Conference and the leadership of the President, that the Conference should designate this decision as "The Berlin Mandate."

Samoa, on behalf of AOSIS, expressed disappointment that the COP was unable to agree to words as clear and true as the AOSIS protocol. Although excluded from the final negotiations, AOSIS will not allow the world to barter the islands' future for short-term interests. He promised the island States will continue to play the role of the earth's early warning system to put the heat on this process, to close the commitment gap and to reach out for new partnerships. The upcoming negotiations should use the AOSIS protocol as the basis.

Saudi Arabia placed a reservation on the decision. He said his delegation had made many concessions to help the COP reach a solution. It is highly regrettable this document does not take into consideration everything submitted by his country.

The Marshall Islands expressed disappointment that negotiations moved below the lowest common denominator. Only a small number of countries remain obstinate and obstructionist. AOSIS countries are not happy but are willing to move forward and will not stop until they get commitments that should have been made in Berlin. He urged delegates not be self-congratulatory.

Fiji stated that the decision represented a minimalist document. The decision should refer to the clear need for reduction targets but instead only pays lip service to the AOSIS protocol.

Papua New Guinea stated that the biggest disappointment was the waiting game that developing States must play in adoption of the AOSIS protocol. He expressed frustration that the protocol was not adopted in Berlin.

Venezuela expressed disappointment that major positions have not been reflected in the document. He stated that Venezuela is determined to continue fostering measures that will help preserve the environment, and placed a reservation on the decision.

Kuwait found this document did not satisfy the Convention's requirements as a country with special needs under Article 4.8(h) of the Convention. He could not accept that the Conference had carried out a review nor that existing commitments in Article 4.2(a) and (b) were inadequate, and registered a reservation.

Mauritius said his delegation did not have very much to be proud of, and will leave Berlin with a sense of sadness for having something that is "half-baked." The wide support for the AOSIS protocol was not reflected in the final decision.

Malaysia shared the disappointment of AOSIS and said the language is as ambiguous as the original commitments adopted in 1992. Negotiations reflected the lack of political will by some countries to take urgent action.

The Maldives said small island States have been marginalized, sidelined and totally bypassed in some of the decisions. He lamented the short-sightedness, lack of political will and impossible situation where delegates fail to understand what is going on.

Iran said that Convention provisions have not been implemented as stated, and COP-1 should be reviewing current commitments. The unreasonably low price of oil will render any future commitments unrealizable, therefore the price of oil should be allowed to reach a reasonable level.

The United Arab Emirates said that the actions were not scientifically based and could not accept some parts of the decision on the adequacy of commitments.

The Plenary then considered the date and venue of COP-2. Uruguay expressed interest in hosting COP-2 and described the benefits of choosing his country to serve as host.

Turkey delivered a statement about its status under the Convention. Although listed among developed countries, Turkey is a developing country and its commitments under the Convention should reflect its level of development. He cited other international conventions and organizations that apply developing country status to Turkey and said that Turkey will sign the Convention only if granted immunities reflecting its unique position.

During the afternoon session, delegates adopted the decisions recommended by INC-11, listed in A/AC.237/91/Add.1. These include: Recommendation 1: The report on implementation; Recommendation 3: Preparation and submission of national communications from Annex I Parties; Recommendation 4: First communications from non-Annex I Parties; Recommendation 7: Methodological issues; Recommendation 9: Maintenance of the interim arrangements referred to in Article 21, paragraph 3 of the Convention; Recommendation 10: Arrangements between the COP and an operating entity or entities of the financial mechanism; and Recommendation 11: Initial guidance on policies, programme priorities and eligibility criteria to the operating entity or entities of the financial mechanism.

The COP also adopted the following decisions:

- FCCC/CP/1995/L.1, the report of the GEF;
- FCCC/CP/1995/L.2/Rev.1, financial procedures;
- FCCC/CP/1995/L.4/Rev.1, Convention budget;
- FCCC/CP/1995/L.5/Rev.1, roles of subsidiary bodies;
- FCCC/CP/1995/L.7, extrabudgetary funding;
- FCCC/CP/1995/L.8/Rev.1, other voluntary funding;
- FCCC/CP/1995/L.10, transfer of technology;
- FCCC/CP/1995/L.12, location of the Secretariat; and
- FCCC/CP/1995/L.13, activities implemented jointly under the pilot phase.

The President then suggested to transmit the draft Rules of Procedure, as contained in A/AC.237/L.22/Rev.2 and FCCC/CP/1995/L.2, to COP-2 for its consideration. This was adopted. The Plenary also adopted the report on the credentials of delegates to COP-1 (FCCC/CP/1995/6). Representatives from 117 Parties participated in this session of the COP. The Conference then adopted FCCC/CP/1995/L.15, on the date and venue of the second session of the COP. The decision notes Uruguay's interest in hosting COP-2 and that the Bureau will decide on the date and venue no later than October 1995. COP-2 will take place no later than October 1996. The Conference then adopted the Report of First Session of the Conference of the Parties (FCCC/CP/1995/L.6, Add. 1 and Add. 2). The Philippines, on behalf of the G-77 and China, introduced document FCCC/CP/1995/L.11, a resolution expressing appreciation to Germany and the city of Berlin, which the Conference adopted.

Saudi Arabia commented that because the Conference had not adopted the Rules of Procedure, the officers cannot be called "the

Bureau," but should be referred to as "officers of the first Conference of the Parties." The President replied that the Rules had been applied and officers will continue to serve as the Bureau.

The Plenary heard concluding statements from the Philippines, on behalf of the G-77 and China, Algeria, on behalf of the African States, Antigua and Barbuda, on behalf of the Latin American and Caribbean Group, Executive Secretary Michael Zammit Cutajar, and Chile, on behalf of the Valdivia Group, before COP President Angela Merkel closed the meeting.

## A BRIEF ANALYSIS OF COP-1

Was the first meeting of the Conference of the Parties to the UN Framework Convention on Climate Change a success? Unlike many UN conferences where delegates and observers leave the conference with both a sense of accomplishment and a sense of relief, evaluations of COP-1 depend on the group of countries or observers asked and the aspect of the Conference considered.

From an organizational or administrative point of view, COP-1 accomplished much more than the Conferences of the Parties for many other environmental conventions. The budget for the biennium 1996-1997 was adopted. Delegates also agreed that the GEF would continue to serve as the interim financial mechanism. The subsidiary bodies have been established and are set to begin work in October. The COP also adopted a number of decisions taken at INC-11 on: the preparation and submission of national communications from Annex I Parties; first communications from Parties not included in Annex I; arrangements between the COP and the operating entity or entities of the financial mechanism; and initial guidance on policies, programme priorities and eligibility criteria to the operating entity or entities of the financial mechanism. Finally, with help from creative problem-solving on the part of the Chair of the Committee of the Whole, Amb. Raúl Estrada-Oyuela, the Parties decided that the Permanent Secretariat should be established and located in Bonn. Although not everyone was pleased with this decision and the personal impact that it could have on the members of the Secretariat it was, nonetheless, accepted as the decision of the Parties.

## JOINT IMPLEMENTATION

Most of those delegates and observers who have been focused on the issue of joint implementation (JI) also left Berlin with a sense of accomplishment. JI was first placed on the agenda at INC-7. It is clear from Article 4.2(a) that JI can take place between Annex I Parties, but at INC-8 discussion opened on broadening JI to include developing countries. This raised developing countries' fears about its potential implications and impacts. Numerous developing countries viewed JI as a means for Annex I Parties to avoid domestic action to meet current commitments under the Convention. The developing countries were also concerned that JI be supplemental and not substitute for funding and the financial mechanism established under the Convention.

The shift in the position of certain developing countries at INC-11 towards voluntary participation of developing countries in a JI pilot phase was more widespread at COP-1. After a number of formal statements from Latin American countries, with the notable exception of Brazil, that favored a JI pilot phase with the participation of non-Annex I countries, it appeared as though a number of Asian countries soon followed suit. As acceptance of the pilot phase and the consensus that no credits shall accrue to any Party during the pilot phase grew within the G-77, Annex I Parties grappled with the credits issue. Some countries, particularly the US, continued to insist on emissions credits during the pilot phase.

When delegates finally reached consensus on the draft decision establishing the pilot phase, most of the reactions were positive. JI proponents and certain Annex I Parties felt that the pilot phase would alleviate the fears of developing countries and lead to greater

acceptance of JI. Developing countries were reassured that their participation in the pilot phase was voluntary and that no emissions credits would accrue. The fears of "trees for smoke" have been temporarily allayed.

## RULES OF PROCEDURE

Despite these positive steps, COP-1 was unable to resolve all of the matters before it. The Rules of Procedure have still not been adopted. While many view this as simply a bureaucratic matter, the two outstanding issues could have major implications for the future work of the COP. The inability of both the INC and COP-1 to arrive at a consensus on the Rules of Procedure also attests to their contentiousness and importance. The two major outstanding issues are the composition of the Bureau and voting procedures. The oil producing developing States continued to stand firm on language that would give them a seat on the Bureau and would force all protocols to be adopted by consensus. Some members of the EU continued to insist that all matters relating to the financial mechanism should be taken by consensus. Other members of the G-77 agreed that all matters should be decided by consensus or, if no consensus is possible, by a three-fourths majority vote. Despite numerous proposals put forward by COP-1 President Angela Merkel, the two weeks of consultations did not bear fruit. At the final Plenary session delegates agreed to send the Rules of Procedure to COP-2 for further consideration. Many are concerned about the effects that this impasse may have on the negotiation of a protocol to strengthen the commitments in Article 4.2(a) and (b) of the Convention. Since the OPEC member States are largely opposed to the protocol negotiations and are holding up agreement on the Rules of Procedure, they could effectively block the future work of the COP and its subsidiary bodies.

## ADEQUACY OF COMMITMENTS

The vast majority of the participants and observers at COP-1, however, focused their attention on the review of the adequacy of commitments and the negotiation of a mandate for negotiation of a protocol. Reactions to the outcome of these negotiations were strong and varied. Since the AOSIS countries submitted a draft protocol for consideration in September 1994, the discussions on the need for a protocol and the adequacy and implementation of existing commitments have been at center stage. In fact, many journalists and NGOs came to Berlin with the belief that if delegates did not agree to negotiate a protocol (or, in some cases, adopt the AOSIS protocol), the COP would be a failure.

At INC-11 there were multiple positions on this issue. The AOSIS draft protocol requires Annex I Parties to the protocol to reduce their CO<sub>2</sub> emissions by 2005 to a level of at least 20% below that of 1990, and to establish timetables for controlling emissions of other gases. Initially only some developing countries supported the AOSIS protocol. OPEC countries and China said that the protocol negotiations were premature since neither the best available scientific information nor the review of Annex I Parties' communications provided a sufficient basis for negotiations. OECD countries in general supported a comprehensive protocol on all GHGs, stating that negotiations should begin at COP-1. The US said only that it supported the need to consider "new aims" through negotiations under the SBI for the post-2000 period, generally avoiding the word "protocol." Nordic countries supported stronger action and countries with economies in transition said it was premature to take action on new commitments.

Upon arrival in Berlin, the most notable shift in position was that of India. Rather than opposing negotiations towards a protocol as it had in the past, India stepped forward and took the lead within the G-77 by preparing the first draft decision on the adequacy of commitments. When the G-77 and China could not endorse the Indian proposal, the meeting adjourned and, instead, India convened a meeting of like-minded States. This group of 72

countries — also called the “Green Group” — submitted this draft decision to the consultative group chaired by Amb. Bo Kjellén. The draft decision, which became known as the “Green Paper,” was a collective effort of developing countries and environmental NGOs who worked together to gain acceptance of the draft.

Despite this breakthrough, negotiations were not easy. Focus was diverted from the need to strengthen commitments to the differentiated responsibilities of developing countries. This reaction was largely the result of the German elements paper circulated at INC-11, which had included a section placing different commitments on different categories of developing countries. The developing countries consistently rejected this idea, but other OECD countries supported the notion that the more industrialized developing countries should accept additional responsibility for their GHG emissions. OPEC countries continued to insist that the time was not ripe for negotiation of a protocol. Certain OECD countries, including the US and Australia, could not endorse the AOSIS protocol as the basis for future negotiations because of the targets, timetables and the focus on CO<sub>2</sub> emissions rather than GHG emissions as a whole. Delegates negotiated day and night and finally on the last night of the Conference, the ministers were brought in at 11:00 pm to work out the final compromise. It took a full night of shuttle diplomacy on the part of COP President Angela Merkel, a few ministers and other sleep-deprived delegates to forge the final compromise, which was formally adopted on the last day of the Conference. Despite its adoption, the decision to establish an *ad hoc* open-ended group to negotiate a protocol or other legal instrument to strengthen the commitments in Article 4.2(a) and (b) was not universally embraced.

AOSIS countries accepted the draft, but decried the lack of transparency in the final phase of negotiations where no AOSIS delegates were present. They felt that it was a weak document that does not refer to the clear need for reduction targets and only pays lip service to the AOSIS draft protocol. Some AOSIS members blamed a small number of “obstinate and obstructionist countries” for the “vague, ambiguous and unfair” document.

The US and Australia, to name a few developed countries, seemed to be pleased with the outcome. The US called for the decision to be designated as “The Berlin Mandate.” Others felt that the decision to negotiate a protocol or other legal instrument was a positive step forward.

While environmental NGOs agreed with AOSIS that the mandate for negotiations was “soft” at best, they vowed to fight for the Toronto Target and the AOSIS protocol during the upcoming two years of negotiations. NGOs representing business and industry did not rejoice over the adoption of the decision either. One delegate commented that environmental interests gained more than business and industry interests. Echoing this thought, Saudi Arabia, Venezuela and Kuwait placed official reservations on the document since it did not satisfy their requirements as countries with special conditions recognized by Article 4.8(h).

### CHALLENGES FOR THE FUTURE

In spite of the mixed feelings about the COP’s decision, there is now agreement on a mandate for future negotiations. The inadequacy of current commitments has been recognized by the majority of Parties. For the next two years the focus of the Parties to the Convention will be on the negotiation of this protocol or other legal instrument. While these negotiations are crucial for the period beyond the year 2000, one cannot overlook the fact that most Annex I Parties, with the exception of the Netherlands and the Czech Republic, are not on the road to meeting existing commitments. This reality is a far cry from the positive statements delivered by Annex I Parties during the Ministerial Segment that made it appear as though the majority of Annex I Parties were in a position to reduce their CO<sub>2</sub> emissions to 1990 levels. Throughout the INC process as well as at the first Conference of the Parties,

environmental NGOs have been stating that actions speak louder than words. Commitments, existing or new, are worthless if they are not implemented.

The results of COP-1 may pose additional challenges for the future. The progress on addressing the adequacy commitments was achieved at the expense of excluding the most ardent supporters and opponents of expanded commitments from some of the critical negotiations. Some new coalitions, such as the Green Group, may have emerged, but major divisions between Parties have been left intact or may have even widened. The unresolved questions about the voting procedure and the composition of the Bureau in the Rules of Procedure are another shadow on the Convention’s future. Finding ways to overcome these differences will demand creativity and cooperation in the coming months.

## THINGS TO LOOK FOR BEFORE COP-2

**SUBSIDIARY BODY ON IMPLEMENTATION:** The SBI is scheduled to hold its first session in October 1995 in Geneva. The exact dates should be announced soon. The programme of work includes: consideration of the work plan; work relating to the follow-up to the review of the adequacy of Article 4.2(a) and (b); work relating to the review of national communications; and matters relating to the financial mechanism. Other sessions of the SBI before COP-2 are scheduled for February, April and July 1996.

**SUBSIDIARY BODY ON SCIENTIFIC AND TECHNOLOGICAL ADVICE:** The SBSTA is scheduled to hold its first session in October 1995 in Geneva. The exact dates should be announced soon. The programme of work includes: consideration of the work plan and relationships with the IPCC and other bodies; organization of the work of the intergovernmental technical advisory panels; planning for consideration of the IPCC Second Assessment Report; and work relating to review of national communications. The intergovernmental technical advisory panels are scheduled to meet in January 1996. Other meetings of the SBSTA are scheduled for February, April and July 1996. There is also a planned workshop on non-governmental inputs in January 1996. This workshop, open to all Parties and interested non-governmental participants, is expected to discuss the need for and possible scope, structure, membership and work plans of non-governmental advisory committees and/or a business consultative mechanism and report recommendations to COP-2.

**NEGOTIATIONS TO STRENGTHEN THE COMMITMENTS IN ARTICLE 4.2(a) and (b):** The dates have not yet been set for the first meeting of the open-ended *ad hoc* group of Parties to negotiate a protocol or other legal instrument to strengthen the commitments in Article 4.2(a) and (b). It is possible that the negotiating group will meet in October 1995, either before or after the meetings of the subsidiary bodies. The Bureau and the Secretariat are expected to take a decision on the dates after consulting with the UN Committee on Conferences.

**COP-2:** The date and venue of the second session of the Conference of the Parties will be decided by the Bureau by October 1995. The meeting will be of one week’s duration and will be preceded by meetings of the subsidiary bodies. Uruguay has offered to host COP-2, which will take place by October 1996.

**CLIMATE CHANGE HOMEPAGE:** The International Institute for Sustainable Development (IISD), publisher of the *Earth Negotiations Bulletin*, has created a “point of presence” on the Internet for the Framework Convention on Climate Change, which is accessible through Mosaic or similar World Wide Web (WWW) software. The Climate Change Homepage contains a searchable index to the issues of the *Earth Negotiations Bulletin*, links to the text of the Convention, official documents and background information. If you have Mosaic or other WWW software installed on your computer, point your WWW browser at <<http://www.iisd.ca/linkages/>>.