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HIGHLIGHTS FROM THE MEETINGS OF THE FCCC SUBSIDIARY BODIES 30 OCTOBER 1997

Delegates to the eighth session of the *Ad Hoc* Group on the Berlin Mandate (AGBM-8) met in Plenary in morning, afternoon and evening sessions.

AGBM PLENARY

Chair Raul Estrada-Oyuela convened the AGBM Plenary to address non-group outcomes. He said that although positions were still far apart, some progress had been made in what was the first round of negotiations on a consolidated text. He wondered whether the nature of diverging views, enclosed in brackets in the papers produced by the non-groups, could be explained to "an intelligent public not imbued with the subtleties of negotiations."

POLICIES AND MEASURES

The Chair of the non-group on policies and measures (P&Ms), Bakary Kante (Senegal), introduced a paper and said the group reached consensus on one of five sub-paragraphs in the AGBM Chair's draft text. On the chapeau, he noted that a reference to a specific article had been bracketed pending outcomes on voluntary commitments. He said the group had agreed on the first part of a sub-paragraph on the implementation and adoption of P&Ms by Annex I Parties to achieve QELROs but had disagreed on a part listing P&Ms under an annex. Two bracketed alternatives appeared for a sub-paragraph addressing the need to "try to avoid" or "take into account" adverse effects when implementing P&Ms. No agreement was reached on language indicating that Annex I Parties shall coordinate the implementation of P&Ms listed under an annex. Two proposed annexes listing P&Ms were attached to the document.

The US, supported by CANADA, JAPAN and AUSTRALIA proposed bracketing text that "the COP/MOP shall assess the application of P&Ms." The EU proposed merging two bracketed alternatives referring to P&Ms listed in an annex. CANADA, the US and JAPAN said that proposals on annexes had not been negotiated. JAPAN favored an alternative stating that P&Ms shall be adopted in accordance with national circumstances. HUNGARY noted its acceptance of coordinated P&Ms. The EU, the G-77/CHINA and AUSTRALIA agreed that P&Ms should not be listed in an annex but should be incorporated into the Protocol. The US expressed its preference for listing P&Ms under an annex. CAMBODIA called on all Parties to show some flexibility.

The Chair asked for comments on the COP/MOP assessment sentence. The US, CANADA and AUSTRALIA preferred removal or brackets. The EU disagreed. SLOVENIA said the sentence could be moved.

The Chair ruled that there was consensus to retain the text except for three countries. CHINA asked if the text would be communicated to Kyoto with brackets. The Chair said nothing is agreed until everything is.

The US raised a point of order that there was no consensus. The Chair said delegates could challenge his decision under the rules of procedure. The US, CANADA and VENEZUELA said there could not be consensus if delegations objected. VENEZUELA challenged the ruling. The Chair noted that a 2/3 vote was required to overcome the ruling and called for a vote.

EGYPT said delegations were referring to unanimity. The Chair's ruling on consensus reflected his sense of the negotiations. The Chair said it was necessary to distinguish between unanimity and consensus. IRAN and KUWAIT requested a legal opinion. The US proposed that the Chair produce a text of his conclusions. He said he feared voting on every paragraph and bracket. VENEZUELA accepted that the Chair had taken the sense of the meeting. The Chair said his ruling meant this. MAURITANIA said every decision should be left to Kyoto. HUNGARY asked delegates to "cool down."

SAUDI ARABIA said adoptions at this stage were meaningless. All amendments will be forwarded to Kyoto. He asked the Chair to relax. The Chair said with the challenge withdrawn, there would be no vote. He said it was clear that a group of countries was trying to stop the Convention and the protocol, but he would not be "held hostage" to countries methodically trying to stop progress.

The non-group Chair noted two alternatives for a paragraph on adverse effects of P&Ms. The US proposed a reformulation calling for assessment of the overall effect on climate change and Parties' social, environmental and economic situations. The G-77/CHINA requested a footnote linking the issue to a clean development fund.

On cooperation between Parties to enhance effectiveness, the EU agreed to take up the question of voluntary application of P&Ms in discussions on voluntary commitments, and discuss voluntary accession by non-Annex I countries on a basis easier than quantitative targets. After a Japanese amendment, the Chair wondered if Parties would eventually decide to reduce emissions "as appropriate."

EXISTING COMMITMENTS IN ARTICLE 4.1

The Chair of the non-group on FCCC Article 4.1, Evans King (Trinidad), introduced a report on his group's work (FCCC/AGBM/1997/CRP.I) on Articles 12 and 13. He said there has been substantial progress and that the text can establish the boundaries for future negotiation. There is no agreement on: mitigation and adaptation programmes, technology transfer, and taking account of climate change in policy. He said that specific measures to advance existing non-Annex I Party commitments and their relation to

financial provision and technology transfer is a substantive issue cutting across the work. Once a common understanding emerges, other brackets will also be resolved.

A representative of the environmental NGOs said the FCCC article applies to all Parties. The Chair of the non-group has failed to adequately advance implementation as obligations must be tightly defined and measurable, producing text riddled with qualifications and weak language. Advancement of Article 4.1 commitments are linked to technology transfer and supportive policies including innovative approaches to lever private sector involvement. Article 4.1 should not be used to negotiate commitments for developing countries through the back door.

The AGBM Chair noted that the Chapeau could be agreed with unanimity.

Delegates debated the order of "national" and "regional" programmes in a subparagraph on inventories. The G-77/CHINA proposed deleting "models" and adding a reference to adopted guidelines. The US and NEW ZEALAND objected. POLAND requested deletion of "cost-effective." The EU objected.

The G-77/CHINA objected to a list of "economically justified" mitigation programmes, suggesting it represents new developing country commitments and mirrors the P&Ms annex still under negotiation. She had similar objections to the following subparagraph's lists of adaptation programmes. She preferred deleting the lists and retaining the G-77/CHINA's alternative, separately describing Annex-I and developing country programmes. She amended the alternative to include programme information in national communications. JAPAN, the EU and US preferred to remove brackets from the mitigation list, noting that it is indicative. The US said the list is not new commitments but puts "flesh on the bones" of Article 4.1(b).

NEPAL added mountain development to the adaptation list. The US bracketed "protection measures for infrastructure" because of funding implications.

On transfer of technology, the G-77/CHINA proposed the deletion of a paragraph on promoting effective modalities for transfers because it would introduce new and unacceptable commitments under the protocol. She supported an alternative paragraph, based on the FCCC and Agenda 21. The US, supported by JAPAN and CANADA, suggested combining elements in the two paragraphs but objected to references to "financial and fiscal incentives" and "patent-protected environmentally sound technologies."

On procedures to ensure that climate change considerations are taken into account in governmental and intergovernmental decisions, the US recalled NGO support for environmental impact assessment and promoting climate friendly technology. The EU, supported by the US, proposed a reformulation, on the identification and implementation of procedures, specifying multilateral development banks. The G-77/CHINA said the commitment should not be subsumed in a protocol that has a limited thrust. This would amount to undertaking a new commitment. She said the reference to multilateral development banks would introduce a conditionality to financing. The text remains in brackets.

On sharing information on national development and use of indicators, the G-77/CHINA objected to the paragraph because it would amount to a new commitment under the protocol. The paragraph remains in brackets.

Chair Estrada remarked that Parties will have to limit the scope of the protocol below what was agreed in Berlin at some point.

On education and training, the US introduced an amendment on strengthening of national level education and training programmes, removed brackets from a reference to training experts "in particular for developing countries," and replaced a reference to methodologies with "modalities."

On communications on implementation of commitments under the protocol, the G-77/CHINA said that communications should be forwarded to the FCCC Parties. The US explained that for Parties to the FCCC communications will go to the COP, for Parties to the protocol they will go also to the protocol body. He said a role in developing guidelines should not be ruled out for the MOP. The G-77/CHINA said that she could not agree to report to any body but the COP.

QELROs

QELROs-1 non-group Chair Luiz Gylvan Meira Filho (Brazil) introduced a document resulting from the work of the two non-groups. He noted that key issues were bracketed and hoped they would be resolved in Kyoto. He indicated that there had been agreement on an article addressing supplementary information for annual inventories of GHGs and national communications by Annex I Parties. He pointed out that definition of values and dates was pending, as well as the consideration of removals by sinks under QELROs. He hoped the AGBM would minimize the issues it addresses regarding sinks, considering time constraints at Kyoto. He also called attention to a definition of "net" to be included in the Protocol.

Chair Bo Kjellén (Sweden) reported that further consultations were taking place on QELROs for Annex I Parties with economies in transition, that articles on emissions trading and joint implementation were completely bracketed, that an article on national communications was agreed to, except for specific references to an article on voluntary commitments and to the Meeting of the Parties, and that no agreement had been reached on voluntary commitments.

The AGBM Chair suggested that three alternatives on QELROs for Annex I Parties be referred as such to COP-3. NEW ZEALAND, supported by CANADA and JAPAN, indicated that the issue of removals by sinks had not been formally discussed by the non-groups on QELROs. JAPAN, supported by the UK and NAURU stated that references to "net" and "removals by sinks" that appeared in the text should be bracketed. AUSTRALIA, NEW ZEALAND, CANADA and RUSSIA said that references to "net" should not be bracketed. The US said language on "removals by sinks" should not be bracketed.

The AGBM Chair ruled that there would be "precautionary brackets" around the word "net" until the issue of sinks was settled.

EVENING SESSION

In an evening session, delegates began discussions on the QELROs non-group reports. As of 10:00 pm, they had considered Article 3 (commitments), *3bis* (joint fulfillment of obligations) and Article 4. Delegates debated retaining actual, rather than "precautionary," brackets on references to "net" emissions, noting difficulties with the definition of anthropogenic sinks. Delegates also discussed, *inter alia*: a G-77/China proposal reflecting a "flat rate" approach; flexibility for Parties with economies in transition undergoing the process of transition to a market economy; joint fulfillment of obligations; and bracketed references to budgets. Later in the session, the US, supported by CANADA and AUSTRALIA, suggested adding bracketed text on evolution of developing countries' commitments to the article on existing commitments. The Chair said he would not add the text.

A revised text is expected on Friday.

THINGS TO LOOK FOR TODAY

AGBM: AGBM will meet in Plenary at 10:00 am.