

New direction in Kyoto Protocol talks

Kuala Lumpur, 11 April (Lim Li Lin) -- The Ad hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) closed its Bangkok session on Friday, 8 April after four days of candid discussions on the future of the Kyoto Protocol. Japan and Russia declared that they would not accept a second phase of emission reduction commitments under the Kyoto Protocol, and instead are in favour of a new agreement that would also include other major emitters.

Japan said that it had made its position clear in Cancun. It has sent a letter to the UNFCCC (UN Framework Convention on Climate Change) Secretariat, saying that it has no intention of having a second commitment period. It said that its refusal is because the Kyoto Protocol only covers 27% of global emissions and that will decline. A single framework where all major emitters participate is needed. It said that it wanted to live with them in the same house, under one legal framework. However, it said that it is useful to discuss technical issues, because a single legal framework with all major emitters requires solid rules, and the discussion provides useful inputs.

The Russian Federation said that it has repeatedly stated, including at the highest political level, that because of the unfair approach to countries that are listed in Annex B (Annex I or developed countries that have emission reduction commitments under the Kyoto Protocol), it has decided that it will not be a Party to the second commitment period. However, it said that it is more than willing to engage constructively in raising the level of understanding on all the positive features of the Kyoto Protocol to give flesh to the regime, and it has no intention of blocking progress on these. It would like a new legally

binding instrument for the future. It is still Party to the Kyoto Protocol, and has no intention of withdrawing. Commitment is a separate issue, but there is still plenty of other work to be done in spin-off groups, it said.

At the start of the session on Tuesday, 5 April, **Tuvalu, supported by other developing countries**, refused to conduct the technical work of the AWG-KP in small spin-off groups until the political issues around the future of the Kyoto Protocol and its second commitment period (after 2012) are resolved. At the final contact group on Friday, further views were heard on how to proceed with the work of the AWG-KP and the political conditions that Annex I Parties have attached to their emission reduction pledges.

The Chair, Adrian Macey from New Zealand, distributed an updated version of 'Ideas from the discussion in the AWG-KP Contact Group meetings' that he had distributed the day before. He said that there is increased clarity around the conditions that Annex I Parties have attached to their (emission reduction) targets including those that are controversial, for example, a global agreement. He asked to what extent the Cancun decisions meet those conditions, and what is the quantitative relationship between targets and (accounting) rules. He expressed his wish to take that further and see the effect of different rules on the aggregate and individual targets. He asked if greater clarity could be achieved by looking at possible different scenarios given what Annex I Parties have said. The time is right for a political signal, he said. He also asked if there is agreement that we need to have a decision on rules and commitments at the same time. Clarification on

the intention of Annex I Parties regarding the use of the rules is needed, he said.

The Vice Chair, Madeleine Diouf, from Senegal also reported back on her consultation with Parties on legal issues. She said that there is wide support among Parties to convene a spin-off group on legal matters, and most Parties are open to beginning this work at the continuation of the session in June in Bonn. She said that Parties were interested to discuss the possible gap in commitment periods, and options for simplifying the amendment procedure in Article 21 of the Kyoto Protocol. She added that some Parties had addressed the issue of how to refer questions of a legal nature to the legal group, and whether this request had to come from the contact group (as is past practice) or could also emanate from the Chair.

In the discussion during the contact group, **Bolivia** said that from its perspective, the first pre-condition is that the commitments of Annex I Parties should be consistent with science. The main goal is to move away from the pathway of 4 degrees Celsius temperature increase, and the current pledges from Cancun of 13-17% emission reductions are unacceptable. The key issue, it said, is are we going to move forward in Durban, South Africa (where the next Conference of the Parties serving as the meeting of the Parties will be held in December 2011) and be in a range (of emission reductions) that is consistent with the integrity of earth and the climate system?

Secondly, Bolivia said that the rules should not undermine the emission reduction pledges or commitments. Rules should make those commitments stronger, not weaker, it said.

Thirdly, Bolivia said that the commitment of developed countries should be greater than developing countries. Data shows that developed countries are reducing their emissions by 3 gigatonnes of CO₂eq per year in 2020, and developing countries by 3.6 gigatonnes, at the low end of the pledges. At the high end, it is 3.7 and 5 gigatonnes respectively. With offsets and market mechanisms, the burden of this effort is transferred even more to developing countries. Developed countries are using 1 gigatonne of offsets, and therefore only reducing their emissions by 2 gigatonnes. The discussion on rules cannot pass more effort on to developing countries, it said.

Fourthly, Bolivia said that its pre-condition is that the legal framework for the second commitment period should be stronger than the first. If there is a new agreement, it must have stronger rules on compliance, and on targets. It does not support moving from the Kyoto Protocol system to a “pledge and review” system, backed by national legislation, without any kind of binding commitments or comparability of efforts among developed countries.

Many developing countries including Tuvalu, Brazil on behalf of the G77 and China, St Lucia on behalf of the Alliance of Small Island States (AOSIS), Ecuador, Gambia on behalf of the least developed countries (LDCs), and the Philippines also spoke during the contact group. They supported continuing the wider political discussion and not working in spin-off groups to discuss technical issues, and urged Annex I Parties to speak out to clarify their conditions attached to the second commitment period. The importance of the continuation of the Kyoto Protocol, the need to ensure that there is no gap between the end of the first commitment period and the start of the next commitment period, and the necessity of concluding on this issue by Durban was emphasized by them. They stressed the importance of environmental integrity of the emission reduction numbers, and that the rules must not weaken Annex I Parties' emission reduction commitments.

A number of Annex I Parties explained their positions.

Switzerland said that its position is fully in line with what was expressed by the EU and Norway the day before. It said that technical issues are fundamental for policy decisions, and that everything has to be dealt with together. It said that it was happy to work in spin-off groups to discuss the list of question and ideas distributed by the Chair, as well as the other technical work of the AWG-KP.

New Zealand said that on the issue of comparability of Annex I mitigation efforts, it does not have the answer yet. It said that for New Zealand, comparability is between developed countries, and the worth of their mitigation effort must be capable of being compared with some kind of similar metric. It favours a cost based metric, based on mitigation potential. For developing countries, their mitigation

action must be fully commensurate with their respective capabilities, and this is a political judgment, it said. It needs to convince its parliament that everyone is doing their fair share. In their minds, there could be a couple of factors for example, per capita GDP and mitigation potential, as all countries have different circumstances.

New Zealand said that the rules are also needed, and that it is necessary to agree them to launch a new period of political commitments. It supported the proposal that Colombia had put forward the day before, and said that scenarios are very important, for Parties to ask “what if?”, and “what does the second commitment period look like?” It said that there is a fine line between what is purely technical, political, and policy. In reference to the issue of making compliance stronger that was raised by Bolivia and supported by Ecuador, it asked whether the policy objective is to bring Parties in or to scare them away?

The **European Union** said that its starting point is also science and environmental integrity, which is the overall objective of the Convention to stabilize greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. It said that it is not about pre-conditions but logical conclusions of sticking with environmental integrity - how to act in one globe, as we live in one house.

It said that in Europe, the issue of its legislation and carbon leakage is being debated, is its legislation really effective or just substituting consumption products that are being produced more and more by developing countries? Nothing can be done unless developing countries take action. It said that it needs to see progress and implementation of the Cancun agreements in a big way. It said that it is a political judgment at a certain point of time, as to how many countries would need to be part of a global agreement, and it is clear that it must also include non-Annex I countries.

The European Union cautioned that the news headlines the following week might indicate that nothing happened in Bangkok, as this is not giving the right image to this process. Three months ago we agreed something, and now it seems like we are walking away, it said. It said that we need to discuss

rules, and their implications on the numbers. It supported moving forward with the Colombian proposal in June.

Australia said that emission reduction targets are only worthwhile if backed by credible claims, on commitments and rules. It said that its unconditional pledge of 5% reductions by 2020 on 2000 levels is based on existing rules. This means that new restrictive rules could affect its target. It said that it was useful to model, to indicate what the trends would be if the rules changed. Cancun went a long way towards addressing its conditionalities, it said.

It said that it requires advanced economies, high middle income countries that are not members of Annex I and other major economies as part of the global deal. It needs broad and functioning carbon markets, and a legally binding commitment by all major economies. A legal outcome does not prejudice how they participate, but that they do participate, it said. It supported the Colombian proposal.

Colombia suggested that developed countries should start a discussion in their countries to guide us further as to what would be enough (in terms of meeting developed countries’ conditionalities). It suggested having a large group discussion on the three issues that it had proposed the day before: 1) developed countries’ conditionalities; 2) assessment of progress towards meeting those conditionalities, and how to reach the thresholds. This would require modeling, to understand what that would look like; and 3) political scenarios leading up to Durban.

The Philippines and Tuvalu referred to the mandate of the AWG-KP set out in Article 3.9 of Kyoto Protocol, which is to establish commitments for Annex I Parties for subsequent commitment periods.

Tuvalu said that Russia and Japan do not want a second commitment period but want to engage on the rules, whereas the mandate in Article 3.9 is clear, and there is no mandate to discuss the rules. It said that Russia and Japan want to have the discussion on the rules in the AWG-KP but in another context. The other developed countries may commit to a second commitment period but argue that the rules must be set first. It re-called the discussion in Kyoto (at the conclusion of the Kyoto Protocol negotiations) and

after, where developing countries accommodated this demand, but those Parties did not participate. So rules first, and then non-participation later, it said. It does not want to go down that path again. We want to be clear – the rules will apply to those that will be Parties, not to those that do not want to be Parties, it said.

Tuvalu and Bolivia rejected moving forward on the basis of the Colombian proposal. Marshall Islands considered that the Colombian proposal has some merits but that the political discussion should continue and intensity in June.

The Chair concluded that a broad contact group that can look at political issues was needed, and there are ways to progress, for example the proposal by Colombia. He said that negotiations ends in text, and there is a risk that this process can lead to a talk fest. This is the single biggest challenge of the UNFCCC negotiations, and other issues also need to be addressed so that time is not lost, he said.

At the final stocktaking plenary, statements were made by countries and country groupings including by Peru, Ecuador, Saudi Arabia, Argentina for the G77 and China, Switzerland, St Lucia for AOSIS, Australia for the Umbrella Group, the European Union, Tuvalu for the LDCs, Egypt for the Arab Group, Bolivia, China, Mexico, South Africa, India and Bangladesh.

Argentina, speaking for the G77 and China, said that the adoption of the second commitment period is the key and necessary outcome for success in Durban. All necessary efforts must be taken to avoid a gap between the commitment periods. Annex I countries must present ambitious numbers that will provide for deep cuts in greenhouse gas reductions that are required according to science.

It said that the fact that some Annex I countries were so clear on their non-commitment to the second commitment period confirmed that technical issues have to come after political willingness. It said that some countries still do not understand that there are two distinct and parallel negotiating tracks that must be respected. We want progress in both tracks, but we should respect each track's mandate and not allow positions that can undermine positive outcomes to be reached in both of them, it said. Under the AWG-KP,

the mandate is to complete our work as early as possible and in time to ensure that there is no gap between the first and second commitment period, it said.

Switzerland said that it had expected more progress, after the dynamic impulse provided by the Cancun agreements. Nevertheless, it admitted that the discussions were very useful, in particular for the space to address the conditions for the participation in the second commitment period. It noted that this kind of discussion has also taken place under the Ad hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) mitigation workshops. It said that it would like to continue to consider policy issues, and that in parallel, the negotiations on the technical issues should continue in order to conclude our work as soon as possible to ensure that there is no gap between the commitment periods. It acknowledged that emission reductions under the Kyoto Protocol will not be sufficient for reaching the ultimate objective of the Convention. Therefore we have to increase our individual and aggregate objectives, it said.

St Lucia, speaking on behalf of AOSIS, said that their top priority is the second commitment period under the Kyoto Protocol. It asked for leadership to be demonstrated in the second commitment period under the Kyoto Protocol as part of a two-track approach with a legally binding agreement under the AWG-LCA. It said that an open discussion on political issues is absolutely essential, and it looked forward to continuing the process in order for a decision to be taken early enough in Durban. It said that there are two broad outcomes from the discussion: some Parties clarified their conditions, and some indicated that they do not intend to commit. It said that at the continued session in June, the first set should be addressed, on how to give these Parties comfort. It suggested that two technical papers could be usefully updated – the technical paper on mitigation potentials and means to reach targets – in the context of the greater ambition required and the gigatonne gap.

Australia, speaking for the Umbrella Group, said that it has listened carefully to the views on the division of political and technical issues, and that this

year we need to ensure that enough time is allocated to allow us to complete all of our work in time for Durban. It said that this would be useful to think about how to reframe the discussion of rules, their relationship to commitments in a broad context, and ways and means to implement them.

Hungary, speaking for the European Union, said that some discussion is necessary of the political context, and also the scientific context, to ensure environmental integrity. It said that it wants to continue to engage in this discussion. At the same time, we need to see that the Kyoto Protocol is not working in isolation, it said. The level of comfort stems from the progress of work in the AWG- LCA. No matter how many political discussions about the overall framework, we need to make sure that the technical work goes ahead in parallel, as there is a link between the pledges and rules. It said that the work of the spin off groups is required.

Tuvalu, speaking for the LDCs, said that the discussion has been useful and interesting. Some Parties will not adopt a second commitment period. There are also a wide variety of conditionalities for example, comparable efforts, comprehensive agreement etc. We need to understand fully the conditions to the political outcomes, and it is not

useful to go into technical details unless we know who we are talking to, it said. It said that the agenda that was adopted should not be changed, and should be the same for the next session of the AWG-KP.

Egypt, speaking for the Arab Group, said that agreement on the second commitment period is a pre-requisite to advance negotiations in the AWG-LCA. It said that the group would not be in a position to positively interact in case of failure to meet this objective. Attempts to delay the discussions within the framework of the AWG-KP cast doubts on the political commitment of some Annex I Parties. Two Parties have indicated their unwillingness to enter a second commitment period, while others have set pre-conditions, insisting on concluding technical discussions as a first step, it said. This is a clear breach of our mandate and sends negative signals about intentions and seriousness. It said that the Kyoto Protocol is the only legal tool so far in the international institutions of climate change, and has so far contributed effectively to the establishment of rules to deal with global climate change. The assumption that the Kyoto Protocol only covers a small percentage of global emissions is incorrect and misleading, it said.