

Kyoto Protocol second commitment period still mired in differences

Doha, 28 November (Chee Yoke Ling) – Protracted negotiations of almost seven years on the second commitment period of greenhouse gases emissions reduction under the Kyoto Protocol continues to be mired in disagreement between developing and developed countries.

Developing countries want the Doha talks to produce increased ambition in emission reductions for the second commitment period (CP2) while developed countries seem set to maintain their currently weak targets, with uncertainty over the future review of those targets. Developing countries are also insisting that the CP2 be established in a ratifiable legally binding amendment of Annex B of the Protocol, that contains the quantified emission limitation or reduction objectives (QELROs) of each developed country Party. Many developing countries also want a legal provision for provisional application of the QELROs from 1 January 2013 that developed countries do not support. According to several developing country delegates, without provisional application on a legal basis, the reduction commitments would be rendered voluntary.

The 17th session of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) began its last phase of work on 27 November at the ongoing UN climate conference (26 November to 7 December).

At the opening plenary of the AWG-KP, Chair Ms. Madeleine Diouf (Senegal) stressed that it is time for Parties to finalise the work of the working group and to fulfill its mandate (to consider further commitments for the period beyond 2012 and accordingly adopt in Doha a decision on the amendment of the Protocol for the second commitment period).

The unresolved issues for Doha mandated by the 2012 Durban conference are outlined in a scenario note by the Chair: (1) length of the second

commitment period (5 or 8 years), and mitigation ambition; (2) legal continuity from 1 January 2013 (recognizing there will be a gap before Parties can legally ratify the amendments to be made to the Protocol); (3) operational continuity from 1 January 2013 (to ensure that implementation of the second commitment period can commence on that date, with a key issue being the eligibility of Parties to access the flexibility mechanisms; and (4) carry-over and surplus of tradable units (a majority of Parties are concerned that these constitute a major loophole and can lead to developed country Parties using these assigned amount units to account for their weak targets and then effectively not undertake any emissions cuts).

(Developed country Parties' Kyoto Protocol targets for limiting or reducing emissions are expressed as levels of allowed emissions, or "assigned amounts," over the 2008-2012 first commitment period. The allowed emissions are divided into "assigned amount units" or AAUs. More than actual emissions units can be traded and sold under the Protocol's emissions trading scheme.)

Diouf stressed that addressing these issues and ensuring balance (with the other two simultaneous tracks on long term cooperative action and further enhanced action under the Durban Platform, both under the UNFCCC) is our common task and challenge here in Doha.

She also tabled a proposal to facilitate negotiations (see document FCCC/KP/AWG/2012/CRP.1), explaining that this "conference room paper" was prepared under her responsibility as Chair and that it will be revised as discussions progress. She explained that the proposal is based on the work of the AWG-KP to date as presented in the non-papers prepared at the end of the informal AWG-KP session held in Bangkok, Thailand on 30 August to 5 September.

Diouf further updated Parties on discussions undertaken outside of the AWG-KP, including

discussions at the pre-COP ministerial meeting in Seoul, Republic of Korea, held on 23-24 October 2012 on an invitation-only basis, and informal consultations convened by the Chair in Bonn, Germany on 12-13 November on eligibility issues relating to the Kyoto Protocol second commitment period. The latter was at the request of the AWG-KP during the informal Bangkok session

She also informed the Parties that a committee will be convened for the legal and linguistic review of the amendments to be made to the Protocol to incorporate the second commitment period, as was done when the Protocol was finalized. However, many reservations have been made by many Parties, especially regarding the composition of this committee and she will take these reservations into account.

Parties will meet daily in a spin off group on “numbers” (the QELROs and aggregate reduction target) for the rest of the week, and on Saturday 1 December the AWG-KP will meet to take stock.

As the AWG-KP began its work, Australia, Kazakhstan and Monaco has formally submitted their respective QELROs for the second commitment period and these were presented and discussed at the contact group that met immediately after the opening plenary. The weak QELRO of Australia, amounting to a 5% reduction by 2020 based on 2000 levels was subject to several questions by other Parties.

Algeria speaking on behalf of the G77 and China outlined benchmarks for a successful outcome in Doha. The second commitment period must be ambitious and begin with effect from 1 January 2013 without any gap between the first and second commitment periods with the adoption of ratifiable amendments to the Kyoto Protocol, particularly Annex B (on QELROs).

Annex I Parties must commit to ambitious QELROs to make the second commitment period meaningful and to effectively address the urgency to stabilize the global greenhouse gas concentration in the atmosphere and limit the temperature rise to well below 2 degrees.

The access to the flexibility mechanisms must be made available only to those Annex I Parties that adopt commitments under the second commitment period.

Algeria also reaffirmed the proposal earlier submitted by the Group on addressing carry over of AAUs (assigned amount units).

Nauru speaking for the Alliance of Small island States (AOSIS) said that in the close to 7 years spent

negotiating further commitments for Annex I Parties under the Kyoto Protocol, each year has seen the impacts of climate change accelerate. It stressed that to be credible, in Doha the AWG-KP must deliver amendments to the Kyoto Protocol that establishes a five-year second commitment period to run from 1 January 2013 to 31 December 2017. This second commitment period must have a single, common and legally binding base year of 1990, with commitments that are provisionally applied pending their entry into force from 1 January 2013, to ensure that there is no gap between the first and second commitment periods.

To achieve this, said Nauru, the overarching issue to be addressed in Doha is the ambition of Annex I Party commitments. Study after study has told us that the level of mitigation ambition on the table from Annex I Parties is inconsistent with the achievement of staying below 2 degrees and our goal of staying well below 1.5 degree.

Referring to the most recent UNEP reported mitigation gap of 8-13 million tonnes by 2020, Nauru emphasized that closing this gap remains technically feasible only by increasing ambition beyond the current pledges.

It said that most of the proposed QELROs in our KP discussions derive from pledged ranges of possible reductions first presented by Parties in 2009 (at the Copenhagen climate conference). However, many of the individual QELROs brought forward are now plainly inadequate and inconsistent with pathways to the agreed global goal (of 2 degrees). Annex I Parties must present ambitious targets that are consistent with the scale of the challenge.

Nauru said that the KP must not be an exercise in creative accounting, or a public relations exercise; commitments must be real and they must deliver effective emission reductions.

It expressed grave disappointment by Annex I Parties that now claim to be “helping” the process move forward, by retreating from their Kyoto commitments, or declining to take legally binding commitments under the KP’s second commitment period in the guise of freeing themselves for a future agreement we do not yet have (referring to the Durban Platform outcome). AOSIS viewed this an abdication of responsibility owed to the international community under the KP and an abdication of responsibility owed to the most vulnerable among us.

Nauru strongly reiterated that Annex I Parties can, and therefore must, do more. It expressed frustration at the seven years of talk and talk, and dismay at being told again and again by scientists that the grand

experiment we are engaged in with the world's climate system is beyond irresponsible, as we risk crossing climatic tipping points at temperature increases even below 2 degrees. It asked, how many more times do small island states and least developed countries have to entreat developed country Parties to do more, before the fundamental injustice of climate change sinks in and Annex I Parties step up their ambition?

It stressed further that the time for an increase in ambition is here in Doha. Annex I Parties have agreed to take the lead in reducing emissions and this is the time to demonstrate this leadership decisively through ambitious, credible and transparent reductions.

Swaziland speaking for the Africa Group strongly cautioned against attempts to load this meeting with Consequential Amendments (to the Kyoto Protocol). In our view this meeting needs to agree on the rules that will apply for CP2 (the second commitment period) and agree on necessary amendments. Furthermore the meeting needs to identify the subsequent consequential amendments required and refer these to the subsidiary bodies for elaboration with a view of adopting these at CMP 9 (the 9th meeting of Protocol Parties in 2013).

It said that the other critical area that needs agreement is putting in place the transitional arrangement in the CMP decisions to avoid the operational gap (between the first and second commitment periods).

The Africa Group will advocate for an agreement on a decision to *Agree* that Kyoto Protocol flexible mechanisms continue to exist for the second commitment period and they are available to only KP Parties that have ratified the CP2. The Marrakesh Accords (on rules) will apply to the second commitment period until identified consequential amendments are adopted at the CMP 9. It said this gives certainty to markets and investors that CDM & Trading will continue without any gap.

Swaziland said that on entry into force the Africa Group has put forward a revised proposal that caters for Parties with various circumstances. There is no excuse for anybody not to join the CP2. What we will not agree to is a number of proliferating conditionalities associated with old and new QELROs and excess use of carry over (of AAUs) in the CP2.

On the length of commitment period, the Group's position is 5 years and we request a slot to further negotiate the level of ambition with the intention to raise the current pledges. Swaziland stressed that the Group knows that our partners are capable of more, at little cost though, and would urge them in the next ten days to demonstrate their leadership in this regard by giving us more.

(The Group's call for dedicated time in Doha to negotiate the level of ambition was subsequently supported by AOSIS, and the Least Developed Countries Group which also said that the QELROs on the table are unacceptable. The Chair indicated that this could be addressed in the existing organisation of work.)

Saudi Arabia speaking for the Arab Group of 22 countries said that the Kyoto Protocol has effectively contributed in establishing the rules of the global system to deal with climate change, and has achieved positive results. It emphasized that reaching agreement on a second commitment period during this session and the subsequent commitment periods is a legal obligation of Parties, but there must be clear commitments and ambition of Annex I Parties to reduce their emissions.

The Group also expressed deep concern over attempts to abandon key principles governing international cooperation to deal with climate change, or re-negotiate, or terminate the Kyoto Protocol and modify its provisions to evade legal responsibility of developed countries for the leadership of the international effort to reduce emissions.

It urged Annex I Parties to commit themselves to scaled-up emission reduction objectives consistent with science and the conclusions and estimates of international reports, particularly the report of the Intergovernmental Panel on Climate Change (IPCC). It also stressed the challenges posed by climate change to developing countries, especially Arab countries, to achieve sustainable development and poverty eradication, and sees the need to reach a comprehensive results on the basis of the principles and the terms of the UNFCCC and the Kyoto Protocol, taking into account the historical responsibility of developed countries for the bulk of greenhouse gases causing global warming and climate change.

Gambia speaking for the Least Developed Countries (LDCs) supported the statements of the G77, Africa Group and AOSIS. It stressed that the overarching objective of our work here is to preserve the Kyoto Protocol as the internationally legally binding, rules-based regime to ensure environmental integrity, transparency of action which is able to deliver real, substantial and verified emission reductions – that can be built on for the future regime negotiated under the ADP.

While agreeing that in Doha, we will close one chapter and open another, Gambia said however, we must understand that opening of a new chapter without the proper closure of the previous one will not lead to an ambitious future but will only lead to further

increasing the mistrust.

Therefore, it emphasized, the nature and scope of the outcomes of the Kyoto Protocol second commitment period will decide the fate of the ADP negotiating stream and its work plans.

Gambia added that it is therefore crucial to agree on ambitious, internationally legally binding second commitment period with as many Annex I Parties as possible.

It said that this implies adopting a 5-year commitment period to avoid locking in insufficient ambition for a longer period of time; Annex I Parties moving to the top of their pledged ranges by removing all conditionalities; limitation of carry-over or removal of surplus Kyoto Protocol units; and the provisional application of KP amendments.

Gambia also said that we must maintain the compliance system of the KP for the second commitment period and flexible mechanisms are conditional on participation by Annex I Parties to a second commitment period under the KP.

It further said that those Annex I countries that are not parties to the KP must also take more ambitious and comparable mitigation commitments under the LCA.

While it welcomed Australia's submission of QELROS to the second commitment period, it urged them to remove the conditions which will allow them to emit rather than reduce their emissions.

Gambia reiterated that the KP is a priority for a successful outcome in Doha, and this is what more than 100 countries in the LDC and AOSIS groups are calling for.

The Philippines speaking on behalf of Algeria, Argentina, Bolivia, China, Cuba, The Democratic Republic of the Congo, Dominica, Ecuador, Egypt, El Salvador, India, Iran, Iraq, Kuwait, Mali, Mauritania, Nicaragua, Pakistan, Paraguay, Saudi Arabia, Sri Lanka, Sudan and Venezuela reiterated that the Kyoto Protocol is the only legally binding, rules-based instrument with quantitative emissions reduction targets for Annex I Parties. KP is also the fundamental basis for ambition in the Climate Change regime under the UNFCCC, especially in the pre-2020 period. For this reason, it must be preserved.

The group said that adoption of a second commitment period of the KP was the key part of the so-called Durban package on which the other parts of the package depend. Therefore the operationalization of the commitment period is the most fundamental deliverable for Doha, for which there can be no

further quid pro quo.

For the KP negotiations to be successful, we must establish a ratifiable legally binding amendment to the Annex B of the KP which must enter into force on 1 January 2013. The Annex I Parties to the KP must commit at Doha to ambitious QELROS to be provisionally applied as of 1 January 2013, with such QELROS putting them on a pathway to reducing their emissions to at least 40-50% below 1990 levels by 2020 and at least 25-40% by 2017.

The group stressed that the ambition question is as important as the legal one. It is important that those developed countries committing themselves to the second commitment period undertake ambitious targets so that the level of ambition is meaningful. Currently, the ambition levels pledged are very low. In order to be meaningful, the emission reduction targets must be sufficiently deep and in line with the requirements of actions to stabilise GHG concentrations in the atmosphere.

It is equally important that developed country Parties that do not commit to targets in the second commitment of the Kyoto Protocol should undertake quantified emission reduction commitments under the UNFCCC that are comparable. Those developed countries outside the Kyoto Protocol or opting out should not get away with low emission cut targets. It is this comparability that would ensure environmental integrity in accordance with the principles of the UNFCCC. It will also be in line with the historical responsibility of all developed countries to take the lead in combatting climate change.

Access to the Kyoto Protocol's flexibility mechanisms can be made available only to those Annex I parties that have commitments under the second commitment period of the Kyoto Protocol.

The Kyoto Protocol's compliance mechanism would be applicable to commitments under the second commitment period.

The use of surplus units from the first commitment period must be limited in the second commitment period to protect the environmental integrity of the second commitment period. It is also the group's understanding that pending the ratification and entry into force of the 2CP, the issuance or transfer of any unit, CERs, ERUs, AAU by Parties of the KP will not be authorized.

The group further stressed that it is not acceptable to have the operationalization of the second commitment period conditioned to other decisions. The second commitment period is an obligation of developed parties and already agreed to at Durban. Those developed countries that are not fulfilling their

responsibility and instead are going out of the 2CP must face the world for their actions.

The group underscored that the final and proper resolution of all the issues under the AWG-KP that would render an effective and meaningful second commitment period of the KP is of paramount importance for progress in the other tracks of this process.

China speaking on behalf of Brazil, India, South Africa and China (BASIC) said the Kyoto Protocol remains a cornerstone of the international climate regime, and that its second commitment period is the key deliverable for Doha, furthermore it is an essential basis for ambition within the regime. It underscored the importance of an effective and legally binding second commitment period through fully ratifiable amendments that should enter into force from 1 January 2013.

The group urged developed country Parties to the Kyoto Protocol to raise their level of ambition in their QELROs in Doha, consistent with what is required by science and their historical responsibility. It also underscored the need for continued discussion on higher QELROs by the COP/MOP.

It also urged developed country Parties that do not commit to QELROs in the second commitment period of the Kyoto Protocol to undertake quantified emission reduction commitments under the UNFCCC that are comparable in terms of form, magnitude and compliance. We reiterate our understanding that developed countries that are not Parties to the Kyoto Protocol or do not participate in its second commitment period would not benefit from the Clean Development Mechanism of the Kyoto Protocol.

It stressed that the Kyoto Protocol's compliance mechanism should be applicable to commitments under the second commitment period and the use of surplus units from the first commitment period must be limited in the second commitment period in order to preserve the environmental integrity of the second commitment period.

The **European Union** said that once we leave Doha, we will immediately apply the second commitment period, and will do this regardless of the timing of ratification and entry into force of the Kyoto Protocol amendments. However, it also said that there were outstanding issues including ambition and coherence of the overall climate regime, surplus AAUs, continuity between the two commitment periods and

eligibility.

The EU said that in light of recent World Bank and UNEP reports it shared concern over the level of QELROs submitted so far and that the QELROs to be decided in Doha should be seen as a floor, not a ceiling. It reiterated its preference for an 8-year commitment period combined with a process to enable Parties to increase ambition both collectively and unilaterally during the commitment period.

It emphasized that resolving the issue of access to the market-based mechanisms is essential to make the second commitment period operational as of 1 January 2013.

Australia speaking on behalf of the Umbrella Group (Japan, Kazakhstan, New Zealand, Norway, Russia, Ukraine and Australia) said in Durban our ministers struck a deal to protect us from dangerous climate change and that the commitment period of the Kyoto Protocol was central element in that deal, and bringing it to life will be essential to a successful outcome in Doha.

It said that since its inception, the Protocol (implementation) has leveraged billions of dollars of trade, investment and technology transfer for the benefit of developing and developed countries and for the climate. Parties must work in the real world and not just be numbers in an annex, and so the second commitment period must be 8 years long – this has been the basis of domestic policy processes of many second commitment period Parties. It said that form must follow function, and the notion of provisional application is impossible for some Parties to implement and will not make the second commitment period any more real for Parties or the climate.

The Umbrella Group also called for the expansion, not limitation, of participation in the KP's market mechanisms.

Lichtenstein speaking on behalf of the Environmental Integrity Group (Mexico, Monaco, Republic of Korea, Switzerland and Lichtenstein) also reiterated that an 8-year second commitment period is most convenient for all and that on ambition, we can make sure that the targets to be adopted here are to be floor and not ceiling, and political will is therefore needed.

It expressed concern that the carry over of AAUs risk undermining ambition and that we clearly need further work on ambition and cannot accept that this issue is left unsolved.