

AD HOC WORKING GROUP ON LONG-TERM COOPERATIVE ACTION UNDER THE CONVENTION

Twelfth session

Tianjin, 4-9 October 2010

Drafting group on mitigation commitments or actions by developed country Parties (item 1b(i) of the Bali Action Plan)

version of 9 October 2010 @ 14:00

Note by the co-facilitator

Facilitator's reflections on the issues discussed by the 1b(i) drafting group

I. Language on the relation to KP targets + “safeguards” on that relationship

1. In their interventions, Parties referred to the following paragraphs in Chapter 1 of FCCC/AWGLCA/2010/14: 15, 16, 17, 18, 18bis, 19. The facilitator noted the following points raised by Parties:

- relation between the quantified emission reduction targets discussed under AWG-LCA with the targets that are being discussed for the second commitment period is crucial; also crucial is continuity of the Kyoto Protocol
- negotiation under 1b(i) relates to Annex I non-KP Parties only, in order not to duplicate the AWG-KP track
- discussions should be constructive but within the Convention and the Bali Action Plan
- the current framework for mitigation does not correspond to today's realities and will need to do so, or will need to be changed
- commitments will need to be symmetrical in a sense that large developing and emerging economies must take on commitments of the same legal character
- language from the Copenhagen Accord could be used
- negotiations on 1b(i) at AWG-LCA have to be independent from the AWG-KP discussions
- this is not an issue that falls within the context of item 1b(i) of the Bali Action Plan

II. Language on the relation to mid-term/long-term aggregate target for developed countries

2. In their interventions, Parties referred to the following paragraphs in Chapter 1 of FCCC/AWGLCA/2010/14: 18, 18bis. The facilitator noted the following points raised by Parties:

- there is currently a lack of ambition and need for urgency; a Cancún decision should recognize that
- individual commitments should be linked to a collective long-term target for Annex I Parties
- a “top-down” approach should be used for determining targets
- there is a need to adhere to the IPCC ranges for both developed and developing countries
- proposal on ‘carbon budget’ should be taken into consideration

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- targets for Annex I Kyoto Protocol Parties should come through AWG-KP, targets for non-KP Parties should be determined under AWG-LCA and be comparable with targets for KP Parties
 - a collective target for Annex I Parties only is not practical because it leaves out major emitters; such a target should not be part of an agreed AWG-LCA outcome
 - level of ambition should increase for both Annex I and non-Annex I Parties
 - a collective level of ambition may be part of a review process under the Convention
 - unrealistic levels of ambition that cannot be met will not be a practical element of an outcome

III. Language on the “graduation” concept and criteria for inclusion into Annex I

3. The facilitator noted the following points raised by Parties:

- the world has evolved much since 1990 and that is why further differentiation is needed
- graduation becomes more necessary if Annex I and non-Annex I Parties actions and a relative balance among actions and approaches for developed and major/emerging economies are unacceptably differentiated
- there is no reason why not to open a discussion on “graduation”, changes since 1990 justify that; some aggregate criteria could be helpful
- “graduation concept” is clearly not acceptable because it has no basis in the Convention and also in the Bali Action Plan
- the Convention already allows joining Annex I voluntarily; a “graduation” concept is therefore unnecessary
- discussion of “graduation” requires time and this can lead to a lack of focus on other issues which should be achieved in Cancún; such discussion can also undermine trust among Parties
- GDP per capita or similar criteria are not appropriate for “graduation” because they do not reflect the mitigation potential, especially for small countries
- another solution could be self-selection of commitments
- instead of introducing “graduation”, one could use differentiation in actions
- the issue of “re-classification” of Annex I and non-Annex I Parties is still on the table; this issue is different from “graduation”

IV. Inscription of targets/commitments for developed countries under AWG-LCA

4. In their interventions, Parties referred to the following paragraphs in Chapter 1 of FCCC/AWG/LCA/2010/14: 14, 15, 16, 17, 19. The facilitator noted the following points raised by Parties:

- “what needs to be inscribed”: this leads to the relation between the quantified emission reduction targets discussed under AWG-LCA with the targets that are being discussed for the second commitment period; similarly, this is linked to issues of comparability, MRV and compliance
- the need to “inscribe” relates to Annex I non-KP Parties only
- pledges could be captured in an INF document rather than in a decision
- “inscription” through an Appendix to a Cancún decision would not be acceptable; such an Appendix could be considered for a final legally-binding outcome only
- “inscription” is a wrong approach because it implies a “bottom-up” approach instead of the “top-down” approach which is needed at AWG-KP and AWG-LCA
- compilation of pledges has already been done, under the AWG-KP and elsewhere, there is no need to return to this
- capturing of the pledges in a decision would be useful and would not interfere with the AWG-KP process, provided that the decision clearly says that it is an interim step to the final legally-binding outcome without pre-judging on the form of the outcome, and that a clear reference/assurance to the 2nd commitment period under the Kyoto Protocol is made
- capturing the pledges should bring them into the AWG-LCA process and launch a reflection on them, including on the effort behind the pledges; the form of “capturing” is of secondary importance

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- inscription of economy-wide targets in an Appendix is the most practical way of moving forward that reflects convergence reached in Copenhagen
 - the Copenhagen Accord should be used as a starting point for both Annex I and non-Annex I Parties, also in terms of capturing pledges in a decision
 - consideration of a legal agreement in the future does not prevent a political agreement on pledges now
 - inscription of commitments/actions is linked to other key issues, such as the inscription of commitments/actions for non-Annex I Parties and a robust MRV framework
 - inscription of pledges is needed for all major economies

V. Language on the relationship to the final agreed outcome of AWG-LCA

5. The facilitator noted the following points raised by Parties:

- decision on the legal form of the outcome of the AWG-LCA is urgently needed; this should include a relation between the two tracks
- relation between the quantified emission reduction targets discussed under AWG-LCA with the targets that are being discussed for the second commitment period is crucial; also crucial is continuity of the Kyoto Protocol
- legally-binding agreement needs to be balanced
- any mandate for a legal agreement must make it explicit that obligations apply to developed countries and major developing/emerging economies
- the outcome should include reference to economies in transition and countries with special circumstances recognized by COP decisions
- the terms “developed/developing countries” should be used rather than “Annex I/non-Annex I Parties”

VI. Language to define MRV focus = emission limitation/reduction targets/commitments by developed countries

6. In their interventions, Parties referred to the following paragraphs in Chapter 1 of FCCC/AWGLCA/2010/14: 23, 27. The facilitator noted the following points raised by Parties:

- MRV requirements should reflect the nature of contribution to mitigation efforts and be therefore different for Annex I and non-Annex I Parties, but be the same for Annex I KP and non-KP Parties
- compliance rules are relevant in terms of MRV focus
- the current negotiating text has a lack of balance between 1b(i) and 1b(ii), and also in terms of reflecting specific operational provisions of the Kyoto Protocol for Annex I Parties
- for developed countries, MRV should focus on economy-wide emission limitation/reduction commitments; AWG-LCA should focus on Annex I non-KP Parties in order not to duplicate the work of AWG-KP and ensure that the stringency of commitments is the same
- proposals to “expand” KP rules into non-KP Parties would not work

VII. Language on general MRV provisions, including **- basis = existing reporting+review** **- new elements to add:** **biennial reporting,** **“international consultations”, ...** **- comparability of effort**

7. The facilitator noted the following points raised by Parties:

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- having MRV in place is important in order to ensure achievement of quantified economy-wide targets
 - MRV should be part of the Cancún package
 - transparency is a major requirement for the MRV system
 - Annex I Parties already have an extensive MRV system, including annual reporting and expert review of GHG inventories, periodic reporting and review of national communications, etc.; this already makes reporting/review robust, rigorous and transparent
 - Annex I Parties can do more compared to the current reporting and review system, but common rules are required for both KP and non-KP Parties
 - Annex I Parties can do more compared to the current reporting and review system, for example by more frequent and detailed reporting (including on progress to targets and methods to estimate that progress)
 - a national inventory system used under the Kyoto Protocol could be useful for non-KP Parties as well, but not all KP provisions should be transferred
 - comparability of effort is key, which should be defined as comparability between KP and non-KP Annex I Parties in terms of legal form, magnitude of effort, and MRV and compliance provisions
 - comparability of efforts would be hard to assess on an international level, because comparability contains a number of parameters and ultimately will involve a subjective judgment by individual Parties on other Parties; national assessments of comparability may be more practical
 - a “bottom-up” approach is more appropriate for ensuring that the MRV system is robust, rigorous and transparent
 - accounting is important; national rules of accounting are not sufficient and international rules, such as KP rules, are needed
 - common rules of accounting and LULUCF are needed
 - common rules for accounting are not needed and will not make sense if applied to Annex I Parties only

VIII. Language on compliance with targets/commitments

8. In their interventions, Parties referred to the following paragraphs in Chapter 1 of FCCC/AWGLCA/2010/14: 18bis, 24, 27. The facilitator noted the following points raised by Parties:

- compliance regime is important, also in terms of ensuring comparability
- “international consultations” at SBI cannot replace a compliance regime (enforcement rules and eligibility criteria are important elements in this regard)
- Annex I Parties do not comply with their commitments; a Climate Court of Justice is therefore needed; equitable distribution of atmospheric space should be ensured
- compliance rules under Kyoto Protocol are weak; AWG-LCA should come up with stronger compliance rules
- compliance is not relevant for a decision at COP-16, and could not find convergence if applied only for Annex I Parties
- compliance regime should be facilitative; punitive rules can lead to withdrawal from the regime

IX. Language to define/launch work programme on MRV for developed countries

9. The facilitator noted the following points raised by Parties:

- a work programme on MRV could include enhancements in the review system, accounting rules, LULUCF rules, etc.
- one could start “pinning-out” what is exactly needed for an MRV system
- in discussing the idea of an MRV work programme, one should take into account that comparability of effort is an important element of MRV for developed countries and that rules of accounting/compliance from the Kyoto Protocol should apply also to Annex I KP Parties
- a set-up of an MRV work programme should be an outcome of Cancún, along with anchoring the mitigation pledges

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- an MRV work programme under 1b(i) has a different focus compared to that under 1b(ii): while for 1b(ii) the focus is to develop guidelines for reporting within an MRV framework, for 1b(i) the focus should be on assessing progress in achieving quantified economy-wide emission reduction targets, accounting, LULUCF, use of international credits/offsets and relationship with units coming from possible other market mechanisms
 - progress with launching an MRV work programme for developed countries should be at the same pace as progress with other issues, such as developing MRV-related guidance under 1b(ii)
 - an MRV work programme is an “end” rather than the “beginning”; the right order is to start with the enhancement of commitments of Annex I Parties and only then consider how to MRV that
 - there is relevant ongoing work at SBSTA since SBSTA-20 where revision of the reporting guidelines for Annex I Parties was launched; one should not duplicate that effort
 - rules of accounting and compliance are fundamental; such rules for both KP and non-KP Parties should be agreed first, which is a pre-requisite for launching such a work programme
 - the idea of launching an MRV work programme requires further deliberation at the SBs
 - the content of the work programme should be clarified and then it can be launched at SBI
 - a simple transfer of this issue to the SBI would not work; relevant guidance to the SBI should be given
 - the SBI is the appropriate body for considering such a programme
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