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Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol

Seventeenth session, part two

Doha, 27 November 2012—*

Agenda item 2(b)

Organizational matters

Organization of the work of the session

Scenario note on the second part of the seventeenth session

Note by the Chair**

I. Introduction

1. The seventeenth session of the Ad Hoc Working Group on Further Commitments for Annex I Parties under the Kyoto Protocol (AWG-KP) will resume for its second part in Doha, Qatar, on 27 November 2012. Parties are reminded that the annotated agenda for the session is contained in document FCCC/KP/AWG/2012/1.
2. To assist Parties in resolving the remaining outstanding issues under the AWG-KP, the Chair of the AWG-KP issued a proposal to facilitate negotiations, which is contained in document FCCC/KP/AWG/2012/CRP.1. The proposal captures all the ideas and suggestions from Parties which are currently under consideration.
3. This scenario note aims to further assist Parties in preparing for the second part of the session by outlining the outstanding issues and the proposed organization of work.

II. Issues to be resolved

4. At the 2011 United Nations Climate Change Conference held in Durban, South Africa, Parties agreed that the second commitment period of the Kyoto Protocol would start on 1 January 2013. They also agreed on a number of rules which would govern the second commitment period and relevant technical work was assigned to the Subsidiary Body for

* The second part of the session will be held in conjunction with the eighth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

** This document has been submitted after the due date because the Chair considers that a scenario note is most useful if it is submitted close to the session to which it applies.

Scientific and Technological Advice (SBSTA)¹ and the Subsidiary Body for Implementation (SBI).²

5. However, some key issues were not resolved in Durban and the AWG-KP needs to address them at this part of the session, in order to complete its work successfully and in a timely manner by agreeing on further commitments for Annex I Parties for the second commitment period and thus fulfilling the AWG-KP mandate defined by decision 1/CMP.1. An agreement at the second part of the seventeenth session of the AWG-KP should enable the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) to adopt at its eighth session a set of amendments to the Kyoto Protocol enabling the implementation of the second commitment period.

6. In the Chair's view, the unresolved issues under the AWG-KP are:

(a) **Length of the second commitment period, quantified emission limitation or reduction objectives (QELROs) and mitigation ambition:** in the Chair's view, these issues are closely linked and are best considered jointly. The options for the length of the second commitment period are five years and eight years and each option has a set of QELROs proposed by Parties. There are also two proposals to address the issue of ambition by offering a mechanism to increase mitigation ambition during the second commitment period, one proposal for an interim review during the second commitment period and one for the forfeiture of Kyoto Protocol units. The Chair notes that this triangle of issues is at the core of the discussions, and encourages Parties to engage constructively, before and at the session, to find a solution acceptable to all concerned;

(b) **Legal continuity from 1 January 2013:** it has been recognized that once amendments to the Kyoto Protocol for the second commitment period are adopted, it may take considerable time for Parties to ratify the amendments. This would result in a 'legal gap' between the beginning of the second commitment period on 1 January 2013 and the entry into force of the amendments. In the negotiations this year, Parties have identified a number of approaches to address that gap, such as provisional application, unilateral declarations and implementing decisions. These approaches are not mutually exclusive and the challenge is to find a combination of approaches which would ensure legal continuity and facilitate a smooth transition to, and implementation of, the second commitment period;

(c) **Operational continuity from 1 January 2013:** in addition to the issue of legal continuity, Parties have identified the need to address 'operational continuity', which is to ensure that Parties are able to commence the implementation of the second commitment period immediately as of 1 January 2013. Clarity on the eligibility of Parties to access the flexibility mechanisms under the Kyoto Protocol as of 1 January 2013 has been identified as key in operational continuity, in addition to the more technical work which is being conducted under the SBSTA and the SBI. Some Parties have agreed to undertake commitments under the second commitment period, while others will not take on such commitments; there are eligibility issues for both of these groups. The discussions among Parties on eligibility issues have progressed but the Chair believes that much remains to be done to clarify relevant technical aspects and to find solutions agreeable to all.³ Ensuring coherence and complementarity between the work of the AWG-KP and the work of the SBSTA and the SBI on the technical issues relating to the transition from the first to the second commitment period also remains challenging. The Chair will be

¹ Decision 1/CMP.7, paragraph 9.

² Decision 3/CMP.7, paragraph 3.

³ To progress on eligibility issues in preparation for the AWG-KP session in Doha, the Chair, with support from the incoming Presidency of the Conference of the Parties at its eighteenth session and the CMP at its eighth session, convened informal consultations on eligibility issues relating to the second commitment period on 12 and 13 November in Bonn, Germany.

collaborating closely with the SBSTA and SBI Chairs on these essential linkages to ensure that the outcomes of related work are coherent;

(d) **Carry-over and surplus of tradable units:** Parties need to decide whether the current rules regarding carry-over will remain or whether some level of limitation on carry-over and/or surplus units will be implemented in the second commitment period. Much technical work has been carried out by the AWG-KP and recently a consolidated proposal was put on the table by a large group of Parties. In the Chair's view, technical issues relating to surplus and carry-over have been clarified sufficiently for policy decisions to be made. Resolving this issue in Doha is imperative but Parties' views still appear to be divergent and a concerted effort may be needed to find a solution which is acceptable to all Parties concerned.

7. The Chair is also aware of the divergent views of Parties with respect to the textual proposals annexed to decision 1/CMP.7. Some Parties argue that these proposals should be used as the basis of the consideration of amendments to the Kyoto Protocol relating to the second commitment period, whereas others are of the view that they should be complemented by further inputs. The Chair's proposal to facilitate negotiations⁴ covers all suggestions received from Parties to date, including the submissions from Parties during the first part of the seventeenth session of the AWG-KP, held in Bonn, Germany, from 15 to 24 May 2012 and at the informal session of the AWG-KP held in Bangkok, Thailand, from 30 August to 5 September 2012. The Chair wishes to advise Parties of the urgency of completing the work of the AWG-KP in Doha and therefore urges Parties to focus on those textual amendments that are crucial to ensure a robust, efficient and prompt start to the second commitment period.

III. Organization of work in Doha

8. The Chair proposes to continue with the same organization of work as at the first part of the seventeenth session. It is therefore proposed that the AWG-KP resume with a brief plenary meeting on Tuesday, 27 November and convene a closing plenary to adopt the draft decisions to be forwarded to the CMP. At the resumption plenary the Chair will invite statements from groups of Parties, and will also provide an opportunity for Parties to share information on meetings outside the AWG-KP process which are relevant to the work of the group. Finally, time permitting, observers will be invited to speak.

9. To advance the work, the Chair also proposes to conduct meetings of the contact group on item 3 of the agenda as needed, with the first being convened immediately after the resumption plenary. The main task of the contact group will be to take stock of progress, to maintain an overview of progress on political and policy issues, and to bring together the elements of the overall AWG-KP package, in view of the need to ensure coherence with the relevant issues under consideration by the SBSTA and the SBI.

10. The work of the informal spin-off group to discuss the QELROs and proposed amendments to the Kyoto Protocol (the 'numbers and text' group) will continue, as will the informal consultations by the Vice-Chair on the legal and procedural issues relating to ensuring a smooth transition to the second commitment period. This work will build upon the progress achieved in these two workstreams to date. In particular, the Chair suggests that the spin-off group focus on streamlining the options to clarify the final policy choices that need to be made with respect to the amendments to the Kyoto Protocol. The informal consultations by the Vice-Chair should aim at arriving at a coherent, complete text of the draft CMP decision to which the proposed amendments would be annexed. Depending on

⁴ FCCC/KP/AWG/2012/CRP.1.

the progress made in negotiations, the Chair may decide to issue another version of her text to facilitate negotiations during the session, to provide for an up-to-date basis for Parties' discussions.

11. The Chair wishes to remind Parties that seven bodies will be meeting in Doha; allocation of time for meetings will, therefore, be a challenge. This will put considerable pressure on all negotiations. The Chair strongly encourages Parties to use the time efficiently, and Parties are encouraged to work among themselves from early in the session, with a view to finding possible compromise solutions. During the negotiations, short and focused interventions would be particularly helpful.

12. In that respect, the Chair would like to emphasize that the adoption of the amendments to the Kyoto Protocol will require additional preparatory work to ensure that all formalities required for amendments to a legally binding instrument are properly addressed. Such preparatory work will include a legal and linguistic review of the final text of amendments to the Kyoto Protocol, which will require time. Therefore, it will be prudent for the AWG-KP to aim to conclude its work well in advance of the last day of the session (Friday, 7 December), to enable the CMP to adopt the amendments on that day. Preliminary arrangements have been made for an AWG-KP plenary to finalize the text of amendments to the Kyoto Protocol on Wednesday, 5 December.

13. In accordance with usual practice, the Chair will undertake pre-session consultations with Parties in order to discuss the organization of the session and expected outcomes. All groups and Parties are invited to contact the secretariat if they would like to schedule a meeting with the Chair. Groups and Parties are also welcome to contact the Chair directly on any matter.

IV. Working together towards a successful outcome

14. Despite the complexity of the outstanding issues, the Chair firmly believes that agreement in Doha on all issues is within reach, provided that Parties show the political will to achieve a meaningful second commitment period, flexibility in negotiating positions and readiness to search for compromise solutions on difficult issues, if needed at a policy level. Successful completion of the work of the AWG-KP in Doha is not only possible, it is an absolute requirement in view of the need to ensure a smooth, uninterrupted transition between the two commitment periods, which is key for the successful operation of the Kyoto Protocol.

15. The Chair and the Vice-Chair will continue to collaborate closely with all Parties, with the Chairs of the other subsidiary bodies and with the President of the Conference of the Parties at its eighteenth session and the CMP at its eighth session to enable the successful conclusion of the negotiations under the AWG-KP in Doha.
