

## Disappointment at Meagre Progress

The first part of the thirteenth session of the subsidiary bodies of the United Nations Framework Convention on Climate Change (UNFCCC)<sup>1</sup> was held from 11–15 September in Lyons, France. This was preceded by one week of informal meetings from 4–9 September.

During the first Conference of the Parties (COP-1) in 1995, the Secretariat was requested to make arrangements for sessions of the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI). SBSTA serves as the link between the information provided by competent international bodies, and the policy-oriented needs of the Conference of the Parties. SBI was created to develop recommendations to assist the COP in the review and assessment of FCCC implementation and in the preparation and implementation of its decisions.

The goal of the thirteenth session was to fulfil the Buenos Aires Plan of Action (BAPA) adopted at the Fourth Conference of the Parties to the Convention (COP-4) held in November 1998. Under this Plan of Action, Parties set a two-year deadline to strengthen FCCC implementation and prepare for the future entry into force of the Kyoto Protocol.<sup>2</sup> The Sixth Conference of the Parties (COP-6) is scheduled to take place from 13–24 November 2000 in The Hague, Netherlands, and will mark the end of this two-year process.

During the informal meetings and the first part of the sessions of the subsidiary bodies, delegates discussed text for decisions covering a range of technical and political issues, with the aim of preparing for a comprehensive agreement at COP-6. The first part of the sessions closed when the meeting was suspended on 15 September, and will resume in The Hague in November.

The President of COP-5, Jan Szyszko (Poland), welcomed the delegates and encouraged them to look for common ground and explore compromises in order to achieve success at the Ministerial Meeting in November.

Michael Zammit Cutajar, FCCC Executive Secretary, pointed out two political challenges – the need to support developing countries in their response to the impacts of climate change and the importance of achieving the aims of the Kyoto Protocol.

In his address, French Prime Minister Lionel Jospin reaffirmed the commitment of France and the European Union to the Kyoto Protocol and their desire to reach a settlement in The Hague that gives fresh impetus to the Protocol. He also recalled the principal positions defended by the European Union, *i.e.* the environmental primacy of the Protocol, the need for economic efficiency in its application and solidarity with developing countries to bring them in as full players in the Kyoto process. The Prime Minister emphasised that industrialised countries should

continue to shoulder their responsibilities and must implement appropriate domestic policies and strict measures on energy efficiency. To counteract any deficit in terms of competitiveness, he advocated the adoption of common rules and standards, to ensure that all countries pursue environmentally friendly development modes. The Prime Minister indicated in this context that whatever Flexible Mechanisms (see below) are approved in The Hague, the EU is adamant that internal policies must remain the principal lever for reducing greenhouse gas emissions; further, that Flexible Mechanisms should account for no more than half of any one country's efforts. In view of their complexity and continuing uncertainty over their influence on climate change, the use of carbon sinks (forests and agricultural activities that both absorb and give off CO<sub>2</sub> into the atmosphere) should be considered with caution.

Lionel Jospin stated the EU's belief that together with Flexible Mechanisms, Parties to the Climate Change Convention should accept the introduction of strict monitoring of their application. The Prime Minister stressed the importance of adopting measures under the Clean Development Mechanism (see below) and of providing adequate funding to permit those developing countries worst affected by the effects of climate change to take part rapidly in the international effort.

Although the Lyons Conference saw some technical progress, no political breakthrough was achieved on the means to combat global warming. Delegates adopted draft conclusions on various issues, including the following: The mechanisms, compliance policies and measures (P&Ms); Capacity building; Technology transfer; Land use; Land-use change and forestry (LULUCF); Article 4.8 and 4.9 of the FCCC and Article 3.14 of the Kyoto Protocol (adverse effects); and Guidelines under Articles 5 (methodological issues); 7 (Communication of information); and 8 (Review of information) of the Protocol.

Following is a brief summary of progress on the principal matters.

### Compliance

An independent body will guarantee compliance. The new institution will consist of two chambers, one acting in a preventive capacity to help countries in danger of exceeding their quotas to redress the balance, the other imposing penalties on those that fall out of line. The United States, the EU and most of the developing world are divided over the respective role of the two chambers.

A streamlined text was produced and adopted by the joint Working Group on Compliance of the Subsidiary Body for Implementation (SBI) and the Subsidiary Body

for Scientific and Technological Advice (SBSTA) on 15 September as a basis for further negotiation at COP-6. However, fundamental issues remain unresolved. It remains unclear whether the compliance system will apply only to Protocol commitments or also to commitments "referred to" in the Protocol (namely, FCCC commit-

### Flexible Mechanisms

These relate to emission trading (credits) which will permit rich countries to fulfil their obligations more easily. Here progress has been painfully slow. Negotiators considered the clean development mechanism (CDM)



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*Courtesy: IISD*

ments). Also, whether the compliance system can apply to outcomes with binding consequences and whether the compliance committee will have equal representation from the five UN regional groups or predominantly from Annex I countries (developed country Parties and Parties with economies in transition).

### Carbon Sinks

This subject is one of the most difficult of the negotiations and is highly politicised. The United States, Canada and Australia support the concept and regard highly the contribution made by sinks, while the EU has taken a different stand. The US has calculated that such sinks may cover up to half of its annual reduction obligations by 2010 (312 million out of 600 million tonnes).

The head of the US delegation ruled out any restriction on consideration of carbon sinks and indicated that the issue of "sinks" will top his country's priorities in The Hague.

which will permit industrialised countries, the only States with specific emissions reduction commitments, to cover part of their obligations by supplying clean technologies to the developing world.

The CDM is due to be launched this year and will thus pre-empt the entry into force of the Protocol. The three political "camps" are divided over institutional arrangements, the nature of pollution reduction projects to be undertaken, and the taxation of future CDM shares to be used to finance a special fund benefiting those countries worst affected by climate change.

The EU has tabled a list of projects, which excludes nuclear power, large dams and clean coal. Eleven Latin-American countries, with the notable exceptions of Brazil and Argentina, have spoken out against the inclusion of nuclear power projects.

On the final day, the SBI/SBSTA adopted draft conclusions on mechanisms. In these the SBI/SBSTA notes the progress made in implementing the work programme on mechanisms; agrees to forward the revised consoli-

dated text to the second part of SBSTA; and invites the Chairs of the subsidiary bodies to further consolidate the text, in consultation with Parties.

Saudi Arabia said it was willing to accept the conclusions on the understanding that further consolidation will not eliminate any proposals by Parties. The delegate stated that the Parties need to decide themselves whether or not to retain their proposals.

The G-77/China urged that the consultations with the Parties be undertaken in a transparent manner, and said consolidation of the text implies further refinement without any of the proposals being discounted in any manner.

The US position is still totally opposed to that of the EU, and the US delegation rejected any notion of quantitative limits on the use of emissions trading between high and low polluting countries.

## Ratification

The United Nations announced in Lyons that the Protocol had been ratified by four more developing countries – Mexico, Kiribati, Lesotho and Guinea-Bissau, making Mexico the first Emerging country to ratify. No industrialised State has yet done so.

## Future Developments

The verdict on the Meeting from UN representatives was mostly negative, and some saw a real possibility that the Ministerial Conference in November may fail to finalise the application of the Kyoto Protocol.

The Executive Secretary of the Climate Convention suggested that failure in The Hague would be due to Ministers having been left with too many dossiers to resolve in too short a time. He regretted the very slow progress of the negotiations in Lyons, which had led to only technical progress.

Harald Dovland (Norway) chair of SBSTA, said it would be extremely regrettable if the Ministerial Conference were to lead only to general conclusions with agreement on the implementation of Kyoto deferred. He suggested that there had been a lack of political will in Lyons to achieve results.

Some representatives, while agreeing that time was running out, felt that perhaps the 154 participating countries did not wish to reveal their trump cards before November. Others were not so optimistic.

It was generally believed that any success at the Ministerial Meeting will come only after the so-called “developing country issues” of adaptation, capacity building and technology transfer have been resolved. However, the texts produced on technology transfer and capacity building are still full of brackets.

In the context of the continuing petrol crisis, the position adopted in Lyons by Saudi Arabia illustrates to what point discussions in The Hague may prove difficult. The Saudi delegation refused to shift its position and is still seeking financial compensation for the losses it faces as the industrialised countries make greater use of cleaner

energy sources than oil and coal. It continued to obstruct all aspects of the negotiations in Lyons in order, it was thought, to secure concessions in The Hague.

When the session resumes, delegates will also continue consideration of a number of other issues, including national communications and implementation of the Headquarters Agreement. (MJ)



## Notes

<sup>1</sup> The Intergovernmental Negotiating Committee (INC) adopted the United Nations Framework Convention on Climate Change (UNFCCC) at its last session on 9 May 1992, at UN Headquarters in New York. The Convention was opened for signature in June 1992 during the UN Conference on Environment and Development (UNCED). It was signed in Rio by the Heads of Government and other senior representatives from 154 States and the EU. The FCCC entered into force on 21 March 1994. It has currently received 184 instruments of ratification, acceptance, approval or accession. For details of all previous Conferences of the Parties, see *Environmental Policy & Law*.

<sup>2</sup> The Kyoto Protocol: See the in-depth report by Edward Smeloff, in *Environmental Policy and Law*, Vol. 28, No. 2, page 63.

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Madhava Sarma, the former Executive Secretary of the Ozone Secretariat, who retired in August.

During his last meeting in July as Executive Secretary, delegates gave him a standing ovation and thanked him for the enormous contribution he had made to the protection of the ozone layer and his leadership in assisting Parties in the implementation of the Montreal Protocol.