

## Poznan meetings end after intense "mini-Ministerial" talks

Poznan, 14 Dec (Lim Li Lin) -- The final closing sessions of the Conference of the Parties (COP) of the UN Framework Convention on Climate Change (UNFCCC) and the Meeting of the Parties (CMP) of the Kyoto Protocol ended in the early hours of the morning on Saturday in the ancient Polish town of Poznan.

The meeting adopted several decisions. However, it failed to reach agreement on a few key issues. Most significantly, negotiations broke down over new funding sources for climate-related adaptation activities in developing countries.

Many developing countries expressed their very deep disappointment that agreement could not be reached on an issue of crucial importance to them, as there is an urgent need for them to undertake adaptation activities as serious the impacts of climate change are already being felt.

The President of the Conference, Polish Environment Minister Mr Maciej Nowicki, declared the meeting closed at 3 am in the morning of Saturday 13 December.

The closing of the meeting had been delayed because of wrangling over a number of issues. The most difficult negotiation was over the issue of whether to enable the scaling up of funding for adaptation by agreeing to put a levy on the revenues from two Kyoto Protocol mechanisms, Joint Implementation (JI) and Emissions Trading (ET).

Currently, only one of the three Protocol mechanisms, the Clean Development Mechanism, is used to provide revenue for the Adaptation Fund that operates under the Kyoto

Protocol. A 2% levy is taken from the funds receivable by the developing country partners from companies in developed countries that use the CDM to "offset" their carbon emissions.

Many developed-country parties would not agree with the developing countries' demands that the Adaptation Fund also obtain revenues through the JI and ET.

The breakdown of the talks on this issue sparked statements expressing bitterness and frustration from many delegations. "I must say this is one of the saddest moments I have witnessed in all these years," said Indian delegate Prodipto Ghosh. "In the face of the unbearable human tragedy that we in the developing countries see unfolding every day this is nothing but callousness." He criticized the "refusal of some parties to experience a minuscule loss of profits from trading in carbon" at a time when climate change was stripping the poor of their homes, hearts and their meagre loaves of bread."

The final day in Poznan settled another difficult issue which was crucial to developing countries, i. e. the operationalisation of the Adaptation Fund. The contentious issue was whether to confer the Adaptation Fund Board the legal capacity to discharge its functions (in particular, to enter into contractual agreements, and to receive and process project, activity and programme proposals) so that developing countries can have direct access to the Adaptation Fund, rather than having to go through an operating entity such as the World Bank for these functions.

The developing countries fought for the Adaptation Fund to be given this legal status.

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They faced opposition from several developed country Parties. Eventually, the parties agreed to the legal status, to be reviewed in two years, thus opening the way to a smoother functioning of the Adaptation Fund, in particular to direct access to the funds.

The decision adopted on this issue (report on Adaptation Fund Board) says in its paragraph 11 that the Adaptation Fund Board "be conferred such legal capacity as necessary for the discharge of its functions with regard to direct access by eligible Parties and implementing and executing entities... in particular legal capacity to enter into contractual agreements and to receive project, activity and programme proposals directly and to process them..."

The decision also says that the provisions in paragraph 11 will be reviewed in two years as part of the review envisaged in an earlier decision of the Adaptation Fund, "taking into account the feasibility study commissioned by the Adaptation Fund Board, with a view to taking a decision as may be appropriate".

Another sticking point on the final day in Poznan was whether to make carbon dioxide capture and storage (CCS) projects eligible for carbon credits under the CDM. The decision taken was to request the CDM Executive Board to assess the implications (taking into account technical, methodological and legal issues) of the possible inclusion of CCS in geological formations as CDM project activities, and to report back to the next CMP in 2009.

The above contentious issues were discussed in a small Ministerial-level meeting on the last day (12 December) at Poznan. The Ministerial-level meeting held up the final plenaries of the COP and CMP, which began only after 10 pm. Only a small number of Ministers and heads of delegations representing each region were allowed to participate in the closed meeting, although a few delegations successfully insisted on also attending.

By the time the COP and CMP plenaries began, the issue of the legal capacity of the Adaptation

Fund and the eligibility of CCS projects under the CDM had been resolved. The small group was still meeting on the issue of scaling up funding for adaptation though joint implementation and emissions trading which is one issue under the agenda item "Second review of the Kyoto Protocol pursuant to its Article 9".

During the plenary, word had filtered through that the small negotiating group had failed to reach agreement on this issue and that there would be no substantive decision on the Article 9 review.

Another issue that was the subject of strong statements from developing countries in the COP was on the Summary by the Chair of the informal Ministerial round table on a shared vision for long-term cooperative action.

During the High-Level Ministerial segment of the COP, a round table on the issue of "shared vision" was held, chaired by the President of the COP, the Polish Minister, Maciej Nowicki. The issue of shared vision is a contentious issue under negotiation in the Ad hoc Working Group on Long-term Cooperative Action (AWG-LCA), the process launched by the Bali Action Plan at the last COP in Bali in December 2008 and which is mandated to reach an "agreed outcome" by parties at COP 15 in Copenhagen in December 2009.

India said that it could not accept some of the conclusions in the Chair's summary, as there was no specific reference to the guiding principle of common but differentiated responsibilities and respective capabilities, and no reference to equity, which it described as the cardinal principle.

India stated that the reference in the report to a "deal at COP 15 that can be ratified by all" implies a new treaty or Protocol or other legally binding document, which is not in accordance with the Bali Action Plan which only mentions an "agreed outcome". It wanted its comments on why India could not accept some conclusions in the Chair's summary to be placed on record.

To the surprise of many delegates and observers, the Executive Secretary of the UNFCCC, Yvo de Boer then took the floor to say that a revision of the Chair's summary had already been prepared. He said that in paragraph 4 of the Chair's Summary, "common but differentiated responsibilities and respective capabilities" would be added in. And in paragraph 13, he said that the words "agreed outcome that can be ratified" would be used instead.

China then said that it still had serious reservations about the paragraph 13 of the report, even as amended, as it still mentions an outcome that can be ratified, as this is pre-judging the outcome of COP 15. It asked for its comments to be placed on record.

China also said that the principle of equity was not adequately reflected in the Chair's summary. It insisted that its statement be placed on record in the proceedings of the final report, when the Chair suggested that the amendment was sufficient to address the concerns raised.

Venezuela also voiced similar concerns about the Chair's summary and asked that this be recorded.

Saudi Arabia said that it shared the concerns of previous speakers and insisted that the Chair's summary does not bear weight in the negotiations of the AWG-LCA. It said that all the countries of the G77 and China had spoken about common but differentiated responsibilities in the roundtable, but that this had not been reflected in the Chair's summary. It said that any pre-judgment of the form of the outcome in Copenhagen at COP 15 was not conducive and requested that its comments be placed on record.

The Chair then suggested that the phrase "that can be ratified by all" should be deleted from the Chair's summary. However, China insisted that it was not engaging in a discussion on the Chair's summary, and would just like its views to be placed on record. Pakistan insisted that any revision does not change the status of the document, as it is only the President's summary of the roundtable discussion.

India said that it had not seen the revision that was proposed by the Executive Secretary and that it wanted its statement placed on record in the report of the proceedings of the meeting. The Philippines insisted that the Chair's summary must not be included in the documents to be prepared in 2009 for the negotiations in the AWG-LCA, and that it would not be considered by Parties in its entirety.

Saudi Arabia said that a Chair's summary is not usually a document that is revised based on comments from the floor. It said that it was the prerogative of the Chair to revise the documents as he sees fit, but whatever its form or shape, this does not change its legal status as being a Chair's summary, and that this does not reflect any form of consensus. Bolivia, Colombia and Gabon also made statements expressing their concerns with the Chair's summary.

During the plenary of the CMP, the Chair went through the agenda items and adopted the decisions in their numerical order. The issue of scaling up funding for adaptation through joint implementation and emissions trading was being discussed under the "Second review of the Kyoto Protocol pursuant to its Article 9". This was the only issue that could not be agreed upon under the Article 9 review.

All the other substantive issues under the Article 9 review of the Kyoto Protocol had already been agreed upon in the small negotiating group -- relevant procedural elements for inscribing commitments for Annex I Parties in Annex B to the Kyoto Protocol; privileges and immunities for individuals serving on constituted bodies established under the Kyoto Protocol; the scope, effectiveness and functioning of the flexibility mechanisms, including ways and means to enhance an equitable regional distribution of clean development mechanism projects; and the minimization of adverse effects, including the adverse effects of climate change, effects on international trade, and social, environmental and economic impacts on other Parties, especially developing country Parties and in particular those identified in Article 4, paragraphs 8 and 9,

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of the Convention, taking into account Article 3 of the Convention.

The Article 9 review of the Kyoto Protocol has been controversial as the interpretation of the scope of the mandate has been the subject of debate and dispute. While many developing countries are of the view that the review is about implementation of the Protocol, several developed countries take the position that the review can lead to amendments to the Protocol.

Many developing countries believe the developed countries are attempting to make use of the review to pave the way to expand the obligations of developing countries, including taking on emissions reduction targets -- possibly through an amendment of the Kyoto Protocol, which currently only sets targets for developed (Annex I) countries.

Many developing countries wanted the Article 9 review completed in Poznan, as they did not want the review to be still on the table at the next COP and CMP in Copenhagen in 2009, when the work of the AWG-LCA and the AWG-KP are scheduled to be completed.

In the final plenary of the CMP, the Chair skipped over the agenda item on the second review of the Kyoto Protocol pursuant to its Article 9. When questioned by China, the Chair said that the Article 9 review had not been completed.

China then demanded a clarification as it said that the negotiating group (of Ministers) had reached consensus. It insisted that it would be better for the Chair not to proceed, and for the Chair of the contact group on this agenda item to report back instead.

[It is the normal procedure for the Chair or Co-Chair of a contact group to report on the progress or outcome of the work of a contact group. In this case however, the President of the COP/CMP did the reporting].

The CMP Chair, Mr. Maciej Nowicki, then clarified that the contact group had made substantial progress but could not conclude, and that there was no result from its work. He went on to say that the second review of the Kyoto Protocol pursuant to its Article 9 has been completed. The Chair then used the gavel and said "It is so decided".

[Several delegates involved in the Ministerial small group negotiations reported that there was consensus in the negotiating group that the Article 9 review was completed, even though there was no substantive outcome, and that this would be reflected in the report of the meeting.]

Rule 16 of the Draft Rules of Procedure of the COP and its Subsidiary Bodies stipulates that "any item of the agenda of an ordinary session, consideration of which has not been completed at the session, shall be included automatically in the agenda of the next ordinary session, unless otherwise decided by the COP".