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climate COP/MOP and what it means for the future
of the climate regime

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Abstract: The raison d'être of this paper is to communicate some of the key issues discussed at the climate COP/MOP in Nairobi, which took place from 6-17 November 2006. The paper has been written as an aide memoire for scholars and policy makers, as an independent reference source of the "African COP/MOP", in order to inform policy, as well as flagging some key issues of relevance for future research agendas. The paper does not attempt to provide a comprehensive account of all the issues discussed in Nairobi. Rather, the authors have focused on some of the more strategic discussion points, in particular those considered to have a particular bearing on a future climate regime in the post 2012 world. The significance of the Nairobi conference is mainly in terms of the focus on adaptation and its contribution to long-term global institutional co-operation to respond to the threat of climate change. Pressing issues for future international climate governance efforts include the need for better integration between climate change and sustainable development, the need for attention to equity and justice issues and how best to build trust among the various actors in the search for win-win scenarios.

1 Introduction

The Nairobi conference was attended by around 5,900 people compared with 9,500 for the previous COP/MOP in Montreal in 2005. This broke down as follows (with numbers from the Montreal COP/MOP in brackets for the purposes of comparison): 2,300 [2,800] government officials; over 2,800 [5800] representatives of UN bodies and agencies, intergovernmental organizations and non-governmental organizations, and 516 [817] accredited members of the media.¹ The Montreal meeting was lauded at the time for the unprecedented participation by the private sector (Wittneben et al., 2006; Muller, 2006). While figures are not available, there was a feeling amongst many that fewer business representatives attended the Nairobi meeting. The reduction in overall numbers of attendees compared with the meeting the previous year might be attributed to the reduced expectation of most observers as to the likely outcome of the meeting compared with the one in Montreal. In addition, there was a perceived difficulty of travelling to Nairobi, as well as the anticipation by some that the meeting organization may be lacking. In the event, however, it was generally recognized that the host authorities provided a high level of organization and a warm African welcome.

Many had branded the Nairobi meeting in advance as a 'holding COP/MOP'. Indeed the media largely represented the meeting as such after the event, with a common characterization being that little concrete progress had been made. A more nuanced view might be that progress was made in some important areas, for example adaptation was brought to the fore, while some limited confidence building was also achieved on post 2012 mitigation. Nevertheless, some progress was made in the formal sessions towards a post 2012 mitigation regime. In Nairobi there was widespread recognition that a post 2012 agreement needs to be more ambitious than the 1st commitment period. However, it appeared that most

¹ Figures from International Institute for Sustainable Development (IISD), www.iisd.ca

parties were not ready to set out their negotiating stalls in public at this stage, preferring to gain a sense of the position of other parties, in preparation for the real negotiation, whenever that may be.

2 Key Issues discussed in Nairobi

2.1 Adaptation

Adaptation and development issues are normally sidelined during the COP process but the 2006 Nairobi conference was able to finalise a five-year programme of work on impacts, vulnerability and adaptation to climate change (Burton et al. 2002). This enables work to start immediately on a wide range of activities to support adaptation efforts and exchange best practice. These efforts will ensure that developing countries in particular are able to make informed decisions, taking into account current and future climate change and variability in their development agendas. Negotiators also took an important step towards bringing on stream the Kyoto Protocol's Adaptation Fund for developing countries, which could eventually be worth €300 million or more, by reaching agreement on its governance structure and overarching principles for its operation.

2.1.1 Nairobi Work Programme on Impacts, Vulnerability and Adaptation to Climate Change

The Nairobi conference was generally perceived as the 'Africa COP'. There was a wide supposition that the conference presented an opportunity to urge a stronger focus on adaptation and development for those most vulnerable to the impacts of climate change, particularly those in the least developed countries in Africa. Delegates arriving in Kenya could not fail to notice the realities of poverty around them during the visit. A protest march through the city joined by Maasai pastoralists, a temporary petrol shortage in Kenya and the flooded roads in Nairobi all served to remind delegates of the need for urgent action to help

developing countries adapt to the consequences of global climate change. The UN Secretary-General Kofi Annan further reinforced this feeling during his address to delegates as he called for renewed urgency on adaptation for the poor. In the end, however, the final agreements of the details for the Nairobi Work Plan were rather modest.

Many participants from the Group of 77 (G-77) and China negotiating bloc believed that the focus on enhancing capacity for adaptation was a necessary “confidence building” process which was needed before discussions at future meetings could be progressed with Annex 1 countries (see Adudulah et al. 2006). Delegates from the developing countries considered that it is unlikely that adaptation concerns will continue to take such a central role if the debate on mitigation commitments resumes at the next COP. For this reason, they highlighted the need for a detailed focus on adaptation, regularly linking their arguments to the moral and ethical dimensions of climate change both in plenary submissions, informal meetings, side sessions and numerous media conferences. In the end, one of the key results was the successful completion of the ‘Five-year programme of work on impacts, vulnerability and adaptation to climate change’ adopted by the COP during its eleventh session. Parties later decided to rename the five-year programme of work as the ‘Nairobi work programme on impacts, vulnerability, and adaptation to climate change’.²

2.1.2 Key points from the Nairobi Work Programme on Adaptation

Discussion on the Work Programme started during the plenary sessions and was followed through a series of contact groups. A small drafting group was set up to correct technical issues, and only the more contentious sections on actions and deliverables were discussed in informal consultations. The SBSTA chair prepared a document on which to base discussions.

² The ‘Five-year programme of work on impacts, vulnerability and adaptation to climate change’ was adopted by Decision 2/CP.11 in Montreal. It has to be said though that the programme of work on adaptation and response measures has a much longer history. For example Decision 5/CP.7 (Marrakesh) 10/CP.9 (Milan) and the Buenos Aires Programme of Work on Adaptation and Response Measures (FCCC/2004/L.16) were all geared towards establishing a detailed work plan to deal with the issue of adaptation in line with Article 4 (8) and 4 (9) of UNFCCC.

Agreements reached cover the objectives, operative activities, and deliverables expected, with timings for work up to SBSTA 29, when the chair will present a summary report. There was a focus on nine cross-cutting themes that promote the exchange of information on practical opportunities and solutions among Parties, in order to facilitate the implementation of the Convention. However, early discussions drew attention to important differences in the position of some parties. G-77/China stressed action and learning-by-doing, while the US, supported by Canada, favoured assessment in accordance with SBSTA's mandate as a body for scientific and technological advice.³

Parties agreed to submit by May 2007 their views on best practice for the development and dissemination of methodologies and tools for impact and vulnerability assessments. These include rapid assessments and bottom-up approaches. Most importantly, parties agreed a text for ideals on improving tools for the assessment of adaptation planning, measures and actions and integration with sustainable development. It was recognised by Parties that the collection, management, exchange, access to and use of observational data (on current and historical climate and its impacts) needs to be improved. This includes the monitoring of climate variability. The WMO and its Member States, and the secretariat of the Global Climate Observing System (GCOS) will submit ideas on how they might better contribute to improving regional and national technical infrastructure and capacity.

The Work Programme also focused on the use and communication of information to policy makers, an essential aspect of mainstreaming climate change concerns into development planning. The need for identification and reduction of uncertainty, improved training on the assessment of applicability and relevance was equally addressed. It was felt this should be achieved by promoting the development of, access to, and use of information and data on projected climate change to improve decision making, especially for regional specificity.

³ G-77 countries were particularly keen to generate policy opportunities that would support action now for current problems, rather than rely on information analysis that may not generate action in the future.

Likewise, the availability of relevant information was vital in terms of providing a summary review of the impacts of, and vulnerability to, climate change as well as current and future climate variability and the implications for sustainable development. All of these would help to identify the existing ability, gaps, needs, opportunities, and barriers for policy makers.

In addition, parties agreed to review, by May 2007, all information on practical adaptation actions and measures, including lessons from short- and long-term adaptation projects, early warning systems and local strategies. Parties expressed the hope the process will offer an opportunity for civil society and other stakeholder to increase their participation in the identification of priority needs. A synthesis report and a web-based interface will be developed to share examples of practices and technologies for adaptation at the regional, national and local level. The Programme of Work equally aims to keep to its mandate to increase exchange on adaptation options and the diffusion and transfer of technologies, knowledge, and practices for adaptation. A key priority for the Programme in this regard, is the successful identification of ways to integrate climate change adaptation into national planning processes, especially those that promote disaster risk management, sustainable economic growth and the eradication of poverty. Accordingly, parties aim to share experiences of measures and tools for economic diversification, especially those that promote economic resilience and reduce reliance on vulnerable economic sectors and this may go some way to opening better dialogue. The overall programme of activities will be implemented through submissions, expert meetings, workshops and reports over the coming three years. Specific deliverables include a number of synthesis reports, technical papers, progress reports and an improved web-based interface at the UNFCCC site.

2.1.3 The future impact of the Nairobi Work Programme?

Apparently, the most serious barrier to implementation is the limited core budget, which will not cover the cost of carrying out all the activities agreed in the Work Programme even for the next couple of years. During COP12, Canada, Norway, Sweden and Switzerland

pledged financial support and some donor organisations expressed possible contributions. However, supplementary funds will still need to be generated. This is a critical issue given the ambitious timescale for the Work Programme, with first submissions to SBSTA due in May 2007. This has raised questions over the likely quality of reports or the realistic level of engagement with stakeholders that parties will be able to achieve when identifying adaptation priorities.

All Parties accept the need to continue to increase the body of evolving scientific knowledge and share practical experiences of responses. The general impression was that to have agreed a policy text on the importance of understanding adaptation needs is a step in the right direction. Nevertheless, while the work programme has good intentions, its longer-term impact on the ground is less clear. Many developing countries can easily identify urgent priorities that would enhance adaptive capacity to climate change and variability but have limited power to continue to extend their paperwork trail. Indeed, countries which have already prepared a National Adaptation Programmes of Action (NAPA) have identified their immediate needs, but received limited support for the implementation of those actions. Capacity building and education through information sharing and workshops, as G-77/China duly highlighted during the discussions, can only go so far. Besides, it is also unclear how the Resource Allocation Framework (RAF) is likely to affect funding available to developing countries for the implementation of their commitments.⁴

Many of the problems also stem from uncertainty on how the Programme is going to support policy mainstreaming of climate change adaptation in practice. Parties agree that responses to climate change should be coordinated with social and economic development in an integrated way, taking into account the legitimate priority needs of developing countries for the achievement of sustained economic growth and the eradication of poverty. However, the most effective approach remains open to interpretation. G-77/China argues that the most

⁴ In a rather lame bid to address these issues, parties requested that the Global Environment Facility develop a co-financing scale for supporting activities identified in NAPAs, develop flexible modalities to ensure balanced access to resources, and separate administration of the Trust Fund and the LDCF.

effective approach would be to support learning by doing, but to date this has not been part of the Work Programme.

Parties will identify further activities needed, as well as appropriate timing and modalities, by the SBSTA meetings in December 2007 and June 2008. An in-depth review of the IPCC fourth national communication will be included in order to help direct activities. The most contentious issue still to be decided is whether there should or should not be a group of experts, whose role it will be to oversee implementation of the Work Programme. Parties must submit their views by September 2007, before the December 2007 meeting. However, it is unlikely that a consensus would be reached because while G-77/China feels an advisory working group would facilitate a more rapid implementation process, the EU, Canada and the US continue to question the mandate of such a group and basically sees it an unnecessary duplication of functions and a waste of resources.

2.2 The Adaptation Fund (AF)

2.2.1 *Uniqueness of the AF*

The Adaptation Fund of the United Nations (UN) Climate Change regime is in many ways unique. One is the fact that – unlike the Least Developed Countries Fund and the Special Climate Change Fund established under the UN Framework Convention on Climate Change (UNFCCC) – the AF falls under the Kyoto Protocol, which means that it is outside the direct sphere of influence of countries, specifically the United States, who have not ratified that protocol. In political terms, this means that the European Union is the unrivalled leader of the industrialised countries in the negotiations on how the AF should be operated.

The Adaptation Fund is also unique in the way its revenue is generated, namely through a two-percent levy on the emission permits ('Certified Emission Reductions' CERs) generated by emission reduction projects under the Kyoto Protocol's Clean Development Mechanism. These projects are carried out in developing countries predominantly by private sector investors, and the 2 percent share of the CERs generated by the projects is to be collected

directly by an intergovernmental agency (the CDM Executive Board) and monetized by the Adaptation Fund. In other words, it is in essence an international private sector tax, which is why this is probably the most important of the AF's unique features, as it could well be setting a key precedent.

Moreover, the Adaptation Fund is unique among climate change funds with respect to the magnitude of revenues it is projected to generate. According to a recent study, the revenue that will be generated from the sale of the two-percent CER share until 2012 is projected to be between \$160m to \$950m, while the funding presently given to or pledged by donor countries to the other two climate change funds is around \$170m. It is politically very unlikely that bilateral donations could ever generate the sort of money needed to cover the cost of adaptation in developing countries, which the World Bank recently estimated to be in the order of tens of billions of €\$. This is why alternative sources of revenue – such as the CDM adaptation levy, or the proposed International Air Travel Adaptation Levy (IATAL)⁵, itself estimated to generate €\$ 4–10bn annually – would seem key to overcoming the ‘adaptation deficit’, particularly in developing countries.

Last but not least, the Adaptation Fund is unique among financial instruments of the international climate change regime in being exclusively dedicated to the funding of ‘concrete’ adaptation activities. Given the relatively large but nonetheless limited size of the funding that is projected to be available through this instrument, potential interest in this funding source is bound to be considerable, and it is to be expected that a vast array of projects will be put forward as ‘concrete adaptation activities’, not necessarily all with the

⁵ IATAL — An outline proposal for an International Air Travel Adaptation Levy, Benito Muller and Cameron Hepburn, EV36, Oxford: Oxford Institute for Energy Studies, October 2006

same legitimacy.⁶ Given all these unique features, it will not be surprising that the governance and management of the fund has been of considerable interest both in and outside the Kyoto Protocol negotiation process.

2.2.2 The Negotiations so-far and the Way Ahead

The recent negotiations on how to implement and organise the Kyoto Protocol Adaptation Fund have been rife with acrimonious exchanges and a great deal of distrust between developed and developing countries (see Huq 2002; Dessai et al., 2005). The main point of contention was whether the Washington-based Global Environment Facility (GEF) should be managing the Fund or not. The European Union, Japan and other industrialised countries assumed that it was a foregone conclusion that the GEF should manage the AF as it did the two UNFCCC funds. Many developing countries, however, were deeply unhappy with the way the GEF had been managing climate change funding in general, and adaptation funding in particular, with the consequence that the negotiations prior to Nairobi had ended in a apparently insurmountable stalemate between the pro GEF faction led by the EU, and the G-77/China group, who rejected the idea of giving the management of the AF to the GEF.

⁶ For example, Saudi Arabia, in a recent submission to the UNFCCC Secretariat, Saudi Arabia, claims that “all the detailed activities and programs being developed under the five-year work program for adaptation represent concrete actions that should take priority for funding,” and, in particular that funding is needed for economic diversification sub-theme addressed within the five-year programme of work in order to: “improve the quality of models, in particular those that assess the adverse impacts on social and economic development as consequence of the responses to climate change, taken into full account the legitimate priority needs of developing countries with specific emphasis on countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products.”[FCCC/SBI/2006/MISC.7 Views on specific policies, programme priorities and eligibility criteria and possible arrangements for the management of the Adaptation Fund: Submissions from Parties.

Thus it may well have come as a surprise that, six months later, the negotiations in Nairobi came to a decision concerning the Adaptation Fund which was generally lauded as a significant step forward and success. Indeed, the constructive attitude in which these negotiations were resumed in Nairobi— with all the key Parties agreeing to focus on principle and general modalities, rather than on ‘GEF or not GEF’ – means something must have happened in the meantime which brought about this radical change in atmosphere. Apparently, an important key to the transformation was the realisation on both sides of the ‘GEF-divide’ that a continuation of this institution-based debate would be utterly fruitless, and the fact that the EU decided as a consequence to ‘go into listening mode.’ It was against this background that a number of informal intersessional meetings were held which opened space for meaningful interaction and honest exchange of ideas.⁷

The key elements of the Nairobi Adaptation Fund decision which will make it differ even more from the other funds are about its governance. For one, it was decided that the AF should be under the direct authority of the Kyoto Protocol governing body (the ‘COP/MOP’). The operations of the two Convention funds – managed by the GEF – by contrast are merely subject to ‘guidance’ from the climate change process, but not to its binding decisions. The second feature which will distinguish the AF from the other climate change funds is the voting procedure. The procedure presently applied – at least in theory, for there has never actually been a vote – is that of the GEF in which a majority of both countries and donations is required to carry a vote, the latter essentially giving veto power to the group of five largest donor countries. The Nairobi decision dispenses with this by stipulating that votes concerning the AF will have to be on a ‘one-country-one-vote’ alone.

⁷ Among these informal sessions was a meeting in Oxford organised by the Fellowship Programme of the *European capacity building initiative* [(ecbi) www.EuroCapacity.org]. This meeting which brought together a number of leading EU and developing country negotiators to discuss climate change issues in general, and the Adaptation Fund, in particular. The views of the developing country Fellows on the governance of Adaptation Fund presented to the listening European participants were later published by three LDC negotiators in what turned out to be an influential IIED/ecbi Opinion piece.

Institutions, such as the GEF, have been invited to submit their views on how they would wish to implement the Nairobi decision by the end of February 2007, to enable the next Session of the Subsidiary Body for Implementation (SBI) in May 2007 to form a recommendation concerning institution(s) to operate the AF, with a view to come to a decision at the next COP/MOP Session in December 2007.⁸ Other issues still to be considered concerning the running of the Adaptation Fund are eligibility criteria and priority areas for funding, as well as the issue of how best to ‘monetize’ the share of CERs at the heart of the currently envisaged income stream for the fund.

2.3 Mitigation

The official negotiations on mitigation were somewhat subordinate to the adaptation agenda. This had been predicted in advance and resulted in limited progress in the official fora, although it could be argued that some trust-building took place and laid some of the ground for a future substantive negotiation. The media contrasted the lack of progress on an agreement on post 2012 commitments with the urgency implied by the latest science and other new research presented by a number of different stakeholders at the COP/MOP⁹.

Positions of different parties to post 2012 mitigation commitments were not significantly different from those expressed in the previous COP/MOP in 2005 and before (Dessai et al. 2002; Muller 2006; Wittneben 2006). Developing countries (represented by South Africa, speaking on behalf of the G/77-China), pressed the view that the responsibility for mitigation lies with developed countries, while they in turn expressed the need for all major emitters, including large developing country emitters, to take responsibility for limiting emissions. It was widely agreed amongst all parties that a deal on post 2012 is required soon, in order to

⁸ A further issue concerning the ongoing institutional debate is ‘coordination’: It will be highly important for the functioning of the AF, if parties can agree on a ‘coordinative agency’ which addresses the considerable duplication in the field.

⁹ The Stern report was presented by its main author, and the key message – that the benefits of early action greatly outweigh the cost of inaction - received considerable attention and widespread agreement.

achieve the deeper cuts the science says are necessary and send a clear signal to the carbon markets. It was also widely accepted that global emission reductions must be much deeper than those adopted during the first commitment period. However the official negotiations generally lacked urgency, and indicated that most parties are waiting for others to show their cards. Interestingly, industry provided some of the most urgent calls for a decision on post 2012, stating that uncertainty in future greenhouse gas regulation is the worst possible outcome for them, resulting in unclear framework conditions for investment.

One concrete outcome of the negotiations was agreement on the first amendment to the Protocol, paving the way for Belarus to adopt emissions reduction commitments under Annex B of the Protocol. This was contentious as there was a danger of providing Belarus with hot air due to reductions in emissions since 1990. The result of negotiations was agreement on a target of 8% below 1990 levels, with a number of additional measures to reduce the hot air available for trading.

The Montréal COP in 2005 had resulted in a twin-track process to take forward dialogue on a post 2012 regime: the “Dialogue on long-term cooperative action to address climate change by enhancing implementation of the Convention” (Dialogue) and a new subsidiary body, the “Ad Hoc Working Group on Further Commitments for Annex I parties under the Kyoto Protocol” (AWG) (Wittneben et al. 2006). The dynamics of the negotiations were clearly highlighted within these two fora. There was a perception (Earth Negotiation Bulletin, 2006) that the negotiation was taking place within a “four track” framework: the Dialogue and the AWG (already mentioned), but also the Review of the Kyoto Protocol (Article 9) and the Russian Proposal to develop procedures for developing countries to make voluntary emission reduction commitments under the Protocol (see section 2.3.3 below). The complex linkages between these four tracks added to the confusion among parties and hampered the outcomes of negotiations.

2.3.1 The “Ad Hoc Working Group on Further Commitments for Annex I parties under the Kyoto Protocol” (AWG)

A key objective of the AWG, which met for the second time in Nairobi, is to ensure a smooth transition between the first and second (post-2012) commitment periods under the Kyoto Protocol. Although it was generally agreed that there should be no gap between these commitment periods, the meeting of the AWG exposed a number of key tensions in the discussion on a post 2012 mitigation regime and it is hard at this point to predict confidently whether a substantive agreement will be reached in time. Central to the issues discussed was how to (or whether to) define a shared quantitative goal or outcome in climate terms. Some developed countries argued that existing objectives are too vague and for the need for further work to define a quantified shared goal (temperature or atmospheric concentration). In contrast G/77-China expressed the view that defining long term objectives is not within the mandate of the AWG, which should take as its goal the existing objective expressed in Article 2 of the Convention¹⁰. The compromise conclusion of this meeting of the AWG was that its work should be guided by a shared vision of the challenge set by the ultimate objective of the Convention, guided by the IPCC findings with respect to the magnitude of future mitigation efforts required. It was also reiterated that the AWG respects the principle of “common but differentiated responsibilities and respective capabilities”.

The debate also clearly highlighted the difficult question of which countries should contribute to climate mitigation in a post 2012 regime. The EU, Australia and other developed countries, trying to link the AWG with the Article 9 discussion, argued that the mitigation efforts of Annex I countries alone would be insufficient to tackle the climate challenge, and that a post 2012 regime should include all significant emitters. It should be

¹⁰ UNFCCC ARTICLE 2 OBJECTIVE: “The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time-frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner”

noted however that the EU was careful not to specify that binding, quantified commitments should be adopted by the larger developing countries. G/77-China focussed their interventions on the need for deeper and timely Annex I commitments for post 2012 in order to provide a signal to the carbon markets. The debate resulted in the conclusion that Annex I Parties should continue to take a lead on emission reductions beyond 2012.

The results of the Nairobi AWG meeting could be characterised overall as largely procedural - the meeting finalised the work programme and schedule for the AWG – with some substantive work also being instigated. It was agreed that future (Annex I) commitments should be based on scientific work to analyse emission trends, mitigation potential, and possible measures to achieve future objectives. These analyses would then be used to define possible future ranges of mitigation commitments for developed countries.

2.3.2 Dialogue on long-term cooperative action to address climate change by enhancing implementation of the Convention (Dialogue)

The Dialogue was established in 2005 to facilitate exchange of experiences and to jointly analyse strategic approaches for long-term cooperative action on climate change. The terms of reference for the Dialogue, which includes all signatories to the Convention, were complex and difficult to agree. The Dialogue is arranged through a series of workshops on different themes. The second meeting of the Dialogue convened in Nairobi, co-chaired by South Africa and Australia, and focussed on “advancing development goals in a sustainable way” and “realizing the full potential of market-based opportunities.” The third Dialogue session will focus on the remaining two themes agreed in Montreal: “addressing action on adaptation” and “realizing the full potential of technology”.

The Dialogue workshop in Nairobi invited presentations by a number of key speakers including one on the Stern Review on the Economics of Climate Change¹¹, and another from

¹¹ Stern Review on the Economics of Climate Change, UK Treasury, 2006 http://www.hm-treasury.gov.uk/independent_reviews/stern_review_economics_climate_change/sternreview_index.cfm

the World Bank on their Investment Framework on Clean Energy and Development,¹² which resulted from recent G8 processes. In addition the workshop heard about latest developments and positions on climate change from a number of countries including China, EU, Brazil etc, as well as on cross-cutting issues including the impact of climate on meeting the Millennium Development Goals (MDGs).

2.3.3 Other mitigation related discussions

Discussions on the Review of the Kyoto Protocol (Article 9) – considered by some as ‘Track 3’ of the post-2012 negotiation - were extensive and at times difficult. Underlying issues included suspicion from the G/77-China that a full review of the Protocol, being pressed for by Annex 1 countries, could lead to new commitments for them. The EU was looking for a “...thorough, comprehensive and well prepared...” review of the Kyoto Protocol...”¹³ The final conclusions stated that no new commitments would result from the review process, although it is clear that most developed countries expect the findings of the review to be acted upon by future COP/MOPs (a classic messy compromise). A further review will take place in 2008, earlier than had been requested by China. The review will be based on technical, social and economic information, as well as scientific information.

The Russian Federation tabled a novel proposal to develop procedures to allow developing countries to make voluntary emission reduction commitments under the Protocol. However this was received with deep suspicion by G/77-China who were opposed to a decision in Nairobi, presumably suspecting that such voluntary commitments would ultimately result in binding ones. No firm decision was made in Nairobi and further discussions were postponed until an informal workshop in May 2007, with the results to be presented to the 2007 COP/MOP.

¹² Clean Energy And Development: Towards An Investment Framework, Development Committee, April 2006 [http://siteresources.worldbank.org/DEVCOMMINT/Documentation/20890696/DC2006-0002\(E\)-CleanEnergy.pdf](http://siteresources.worldbank.org/DEVCOMMINT/Documentation/20890696/DC2006-0002(E)-CleanEnergy.pdf)

¹³ “POINTS 2 / 2 0 0 6 EU Presidency perspective to Nairobi Climate Change Conference” accessed <http://www.environment.fi/download.asp?contentid=60494&lan=fi> 3/1/2007

Discussions on the Special Climate Change Fund (SCCF) resulted in a broadening of its scope beyond adaptation measures and technology transfer (which is already possible) to supporting efforts by developing countries to mitigate emissions from a range of economic sectors and to diversify their economies. It is to be noted that the SCCF currently amounts to only around \$60 million, very small in global terms.

2.3.4 Different positions on post 2012 mitigation¹⁴

Key differences between Annex 1 and non-Annex 1 countries were clear from the start. One example included priorities to be put forward under the Third Review of the Financial Mechanism. Developing countries argued that adaptation was their key concern and that the Financial Mechanism should reflect this. Developed countries countered that the Financial Mechanism should be focussed in support of the objective of the Convention, giving a higher priority to mitigation. After lengthy discussions a compromise was reached, highlighting both adaptation and mitigation.

The European Union (EU), represented by the Presidency – Finland - was at the centre of most key debates in Nairobi, seen by (at least some) developing countries as an honest broker. The EU clearly expressed the need to make deep cuts in global emissions by mid-century. It also emphasised the need for wider use of cost-effective emissions trading mechanisms, using the EU Emissions Trading Scheme (EU ETS) as evidence of its commitment and as an example to be followed by others. There was much speculation as to how other regional carbon markets might be linked with the EU ETS in the future, or indeed with Kyoto markets, although it is clear that considerable further debate would be required if this were to come to pass. The EU expressed confidence that it will meet its Kyoto commitments under the first commitment period. It is interesting to note that at the 2007 Spring European Council (European Council, 2007) EU leaders adopted a package of energy and climate policies for

¹⁴ Note that this sub-section does not attempt to provide a comprehensive analysis of the positions of all significant groups and sub-groups to the negotiation.

Europe. This included establishing a firm target of cutting 20% of the EU's greenhouse gas emissions by 2020, with the aspiration of increasing this to 30% if the US, China and India follow suit. The package included setting a binding overall goal of 20% for renewable energy sources by 2020, compared to the present 6,5%, as well as a binding minimum target of 10% for the share of biofuels in overall transport petrol and diesel consumption by 2020. However it should be noted that European industry is starting to express concern, to the European Commission, about competitiveness when compared with large economies not taking on strong binding commitments to reduce emissions (eg USA).

The G-77/China generally remained a coherent negotiating block during the meeting, even though some differences of opinion were apparent, on topics such as avoided deforestation. The G77/China frequently raised concern about rising greenhouse gas emissions in a number of Annex I countries, making it clear that this was no basis on which to discuss developing country binding commitments under a 2nd commitment period. While the G77/China continues to cite the principle of common but differentiated responsibilities and respective capacities as basis for rejecting any discussion on binding commitments, developed countries argued that the principle needs to be interpreted in a way that ensures meeting the objectives of the Convention.¹⁵ Discussion on the need for an agreed quantified target (temperature or concentration of CO₂e) were prevalent during the meeting although no agreement was reached.

The G77/China expressed the view that quantified, binding commitments are inappropriate for them given the need for rapid economic and social development, and rapid population increases in many parts of the developing world.¹⁶ Another widely expressed view is that developing countries have limited capacity to effect mitigation. For many developing countries per capita emissions equity remains the basis of negotiation. The so-called Brazilian

¹⁵ UNFCCC objective "... stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system..."

¹⁶ In the corridors, however, numerous delegates from large developing countries informally accepted the need for some form of targets to be extended to all (major) emitters.

proposal promotes the use of historical responsibility as a basis for future negotiations (possibly responsibility for temperature increase); Brazil originally made such a proposal in the negotiations which led to the Kyoto Protocol, suggesting to account for historical emissions from 1840 onwards.

While developing countries were not willing to discuss quantified binding absolute commitments, there were some signs that certain larger developing countries are starting to give consideration to climate mitigation using various frameworks and metrics. The latest Chinese Five Year Plan includes a commitment to reduce energy intensity by 20% by 2010, although it is to be noted that with the current rate of economic growth this will result in an increase in absolute emissions. Other options for developing country involvement in post 2012 climate mitigation include sustainable development policies and measures (SD-PAMs) – either quantitative or qualitative - and taking on voluntary sectoral commitments.

Interest in sectoral agreements or targets seems to be developing (including within the CDM and possibly including avoided deforestation – see below) although, as with any architecture for mitigation the difficulty lies in the agreeing the details; several negotiators admitted that targets would only be adopted, even if on a voluntary basis, after ensuring that competitiveness of national industries would not be compromised. This highlights the importance of identifying no regrets (or win-wins) options for developing countries, those which provide both socio-economic benefits as well as climate mitigation.¹⁷ Also issues such as industrial development, provision of energy supplies for social services to the poor, and transport, strategic issues such as energy security come into play.¹⁸

¹⁷ An example of a no regrets options is the switch of transport fuel for public vehicles in New Delhi from diesel to LPG, a policy implemented for reasons of public health (air pollution) but which also yields climate benefits due to the switch to a less carbon intensive fuel.

¹⁸ It is obvious that identifying no regrets options is a complex issue requiring further research and analysis for development of policy tools such as energy planning.

2.3.5 Reducing emissions from deforestation

2.3.5.1 Background

Some of the most controversial debates and negotiations in recent years have surrounded the land use, land-use change and forestry (LULUCF) sector. After a period of relative calm as some technical compromises were agreed in 2001 in Marrakech, one issue resurfaced during COP 11/MOP 1 in Montréal: avoided deforestation, or – in the language of negotiators – “reducing emissions from deforestation and forest degradation” (REDD). Since Montréal, many countries and observers have been developing positions on this issue in response to a formal proposal by Papua New Guinea and the Coalition for Rainforest Nations (See Wittneben et al. 2006: 93). The proposal suggested compensating countries which succeed in lowering their rate of deforestation below a historical baseline of emissions with financial incentives, such as tradable carbon credits. In contrast to earlier discussions in the context of the CDM, this concept would use baselines on a national level and thereby address concerns such as carbon leakage which were one of the barriers for an earlier inclusion of forest conservation.

Over the last year, a series of scientific publications and reports have drawn attention to the fact that deforestation contributes around 20 percent to global total GHG emissions and is the largest source of emissions from developing countries (Houghton 2005; Santilli et al. 2005). In addition, avoiding deforestation is linked to a host of potential co-benefits, such as biodiversity, watershed, and soil conservation, and to important questions regarding rural development. Considering the slow progress in achieving emission reductions on a global level, it is imperative in the eyes of some to include all major sources of emissions and emitters in future commitment periods. Allowing for additional mitigation options would enable countries to reach more ambitious reduction targets at little or no extra cost. Some also

hope that it might pave the way for including more countries into future climate regime regimes.¹⁹

2.3.5.2 Nairobi mandate and progress

The official mandate on REDD for the Nairobi COP was narrowly restricted to a 2-year process, agreed last year in Montréal, in which countries would define the scope for an expert workshop on the issue in March 2007. A first one had taken place in Rome in August 2006. Delegates agreed to focus mainly on policy approaches during this next workshop, while also discussing the technical and methodological requirements for their implementation and taking into account provisions of other international conventions. Although this may seem like an almost insignificant outcome, compared to previous meetings the negotiations were much more constructive and delegates did not become distracted by calls to solely discuss scientific and technical issues. Informal negotiations were very active and tried to resolve differences between major stakeholders, mainly the Rainforest Coalition and Brazil.

Similarly, during side-meetings it became clear that REDD is at the centre of attention of many NGOs, government agencies, and research institutions. An important outcome of the latter is that the scientific remote-sensing community largely agrees that most of the necessary raw data exists on a global level and could be made available relatively rapidly and at reasonable cost by processing existing satellite imagery. It became clear that such technical and information barriers could be overcome given sufficient political will.

2.3.5.3 The Brazilian fund proposal

One of the most interesting developments concerns the position of Brazil which in the past was opposed to any inclusion of avoided deforestation and especially to linking this to carbon trading. Emissions from deforestation in Brazil are higher than anywhere else and indeed make the country one of the world's higher emitters of greenhouse gases. The rejection of

¹⁹ In particular the United States had stressed the importance of the land-use sector in contributing to emission targets during earlier negotiations, as well as the necessity of addressing emissions from developing countries.

REDD by Brazil has created much discussion over the last year, considering that the country stands to gain the lion's share of possible compensation payments, especially considering Brazil's demonstrated efforts and abilities to control deforestation in the Amazon.

It now appears that environmentally-minded groups within the Brazilian government and society are gaining ground and may be moving the country towards accepting a version of the Rainforest Coalition proposal. After many rumours in the corridors, Brazil put forward its own proposal during a plenary session in the last days of the COP. There are still no official documents outlining the approach, but it would involve an international trust fund which would draw upon voluntary contributions from industrialised countries. Payments would be based on quantified emission reductions, calculated against a historic reference scenario of a country's emissions. These elements of the Brazilian proposal make it surprisingly similar to the main competitor in the race: using carbon markets and tradable emission credits to compensate governments for verified emission reductions. This is encouraging considering that Brazil was opposed to even quantifying emission reductions from deforestation on a national level until recently. Many observers do not see realistic chances for a major additional international fund to be established and expect that Brazil will have to reconsider its current rejection of carbon trading approaches.

2.3.5.4 Remaining hurdles

Regarding the eventual success of the REDD initiatives, everything, including a complete failure to reach an international agreement, seems possible at this stage. In fact, if parties do not agree on an approach within the next few years, for example because they become entangled in technical discussions, many think that the issue might well lose the necessary political momentum. However, a number of large organisations and governments have invested significant energy and resources into promoting and exploring the proposals and seem unlikely to simply drop the issue. In addition, media coverage in recent months seems to

have firmly established emissions from deforestation both on the international agenda and in public awareness.

Nonetheless, some of the major potential deal-breakers still need to be resolved. Among others, there is the question of how much money individual countries could potentially earn through carbon finance, and this depends directly on how much they have deforested (and hence emitted) in the past and on whether that trend can be projected into the future. Several countries have made it clear that they want to receive rewards for past conservation actions, e.g. Costa Rica, and for increases in forest cover, e.g. India. This certainly raises concerns about the integrity and “additionality” of carbon credits because such rewards may not reflect actual, additional emission reductions. Environmental NGOs will almost certainly oppose the creation of “hot air”.

In addition, some observers are concerned about a potential “flooding” of carbon markets with cheap credits from avoided deforestation. Although some practitioners do not deem this to be a likely scenario (given significant governance challenges of addressing tropical deforestation), a pragmatic solution, such as a cap on the maximum use of REDD credits, may help to overcome existing concerns. On the other hand, many organisations stress the need for strong Annex-1 reduction commitments which would create the necessary demand for credits and drive up prices. Incorporating a potential supply of credits from REDD during the determination of global reduction targets could also circumvent one of the main fallacies of past LULUCF negotiations: During the original negotiations leading to the definition of eligible CDM activities, the inclusion forestry activities was suggested when Annex 1 reduction targets had already been agreed. A large number of credits deriving from such activities thus would have reduced the pressure for fossil fuel-based emission reductions (see Dessai et al. 2005).

Another potential deal-breaker is the larger question of longer-term emission targets for developing countries. Some governments are concerned that approaches which begin as

“voluntary”, such as the avoided deforestation proposal, may later pave the way for non-voluntary emission caps. In this light, the discussion about avoided deforestation is not just about forests but intrinsically linked to the future of the whole climate change regime; it is, in fact, about the question of what “common but differentiated responsibilities” (UNFCCC) means in practice.

2.3.5 The Clean Development Mechanism (CDM)

The CDM continued to receive considerable attention throughout the Nairobi event, with many citing the mechanism as a success given the rapidly increased number of projects in the pipeline (Sterk and Wittneben 2005). African parties, and other countries not benefiting from the CDM, highlighted the lack of benefit accrued to Africa through the CDM, with African CDM projects accounting for only around 2% of the total number of CDM projects.²⁰ Then UN Secretary General Kofi Annan announced the launch of a new initiative, the Nairobi Framework, which aims to support the participation of developing – in particular African - countries in the CDM through capacity building. More broadly the private sector made calls for improvements in the investment environment in Africa, without which it claimed the CDM would continue to be difficult to implement in less developed countries. It is interesting to note in this regard an increased focus on energy in Africa, and other developing regions, by a number of donor agencies. The World Bank launched its Clean Energy Investment Framework in 2006, and the EU announced the development of an Africa-EU Infrastructure Partnership Initiative, including significant investment in regional energy infrastructure in Africa. These activities will, inter alia aim to support the improvement in the investment environment.

In addition to concern expressed by some developing countries that the CDM is not providing the expected “development dividend” (cf. the high proportion of HFC-23 projects

²⁰ China, Brazil, India and Mexico account for about 75% of all CDM projects in the pipeline. www.cd4cdm.org, UNEP Risoe Centre.

in the current portfolio), a number of specific technical CDM-related issues were also discussed in Nairobi. Geological carbon capture and storage (CCS) was promoted by some²¹ for inclusion in the CDM. However a number of parties – for example Brazil - felt that important uncertainties remained regarding the technology, as well as how to define emission reductions under the CDM (e.g. issues of project boundaries and leakage). Accordingly, decision about inclusion of CCS in the CDM was thus postponed, pending further discussion of the uncertainties involved. It is interesting to note comments by some - in the sessions and in corridors of the Nairobi event - that the real reason for preventing inclusion of CCS (and avoided deforestation) in the CDM is that the CER market would be flooded, thus reducing the value of these credits; such an outcome is clearly not in the interest of those countries currently benefiting from CDM investment.²²

Discussions continued on methodologies for calculating emission reductions from small-scale projects, including improved cooking stoves, which account for large proportions of energy use in most poor countries through the burning of biomass, presenting significant health hazard for women and children through exposure to very high levels of indoor air pollutions. The decision to ask the CDM Executive Board to seek proposals for new methodologies for the switch from non-renewable to renewable biomass, missed the point since most improved cooking projects improve the efficiency of non-renewable biomass use; thus an opportunity was lost in Nairobi to promote CDM projects which could be of most benefit to the poorest populations in developing countries.

Several side events highlighted the importance of generating CDM projects in the transport sector, given the significantly increased emission anticipated. The CDM might be one instrument to steer transport in a more sustainable direction, but so far projects have made little progress. A related debate involved extension of the CDM into sectoral areas, whereby

²¹ For example those in favour of including CCS in the CDM included the following parties: EU, Norway, Japan, Canada, and also South Africa and Saudi Arabia. This list illustrates that the classical North-South divide is blurred to some extent in the CDM debate (unlike on other issues).

²² Brazil voiced concerns about the potential impact of CCS technology on the current CDM portfolio.

the boundaries of a CDM activity would be extended beyond the limitations of a specific project to include a sector (eg cement, transport, electricity etc). The potential advantages of such an approach include achievement of a greater scale of reductions in carbon emissions, as well as reduced transaction costs. It was agreed that Programmes of Activity would be allowed under the CDM framework. However much work is required to establish a sound basis on which to define baselines and additionality.

An important over-arching issue for the CDM is the closing window for new CDM investment in the first commitment period. It is generally thought that 2007/8 marks the period beyond which it will not make financial sense to start a new CDM project without any post 2012 commitments. Investment barriers and severe market bottlenecks are imminent for investments in many project types due to the high uncertainty of the post-2012 market. This highlights the urgency of reaching an agreement on a post-2012 regime.

2.4 Key Cross-cutting issues

2.4.1 Technology Transfer

The issue of technology transfer was very high on the agenda in the Nairobi COP. Three related factors account for this. The first was the general hype and subsequent expectation that the Nairobi COP should focus on the need of the developing countries including enhancing their ability to implement their provisions in the Convention and to adapt to the dangerous effects of global climate change.²³ The second relates to the frequent references that had been made on the importance of technology transfer in the Dialogue on long term co-operative action to address climate change as well as the expressed need to make these insights

²³ Many articles in the Convention text recognise the importance of technology transfer initiatives as a means of enabling the developing countries to embrace low carbon pathways to development. In particular, Article 4, paragraph 5 states *inter alia* that “The developed country Parties and other developed Parties included in Annex II shall take all practicable steps to promote, facilitate and finance, as appropriate, the transfer of, or access to, environmentally sound technologies and know-how to other Parties, particularly developing country Parties, to enable them to implement the provisions of the Convention. In this process, the developed country Parties shall support the development and enhancement of endogenous capacities and technologies of developing country Parties”.

operational by incorporating them into existing Convention mechanisms.²⁴ The third and perhaps the most important was the fact that the work and terms of reference of the Expert Group on Technology Transfer (EGTT) was up for review in COP 12.²⁵ The developing country parties therefore expectedly saw COP 12 as presenting a vital opportunity to seek fundamental transformation in the approach to technology transfer.

The tone was set by many speakers right in the opening session of the Conference. Moody Awori, the vice president of Kenya, who opened the meeting stressed that Africa is the most vulnerable continent whilst it contributes the least to climate change. He therefore called for expeditious action by the developed nations to help Africa undertake action on adaptation. In particular he stressed the need to pay attention to matters relating to technology transfer and capacity building. The president of the conference, Mr Kivutha Kibwana (the Environmental Minister of Kenya), in his opening speech similarly reiterated the need for the conference to give urgent attention to the issue of technology transfer. He set about five key goals for the conference including inter alia the expectation that the meeting should come up with “new radical thinking on technology transfer”. Most other speakers including South Africa (speaking on behalf of the G77), Nigeria (speaking on behalf of the African Group), Niue and Australia in their respective capacities all stressed the need to give urgent attention to the issue of technology transfer.

However, once the informal contact group co-chaired by Kunihiro Shimada (Japan) and Carlos Fuller (Belize) started sitting, the differences in the perceptions and views of the developed and the developing countries on what this ‘urgent attention’ means in practice

²⁴ See COP Decisions -/CP. 11, 4/CP.7, 6/CP.11, 10/CP.8, and FCCC/2005.INF.1 among others.

²⁵ Parties had five years earlier (through the Marrakesh Accord) adopted a ‘framework for meaningful and effective actions to enhance the implementation’ of Article 4 (5) of the Convention which deals with the issue of technology transfer (COP Decision 4/CP.7). The major step in this regard was the establishment of an expert group on technology transfer with the mandate to identify and analyze ways to facilitate and advance technology transfer activities between Annex 1 and non-Annex 1 parties and to make recommendations to the Subsidiary Body for Scientific and Technological Advice.

became very apparent. In keeping with the call by the President for radical new thinking on the issue, the developing countries sought important transformation on the approach via three key proposals. First, they demanded that the mandate of the EGTT should not be extended but rather called for the establishment of a completely new body under the Convention to be known as the Technology Development and Transfer Board (TDTB). They proposed that contrary to the existing arrangement where the EGTT reports to the Subsidiary Body on Scientific and Technology Advice (SBSTA), that the TDTB should be authorized to report directly to the COP and to make decisions. In other words, such a board would have similar status as the Executive Board on the CDM. In addition, they proposed that the TDTB should be given the express mandate to provide guidance to the COP on how to deal with the issue of intellectual property rights in ways that would promote wider access to climate friendly technologies. Second, they proposed the establishment of a Multilateral Technology Acquisition Fund (MTAF) to sponsor joint research and the development of environmentally friendly technologies. Such a Fund, they argued would also be used to ‘buy out intellectual property rights’ (IPR) and put them in the public domain. China in its proposal added that such a Fund, apart from helping in the purchase of IPR, should also assist in providing ‘export credit, export taxation reduction and exemption and export subsidies’. Third, the developing countries demanded the establishment of clear indicators that would aid the monitoring and assessment of the implementation of the technology transfer framework.

The developed countries, on the other hand, objected to all of the three proposals tabled by the developing countries. They were vehement in their opposition to the establishment of a new technology board but rather insisted on the continuation of the EGTT. The EU insisted that the terms of reference of the EGTT were wide enough and that the EGTT ‘continues to provide a good basis for furthering the work’ on the implementation of the technology framework. Similarly, the developed countries strongly objected to the establishment of a technology acquisition fund and contended that the money from the Special Climate Change

Fund (SCCF), the Adaptation Fund and the resources generated from the CDM market should be sufficient to fund the activities of the EGTT with an extended mandate. The developed countries generally side-stepped the issue of buying out intellectual property rights and putting such rights in the public domain. The closest remark came from the EU which called for the ‘development of new concepts to pool public funding more effectively’ but did not elaborate on this point. Finally, the developed countries opposed the development of new indicators for assessing the work of the EGTT and the overall implementation of the framework.

Discussions on these issues proved intractable as neither of the two blocs was willing to give in on any of these issues. Faced with no agreement, the Chair of SBSTA personally intervened. He reminded the parties that a “no agreement situation” would mean that there would be at least 18 months gap in the implementation of the technology framework.²⁶ Faced with this dilemma, the parties settled for a compromise decision. The mandate of the EGTT was extended for just one more year. Within this period the EGTT was asked to prepare a scoping paper on joint research and development and indicators that might be used to assess the implementation of the technology transfer framework. Meanwhile, a text of the draft decision with all the provisions in bracket was forwarded to SBSTA as a basis for debate at its twenty-sixth session in Bonn, Germany from 7-18 May 2007.

2.4.2 Capacity Building

Capacity building represents an important cross cutting issue in the international action for climate change. Several provisions in the Convention and the Kyoto Protocol recognise the critical importance of capacity-building as a basis for the effective implementation of the Convention and the Protocol by both developing countries and economies in transition

²⁶ 12 months between Nairobi and the next COP and another 6 months for the SBSTA, if decision is postponed to the next

(EIT).²⁷ Virtually all non-Annex I countries require capacity building to be able to meet their National Communication requirements, implement climate mitigation options, undertake adaptation assessment needs and, in most cases, to be able to participate effectively in international climate negotiations. It was not however until 1999 in Bonn that capacity building was considered as a separate item in the COP agenda. The discussion that ensued led to the eventual agreement that the issue should subsequently be addressed as a single integrated subject. This understanding was followed by the adoption of a capacity building framework under the Marrakech Accord in 2001. It was agreed in this Accord that the framework should deal with capacity building as it relates to the Convention and the Protocol. The main problem since then has been on how to operationalise the provisions of this accord and how to monitor the progress under the framework. There has also been some disagreement over how much financial support the GEF can give towards aspects of the work that relates directly to the Protocol given the fact that the US, a major contributing state is still opposed to the Kyoto treaty.

In Nairobi, the developing countries expressed a lot of interest in the issue of capacity building. The African group, the Least Developing Countries (LDC) group and the Association of Small Island States (AOSIS) all expressed dissatisfaction with the level of progress made under the framework since the Marrakesh Accord. They directly linked their inability to attract CDM projects, develop National Plans of Action on Adaptation (NAPAs) or conduct adequate Technology Need Assessment (TNA) to a lack of capacity. Following this, they expressed the desire that the Nairobi Conference should lead to a departure from what the Nigerian delegation terms a ‘piece meal’ approach of the COP on the issue of capacity building.

During the meetings of the informal contact group on capacity building co-chaired by Crispin d’ Auvergne (Saint Lucia) and Helmut Hojesky (Austria), the main issue that emerged

²⁷ Article 3, 5, 4 (1), 4 (3), 4 (5), 4 (7) of the Convention, Article 10, paragraphs (c), (d) and (e), and Article 11 of the Kyoto Protocol.

concerned the role of GEF in funding and monitoring capacity building projects especially those that are directly within the context of the Kyoto Protocol. The other issue of disagreement relates to the methodology for developing and monitoring indicators that might facilitate accurate assessment of progress as well as who should do what under the programme.

The developing countries in general wanted to see increased GEF funding of capacity building initiatives and particularly the projects that have to do with adaptation. In addition, they proposed that GEF should be charged with the responsibility of developing clear programmatic indicators for monitoring its contribution under the framework and that GEF should be made to submit a report of its work based on the said indicators to the COP annually. They wanted a decision that mandated GEF to produce its assessment report in a ‘structured format’ insisting that such template should make provisions for information on ‘geographical coverage, gaps in capacity building, as well as unmet requests for assistance’. The general essence is that developing countries felt that the developed countries are foot dragging on the issue of capacity building. The plan thus was that such structured reporting format would be vital in exposing the gap between the rhetoric of GEF and actual the work it does in this regard.

The developed countries, on the other hand, expressed deep satisfaction with the existing capacity building framework, describing it as ‘rigorous and effective.’²⁸ Moreover, the developed countries did not see the need for the development of monitoring indicators or the kind of structured reporting format proposed by the G77 and China. The EU maintained that since capacity building is so intricately bound with wider state-based development initiatives, it was only proper to lay the burden of monitoring and assessment squarely on the recipient (developing) countries. Further, the EU insisted that the periodic report by the secretariat and

²⁸ “Views on steps to be taken to regularly monitor capacity building activities” submitted by the EU.

the GEF as well as the information contained in the national communication should altogether provide enough of a basis to measure progress and set future objectives.

Despite long hours of debate and informal consultation, these issues could not be successfully resolved. In the end, a compromise was reached that discussions on these issues would continue in a subsequent Subsidiary Board for Implementation (SBI) meeting. Meanwhile, a decision asking the GEF to make more effort to support capacity building projects was passed. The same decision also mandated GEF to organise an expert working group meeting on monitoring capacity building so as to provide parties with more information that will enable them make informed judgements. Similarly the COP asked the Secretariat to prepare a synthesis report that highlights the status and capacity of developing countries to effectively participate in CDM projects. The report would be considered by the SBI during its meeting in Bonn in May 2007.

3 Some thoughts on what the Nairobi COP/MOP outcomes might mean for the future

The general impression created by previous commentaries is that the Nairobi Conference did not mark radical progress in the history of international climate diplomacy (ENB 2006; JIKO 2007). This view arises mainly by comparing the Nairobi meeting with landmark COPs such as 1997 Conference in Kyoto or the COP/MOP conference in Montreal in 2005. However, while there is an element of truth in this comparison, it is nonetheless the case that the outcomes of the Nairobi conference hold some important lessons for policy makers, scholars and close observers of the international action against climate change. Even if it is admitted that the Nairobi meeting produced minimal results in terms of the progress of the climate change regime, asking the reason(s) why this is so is bound to throw up important points for observers and students of international politics of climate change. There were

definitely high hopes in some sections of the global community in the run-up to the Nairobi Conference and for arguably valid reasons.

First, the Nairobi Conference took place in Africa, the poorest continent in the world and one that is adjudged the most vulnerable to the impacts of global climate change (Washington et al. 2006; Adger et al eds. 2006). Accordingly, it was generally regarded as a unique opportunity to push the issues that are particularly relevant to the developing countries. Second, the Nairobi conference marked the second meeting of the parties to the Kyoto Protocol, which entered into force in February 2005. Earlier – between 1997 and February 2005 – the status of the Kyoto Protocol was very uncertain following opposition of it by the US and to a lesser degree Australia. However, once the Kyoto Protocol entered into force in February 2005, much of the attention shifted to how to meet the specified targets as well as how to further operationalise some of the important guidelines contained in the document (Tamura 2006; Buchner et al. 2006).²⁹

Thirdly, COP12/MOP 2 provided the forum for the first review of the treaty as mandated by Article 9 of the Protocol. Accordingly, it was expected that the Nairobi Conference was going to provide the forum for the starting of serious negotiations on further commitments that might be taken by state parties during the second commitment period – that is post 2012. Fourth, the Nairobi Conference took place just a few days after the release of the Stern Report on the economics of climate change commissioned by the UK treasury. This high profile report makes an economic case for urgent international action on mitigation and adaptation to global climate change. Finally, and by no means least, was that whilst some uncertainties remain, there has been growing consensus among the international scientific communities regarding the rate, consequences, and options to combat human-induced climate change. All these factors had therefore prompted a measure of expectation that the international community would show marked determination to advance actions that would leverage

²⁹ Some of these include guidelines on the Financial Mechanism, CDM and Adaptation (see discussions above).

reductions in greenhouse gas emissions and in ways that are sensitive to the deep ethical and moral issues implicated. The above context presumably explains the high expectations from developing countries (especially African) for the Nairobi Conference. The same context equally provides the background against which many have bemoaned the lack of a sense of urgency in the Nairobi COP as well as what they perceive as a yawning gap between rhetoric and action.³⁰

What then do the outcomes of Nairobi negotiation mean for the future? No doubt the conference will be interpreted differently by various observers: developing countries, developed countries, the business community and the NGOs. And even within each of these categories, division of opinions is often the rule rather than the exception. Notwithstanding, it is possible to make some general comments about the implications of the outcome of the conference for the future.

3.1 The Future of the Climate Regime

As highlighted in section 2.3, a common characterisation of the negotiation process was that it was taking place within a “four track” framework: the Dialogue and the AWG, both originating in Montreal, as well as the Review of the Kyoto Protocol (Article 9) and the Russian Proposal to enable developing countries to make voluntary emission reduction commitments under the Protocol. The perception of an internal fragmentation of post-2012 negotiations into four tracks slowed progress in Nairobi and is also likely to affect the development of the future regime.³¹

³⁰ See for example *Viewpoint: Our Climate Our Survival* Friday November 2006; *JIKO Info* 1/07 Volume 5 (1):1; *ENB*, Volume 12 (138).

³¹ Several ‘package proposals’ for a possible post 2012 regime were put forward by groups of researchers and NGOs, none of which wholly fits into the four track characterisation. Some of such proposals include the “Basic” project’s “Sao Paulo Proposal for an Agreement on Future International Climate Policy”; the Basic project, funded by EC, UK and others, originally aimed at supporting the implementation of the Convention and Protocol by Brazil, India China and South Africa. The Sao Paulo Proposal recognises that Annex I/B type commitments are not appropriate for developing countries due to their limited capacity, and rapid economic, social and demographic changes. It proposes inter alia a possible “...new annex listing Non-Annex I Parties that

3.1.1 The Review of the Protocol

The first comprehensive review of the Kyoto Protocol as mandated by Article 9 (2) of the document was due to take place in the Nairobi meeting. This mandate provided observers of the international politics of climate change an excellent opportunity to gauge the pulse of the contracting parties regarding the workings of this complex and controversial document (Buchner et al. 2006). Such a reading is important in speculating what the future of the regime might be. Earlier, there had been anxiety in some quarters that some countries who felt that they got a bad deal, and those who are struggling to meet their Kyoto commitments, might attempt to use the opportunity of the review to re-open the very basis of the document (see Biermann 2005). The US had been calling the protocol an unreasonable document and it was a moot question what influence this might have on the less committed countries and by implication the outcome of the review. Added to this was the anxiety that the developed countries might use the opportunity of the review to demand that some countries currently under the non-Annex I group should take up quantified emission reduction targets (Grubb Yamin 2001; Pan 2005; Buchner et al. 2006).³² In the end, the review process did not throw up major surprises, partly because the issue of binding targets for the second commitment period was not seriously broached. Some commentators have expressed disappointment that the review process did not proceed to lay a solid foundation for future discussion on the second commitment window,³³ however on a more optimistic note, it can be argued that the meeting in Nairobi served to indicate that an overwhelming majority of the contracting parties still have faith in the UNFCCC and the related Kyoto Protocol. The most important point is that these regimes still seem to be generally considered as the core basis for advancing

agree to quantify and report the emission reductions achieved by their sustainable development actions...” earning “...political recognition but not generating tradable credits ...”

³² See FCCC/KP/CMP/2006/MISC.3; FCCC/KP/CMP/MISC.3/Add.1 and Add.2. These documents contain the views of some parties on the review process as submitted to the UNFCCC secretariat in the run-up to COP 12.

³³ See *ECO*, November 16 2006; *JIKO Info* 1/07 Volume 5 (1):1

international co-operative effort on climate change.³⁴ The feeling one gets from the Nairobi meeting is that whatever the international community will agree post 2012 would not be radically different but rather modest modifications on what is currently on the table, with possibly a more diversified menu of options for commitments by different groups of states. Such options might range from existing quantified emissions commitments, through mandatory or voluntary intensity targets, voluntary sector commitments and finally a qualitative “policies and measures” (PAMs) approach (Sterk and Bettina 2006; Michaelowa et al. 2006). Although the menu is still being written, there is a general recognition that the commitments under a second commitment period need to be both wider and deeper (Michealowa et al. 2006). The concepts of flexible mechanisms and the trading of emission reduction credits now seem accepted by the majority of parties although there are still genuine concerns about how their implementation might be improved to deliver more benefits to both sustainable development and to the global environment (see Yamin et al. 2001).

3.1.2 The Seeming Divide between Adaptation and Mitigation

Another issue that emerged from the negotiation in Nairobi that relates to the future of the regime is the divide over efforts on mitigation and adaptation (Burton 2002). One of the defining characteristics of Nairobi was the level of attention given to adaptation as opposed to mitigation. Although in theory these two issues are interlinked, the seeming preoccupation of the developing countries with adaptation, and the ways in which the issues are presented, tends to create an artificial separation.³⁵ For example, discussions during several informal contact groups were marred by drawn-out bickering over the relative placement of paragraphs that emphasize mitigation and the ones that highlight adaptation. Indeed, one of the options informally proposed in the run-up to Nairobi was the establishment of a separate protocol for

³⁴ In other words, other efforts/fora such as the G8 or AP6 as generally conceived as supplementary rather than a replacement of these main global regimes.

³⁵ The complexity of the issue is further increased by the suspicion that as opposed to some smaller countries that have a genuine urgency to enhancing adaptive capacity, some of the more technologically advanced developing countries view adaptation as a route to the compensation debate.

adaptation. Even now debate continues over what sort of institution should be created for the management of the Adaptation Fund and perhaps more importantly over the framework conditions which any institution (existing or new) that would like to operate the AF would have to satisfy. Against this background, it is only reasonable to suppose that the issue of how best to combine mitigation and adaptation efforts will be a challenge for the future climate regime. The technicalities of these discussions and their significance become even clearer when it is remembered that there are important differences in the perception of various Annex 1 countries, including the EU and the US on the issue of adaptation. These differences invariably translate into differing views and extended negotiation over important provisions relating to adaptation including its funding and governance.

This divide between mitigation and adaptation is symptomatic of yet another major challenge that will face the future effort to build a strong and effective climate change regime, the symptoms of which were evident in the Nairobi meeting. This challenge has to do with how best to achieve an optimum level of integration between efforts to mitigate and adapt to climate change and other concerns such as energy, land use, and sustainable development which are so closely related and yet addressed in completely different international regimes (see Beg et al. 2002). It appears that as the climate regime develops, the need to strengthen the links between climate efforts and other regimes dealing with related issues, in the pursuit of “win-wins” or “no regrets” options becomes more apparent. Indeed, several delegates in Nairobi stressed the need for parties to keep in mind that the Climate Change regime aims not only to stabilize CO₂ emission but also to achieve sustainable development. To this effect, they argued that parties must seek creative ways of linking these two objectives and reflecting such links in future policies. For example, there is the feeling in some quarters that not enough is being done under the current regime and that there is an urgent need for a future climate regime to understand issues relating to the supply of energy services to the ~2 billion people currently without. This involves especially the practical aspect of energy investment,

recognizing the growing importance of the energy security issue. There is thus a need for a closer relationship in the future between climate and energy policy, recognizing the inherent synergies and trade-offs involved. Future negotiators will continue to face the challenge of working out how best to deal with these inter-linkages without making the climate regime too complicated, ineffective or too unwieldy to operationalise.

3.2 The Negotiating Dynamics

3.2.1 The Developing Countries

The negotiating dynamics in Nairobi were not radically different from those that have existed in the past (Grubb and Yamin 2001; Dessai et al. 2002; Dessai et al. 2005; Wittneben et al. 2006). The Nairobi negotiation proceeded practically on the basis of the existing blocs in international climate negotiation. The developing countries banded together well as a negotiating bloc meeting regularly under the aegis of Group 77 and China. Issues like carbon capture and storage and avoided deforestation presented some strain in the internal discussions of the group but in the end they managed to present a common front on most issues. Future climate negotiation is likely however to highlight the differences between developing countries in the G/77-China bloc. Some of the leading issues that may highlight fissures might involve the rules on the CDM, including how to ensure the equitable distribution of CDM projects, the rules relating to the financial mechanism, the issue of carbon capture and storage and the issue of graded 'soft' commitments by some of the key developing countries. For example, there were some indications in Nairobi that some of the poorest countries are beginning to feel that most of the important rules of the UNFCCC and Kyoto that are designed in principle for the benefit of the developing countries in practice tend to favor only the more advanced within this group. The guidelines relating to the CDM and the Financial Mechanism are usually cited as prime examples. Although the focus in Nairobi was more on how to amend some of these rules or to make special provisions for the least developed countries, it is not difficult to imagine that in the future some of these

developing countries will increasingly feel marginalized within the big G/77-China bloc if they are unable to secure appropriate amendments and/ special provisions which suit their purposes.³⁶

Another point under this rubric is what the Nairobi meeting implies for the influence of the developing country bloc on present and future climate negotiations. Here of course opinions will vary as to what exactly the developing countries achieved in Nairobi and why that is so. For some, the fact that the Nairobi conference was dominated by discussions on adaptation clearly indicates the ability of the G/77-China to bring their influence to bear in the international climate negotiations. Another point is that to date the developing countries have managed to successfully rebuff any suggestion that it considers taking either hard or soft emission reduction targets. It is possible that this united stand was responsible for keeping the developed countries from making an explicit demand during the review of the Protocol meetings in Nairobi. Furthermore, developing countries have been much bolder in the way they challenge some of the guidelines and mechanisms of the Convention/Protocol. In Nairobi they succeeded in bringing the Adaptation Fund under the authority of the COP and secured a one-country-one-vote rule as for the membership of the governing body of the Fund. Developing countries also managed to keep the issue of intellectual property rights and the linkage between climate action and development on the agenda. All these might provide grounds for some who believe that the developing countries might just be able to get more out of the international climate negotiations if they bind well together and fine tune their negotiation strategy in the future.

But there are others who would be inclined to argue that the events in Nairobi, if anything at all, proved the weakening voice of the developing countries in the international climate diplomatic circles. It has been pointed before that developing countries (especially African

³⁶ A similar trend can be noticed with reference to the AP6 proposal. Here, delegates from the anchor countries such as South Africa and Nigeria were open to the AP6 (since it is another possibility to draw investments) whereas some of the poorest countries have no opinion on AP6 and favour the UN umbrella.

parties) had high expectations on the Nairobi Conference. However, despite generating a lot of positive noises, most of these expectations went unmet. African delegates canvassed for the establishment of a separate CDM desk for Africa, the creation of special African CDM investment Fund, radical changes in the operation of the GEF and deep changes in the current approaches for capacity building and technology transfer. But in nearly all these cases they did not gain much from Nairobi outside of familiar political rhetoric. This relates with the point raised earlier regarding the differing priorities within the developing country bloc and how the wide asymmetry in the influence of the members might impact on the cohesion of the group in the future.

3.2.2 Developed Countries

The role of the developed country parties in the Nairobi conference presents an interesting case for analysis. The intrigue lies in the fact that most developed countries are anxious to show themselves as progressive and as willing to move the international climate change effort forward. Similarly, most are eager to recognize the moral issues involved in climate change and the need to help the most vulnerable countries to establish robust adaptation measures. But at the same time, many of these same countries are struggling with their national mitigation commitments and are reluctant to support radical changes in the ways some of the vital international climate institutions are currently structured. Many speeches in the high level segment from the developed countries, for example, recognized the need for equitable geographical distribution of CDM projects and the need to give special attention to the plight of the African and the Least Developing Countries. But most of these governments were quick to block moves by the poor countries to achieve some restructuring in the way that the GEF functions. It would seem reasonable to suggest that many developed countries truly want to see action but lack the political will needed to bring this about. This apparent double standard attracted a lot of commentary from developing country parties at Nairobi who felt

that the singular most important barrier to progress in Nairobi was the lack of action on current commitments by Annex 1 countries. It is within this context that many in the developing countries see the regular references to the growing emissions in a few developing countries by Annex I parties as mere diversionary tactics³⁷. The consequence of this has been a growing sense of distrust among parties (Tamura 2006; Buchner et al. 2006). Most of the party delegates pointed out that trust is the key to stepping up action within the existing international climate regime but regret that the actions of some of the developed countries are eroding the foundation of trust within the diplomatic climate circles. A key issue is the perception that some developed countries will not meet their targets under the Protocol's First Commitment Period.

With respect to commitments under a possible Second Commitment period, there is the sense of a 'race to be second' with no country wishing to show its cards first. The EU works to continue to project itself as an honest broker but at the same time it is caught within the politics of its own internal consensus which means that it may be hard to take bold steps (Biermann 2005; Saeverud et al. 2006). It is interesting to note however that in March 2007 the European Spring Council adopted an ambitious unilateral target for the EU (20% reduction by 2020 from a 1990 baseline), which will be increased to -30% if also taken up by other countries. Time will tell if this signal from the EU will help break the log-jam in negotiations. The EU tries as much as possible to carry the US along into the climate mitigation process (Biermann 2005). It will be interesting to see in the coming months and years whether a strong lead by the EU has a positive influence on the US, although seasoned commentators have highlighted how domestic and constitutional problems in the US which might be in the way of any ratification of a post-2012 accord – no matter how hard the EU pushes.

4 Conclusion

Although there were no 'landmark' decisions in Nairobi, the meeting nevertheless marks an important step in the international co-operative effort to address the problem of climate change.

³⁷ At the time of writing, Munir Akram, Pakistan's permanent representative to the United Nations and chairman of the G77 group in New York said: "Unless the North comes to grips with its responsibility it will be difficult to come to an international consensus by which all of us can contribute to halting the degradation of the environment, and certainly stopping the development of developing countries is not the answer."

Important decisions reached at the Nairobi conference include concluding arrangements for the five-year work programme on adaptation and the establishment of the Adaptation Fund which is different from the existing funds in significant ways. The significance of the adaptation decisions in Nairobi could be considered more pronounced when interpreted as a consequence of G77/China having been able to get their act together and come to the negotiating table with clear options. Other important achievements include the review of the Protocol and the advancement of discussions – to some limited extent - on the long term action on climate change. All of these, as well as the discussions and decisions relating to transfer of technology, capacity building, financial mechanism and avoided deforestation are bound to prove important in the future efforts to respond to the threat of climate change within the context of the existing international regime. As efforts to negotiate a post 2012 regime proceed, some of the vital issues to be addressed include how to: (a) integrate efforts against climate change with related issues such as energy, sustainable development and land use without making the regime overly complicated; (b) achieve an optimum level of balance between adaptation and mitigation; (c) increase trust among negotiating parties in order to avoid the ‘race to be second’; (d) fully respond to the concerns for justice and equity both within and between the negotiating blocs; and (d) provide a post 2012 climate framework to remove investment barriers and uncertainties in order to increase as well as to stabilize the growing carbon market. The wheel of international co-operation is generally known to turn very slowly. The biggest question in this regard, however, is whether the global climate can wait.

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