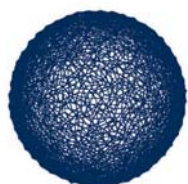




## United Nations Framework Convention on Climate Change (UNFCCC) Negotiations:

### The Basic Principles and Concepts



COP15  
COPENHAGEN  
UN CLIMATE CHANGE CONFERENCE 2009

**Imagine you were assigned the task of organizing the climate change negotiations.** The complexity of the task is overwhelming. Over 190 nations are involved in the process, each a sovereign nation and entitled to pursue its own goals. Add the presence at the negotiations of nearly 1000 inter-governmental organizations (IGOs) and non-governmental organizations (NGOs), each with its own opinion of what needs to happen. Then add the plethora of subjects under discussion including treaty negotiations, programs that are up and

working but require revision and enhancement, programs that are being negotiated for future operation, and discussions on correct process, enforcement mechanisms, etc., etc. Fortunately, we do not have responsibility for organizing this process, but, in order to participate, we are challenged to grasp how it works. Here is a summary of what we have discerned so far.

#### Treaties and Conventions

In 1989 the UN created the Intergovernmental Panel on Climate Change (IPCC). In 1992 this panel presented the United Nations Framework Convention on Climate Change (UNFCCC) and opened it for signature at the Earth Summit in Rio. In March, 1994, this Convention went into force and over the years has been signed by more than 190 nations. This agreement is referred to as "The Convention" or the UNFCCC. The Conference of Parties (COP) to the Convention (a meeting of all nations who have signed the Convention) has met annually since 1994 and thus the meeting in Copenhagen is designated COP15.

In 1997, a major extension of the Convention was negotiated in Kyoto called the Kyoto Protocol (KP). The KP required a separate ratification process and became effective only when 55 parties to the Convention ratified it. In addition, the ratification process required that those ratifying include developed nations whose carbon footprint equaled 55% of the 1990 footprint for all developed nations. The ratification by the Russian Federation in November 2004 brought the number of signators and footprint to the required level and the KP went into effect 90 days thereafter. It now has more than 190 signators, but unlike the Convention, the US is not bound by the KP. (In Barcelona they announced that Iraq had just ratified the Kyoto Protocol.) The major distinction between the Protocol and the Convention is that while the Convention **encouraged** industrialized countries to stabilize GHG emissions, the Protocol **commits** them to do so.

There is an ad hoc working group which carries out work on the Kyoto Protocol labeled the AWG-KP. The KP addresses several issues, but the key advance and the one currently in hot dispute, is the obligation it puts on the developed nations to make specific commitments to reduce green house gas emissions. Its provisions include the Clean Development Mechanism (CDM) which provides a way for developed nations to satisfy in part their obligation to reduce green house gas emissions by investing in projects in developing nations.

The AWG-KP is chaired by John Ashe (Antigua and Barbuda). He presides over the plenary sessions of the KP, and appears to act in the role of a mediator, certainly a coordinator among the sub-groups. He prepares texts for purposes of negotiations, with the help of a rapporteur from the secretariat. The AWG-KP established four contact groups in Bangkok to continue the work toward Copenhagen. Each contact group has a chair or co-chairs who serve as the facilitator/coordinator of that group. The contact groups and chairs are:

1. Annex I emission reductions, co-chairs: Leon Charles (Grenada) and Gertraud Wollansky (Austria)
2. Other issues, Chair, AWG-KP Vice-Chair, Harald Dovland (Norway)
3. Potential consequences, Co-chairs: Mama Konate, (Mali) and Andrew Ure (Australia)
4. Legal Matters, Co-chaired by Gerhard Looibl (Austria) and by a co-chair to be identified.

We believe that the AWG-KP is focused on changes that can be made with decisions, not amendments to the Protocol. They are only talking about one amendment to Article 3.9 of the Kyoto Protocol—the second commitment period. We understand that other proposals could lead to other amendments, such as related to LULUCF, if necessary. They are looking at Addendum 3 with two options—one to keep the old system and the other to make it more productive.

The next major advance under the Convention occurred at COP 13 held in Bali in 2007. At this meeting the Convention adopted the Bali Action Plan (BAP) which sets out specific tasks to be addressed to meet the consequences of climate change. A separate ad hoc working group known as the working group on Long Term Collaborative Action (AWG-LCA) was created and assigned the task of developing the Bali Action Plan and given a deadline of 2009 to complete its work. The AWG-LCA is chaired by Michael Ammit Cutajar (Malta), who facilitates the meetings and appears to play the role of mediator to a certain extent. The BAP and therefore the work of the AWG-LCA is divided into five topics, each of which was set up in Bangkok as a contact group with a chair or co-chairs to facilitate and coordinate them:

1. developing a shared vision for long term cooperation, Co-chairs: Chair Cutajar and Sandea de Wet (South Africa)
2. adaptation, co-chairs: William Kojo Afigemang-Bonsu (Ghana) and Thomas Kolly (Switzerland)
3. mitigation, Chair, Zammit Cutajar (There are 6 sub-groups working under Mitigation)
4. financial resources and investment, Co-chairs: Farrukh Khan (Pakistan) and Jukka Uosukainen (Finland), and
5. technological development and transfer, Co-chairs: Kunihiko Shimada (Japan) and Ishan Kumarsingh (Trinidad and Tobago).

A sixth topic, capacity building, was also set up as a contact group in Bangkok and also being considered. It is co-chaired by Lillian Portillo (Paraguay) and Georg Borsting (Norway). The Bali Action Plan introduced for the first time, the need for adaptation in addition to mitigation. Mitigation is focused on reduction of emissions. Adaptation recognizes that for many countries it is too late for mitigation because they are already feeling the consequences of climate change and need assistance in dealing with those consequences. The Small Island Nations and many of the African Nations consider themselves to be the immediate victims of climate change. Many small islands are facing the possibility of extinction from rising sea levels. African nations face extreme drought, desertification and floods.

At the COP 15 these two tracks, the AWG-KP (Kyoto Protocol) and the AWG-LCA (Long term Collaborative Action) will be having parallel sessions, sometimes on the same or similar topics. Most of the negotiating sessions are in the individual contact groups (by topic). The plenary sessions of each track bring all the contact groups together. The chairs and co-chairs of these groups are the faces you will start to see regularly. Remember that the US is in the LCA and not in the KP, and that is the major difference. There is an issue going on as to whether it is better to amend the Kyoto Protocol and extend the commitments of the industrial nations (the Annex I parties) to reduce their emissions to a second time period beyond the current period that ends in 2012, or to negotiate a whole new treaty along the lines of what the LCA is working on. Many nations fear this will end the Kyoto Protocol and not produce anything else that becomes legally binding. Contrary to what many people think, the Kyoto Protocol (the binding agreement) does not end in 2012. The first period of binding emissions reduction targets agreed to by the industrial nations ends in 2012 and then they were supposed to put in an agreement for a second period.

For more explanations of the contact groups and their topic areas at Barcelona, see the reports (and pictures) put out by the Earth Negotiations Bulletin at <http://www.iisd.ca/climate/rccwg7/>.

### **The Parties**

To facilitate the negotiating process the smaller parties have grouped themselves according to their collective interests. Thus we hear a delegate speaking for the G77 (group of 77) plus China, or the African Group, or the AOSIS (Association of Small Island States). We were confronted with the power of these coalitions on the opening day when the G77 plus China objected to efforts to "kill Kyoto" being undertaken by "certain" developed countries, and the African Group added its intent to take action to force the developed countries to commit to concrete numbers on emission reductions under the KP.

Other groups include the Umbrella Group, Central Group, Environmental Integrity Group, Coalition of Rainforest Nations, OPEC, EU and Least Developed Countries Group. Apart from these informal coalitions there are groupings based on legal agreements. Under the terms of the Convention there are the Annex I parties, the Annex II parties, and the non-Annex parties. The Annex I parties are the developed countries plus the EITs (economies in transition) which are basically the former communist states who were part of the Soviet Union or Eastern Europe. Annex II parties are the developed countries without the EITs, and everyone else is a non-Annex party.

At COP 15 there will be a number of subsidiary groups meeting, including the AWG-KP and the AWG-LCG and their contact groups. In addition, a Subsidiary Body for Scientific and Technological Advice (SBSTA), which counsels the Conference of the Parties on matters of climate, the environment, technology, and method and the Subsidiary Body for Implementation (SBI), which helps review how the Convention is being applied, and deals with financial and administrative matters will both be meeting. It is possible other expert and advisory groups which exist under the Convention will meet. For a good description of the various groups, see [http://unfccc.int/essential\\_background/feeling\\_the\\_heat/items/2915.php](http://unfccc.int/essential_background/feeling_the_heat/items/2915.php). The full Conference of the Parties, COP, will hold a session and make decisions pertaining to the Convention. A subgroup, called the COP-MOP (members of the Protocol) will meet to make decisions on the Kyoto Protocol.

### **The Programs**

The plethora of acronyms used to refer to the various programs is overwhelming. Two key programs which are frequently mentioned are LULUCF and REDD. LULUCF refers to Land Use, Land-Use Change, and Forestry. LULUCF is defined as a greenhouse gas inventory sector that covers emissions and removals of greenhouse gases resulting from direct human-induced land use, land-use change and forestry activities. REDD refers to Reducing Emissions from Deforestation in Developing countries and is a program within the LULUCF sector. The REDD program is being proposed as part of the Mitigation discussions under the AWG-LCA as is National Appropriate Mitigation Actions (NAMAs). (We are all just learning about all these programs. They may be the primary places where mediation and collaborative dispute resolution processes will be needed.)

### **The Sessions**

The party negotiations or talks are broken into two separate categories of sessions, closed and open. NGO's are not permitted to attend the closed (informal) sessions without notification in the Daily Programme or on the daily schedule which is continuously posted on TV monitors around the conference. The open sessions are open for everyone to attend who has been given prior permission to attend the Conference.

In the open sessions, the different groups, such as the G77 and China, are represented by a certain spokesperson from a country within that group. For instance, the G77 and China's spokesperson is the ambassador from Sudan. The spokesperson for the Umbrella Group, which includes the United States, is Australia and the African Group is often represented by a spokesperson from South Africa.

Generally, the Chair of the working or contact group, such as Mitigation under the AWG-LCA, will present text for discussion or negotiations in the sessions. This text includes language that has been previously proposed by different groups for inclusion in the final document. These proposals are sometimes referred to as "options." It is at this time when the different party or country groups ask the Chairperson, by putting their country placard on its vertical side in the table they are sitting at, to have the floor. Once the person is given the floor he explains the position of his country position, which is often peppered with views about the negotiation process as a whole.

At the end of the session, the Chair and Secretary for that contact group will draft “Non-papers.” These Non-papers are placed on the UNFCCC website and distributed to the parties prior to the next contact group meeting, which may be closed. The parties will meet in the mornings in their different groups, such as the Africa Group, to discuss their strategies for the day and the proposed text drafted in the Non-papers. Even though the United States is not a signatory to the KP, we understand they do participate as an observer in the AWG-KP sessions.

### **Terminology**

There is an incomplete glossary of terms and acronyms at [http://unfccc.int/essential\\_background/glossary/items/3666.php](http://unfccc.int/essential_background/glossary/items/3666.php)

## **Credits & Contacts**

Thanks very much to  
**William Hallmark, Elaine Hallmark, and Mark Kirwin**  
for the information provided for this document.

Contacts: Mediators Beyond Borders COP15 Project

Mark Batson Baril, Mediators Beyond Borders, COP15 Project  
(markb@disputeresolutionpartners.com)

Kirk Emerson, Mediators Beyond Borders, COP15 Project  
(kirk\_emerson@mindspring.com)