

UNITED NATIONS NON-GOVERNMENTAL LIAISON SERVICE/NGLS

UN Climate Change Convention: COP-3 Adopts Kyoto Protocol

INTRODUCTION

After over two years of talks and eleven days of difficult negotiations, government ministers and other high-level officials from 160 countries have agreed to reduce overall greenhouse gas emissions of industrialized countries by 5.2% below their 1990 levels. This was the outcome of the third Conference of the Parties (COP-3) of the United Nations Framework Convention on Climate Change (UNFCCC). The conference, held from 1-10 December 1997 in Kyoto (Japan), beat all records for participation in meetings on climate change by governments, NGOs and the media with an estimated 10,000 persons in attendance. The Kyoto Protocol adopted at COP-3 aims to decrease overall emissions of industrialized countries (Annex I Parties) of the six major greenhouse gases below 1990 levels between the years 2008 and 2012, to be calculated as an average during that period. The "basket" of gases to be subject to mandatory cutbacks are carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs) and sulfur hexafluoride (SF₆). For the first three of these gases, 1990 is to be used as the base year. Cuts in the remaining three gases may be measured against a country's emission levels in either 1990 or in 1995.

The reduction targets agreed upon for the above gases are 8% for the European Union (EU), Switzerland and many Central and Eastern European states, 7% for the United States, and 6% for Canada, Hungary, Japan and Poland. The European Union will accomplish the overall reduction target by distributing different reduction rates to its member states. Of the 39 Annex I Parties, three countries—Australia, Iceland and Norway—will be allowed to raise their emissions by 8%, 10% and 1% respectively, while New Zealand, the Russian Federation and Ukraine are allowed to stabilize their emissions at 1990 levels (see box on page 10).

Many developed countries will not succeed in meeting their existing commitments under the convention to return their emissions to 1990 levels by the year 2000—on the contrary, the level of emissions in these countries continues to increase. Compared to expected emissions by the year 2010 under a business-as-usual scenario, the protocol means a 30% reduction in emissions.

In accordance with the Berlin Mandate, which launched the negotiations and provided their terms of reference, developing countries are not subject to new commitments under the protocol. They will, however, continue to implement their existing commitments under the convention to take steps to mitigate and adapt to climate change.

At COP-3 it was agreed to establish a "clean development mechanism" to enable industrialized countries to finance emission-reduction projects in developing countries and receive credit for doing so. The mechanism could provide new substantial resources to assist developing countries develop along cleaner paths while providing developed countries with additional means to achieve their greenhouse gas emission limitation objectives. Certified emission reductions accrued by industrialized countries from the projects realized before the year 2000 can be used to fulfil reduction requirements for the years 2008-2012. The Parties must prove that the reduction of emissions resulting from the projects would not have taken place otherwise.

When calculating emissions an approach will be used whereby developed nations will be allowed to take into account removals of CO₂ resulting from afforestation and reforestation processes (also referred to as "carbon sinks"). Sinks are defined by the UNFCCC as any process, activity or mechanism that removes a greenhouse gas, aerosol or a precursor of a greenhouse gas from the atmosphere.

The trading of excess emission reduction units between developed nations will be permitted under an international "emissions trading mechanism." Furthermore if a country's emissions are less than its assigned amount in a commitment period, the country will be able to use that "over-achievement" to help meet its target in the next commitment period.

"The Kyoto Protocol provides for real and significant greenhouse gas reductions," said Michael Zammit-Cutajar, Executive Secretary of the United Nations Framework Convention on Climate Change Secretariat. "The key now is to put into place effective national policies to influence the behaviour of industry and consumers. We must also ensure that each country makes the bulk of its reductions through its domestic energy, industry and transport sectors, and not abroad via the international emissions trading system and other flexibility provisions. The protocol also sends a strong message to industry and business sectors: they need to produce and provide products and services that are more energy efficient as well as less polluting and detrimental to the environment. Government policies encouraging emissions reductions in all sectors, especially energy and transportation; the protection of sinks; and the phasing out of inappropriate technologies and market imperfections will create new incentives for the development of activities and products that will be more sensible and gain competitive advantage irrespective of climate change."

The protocol will enter into force once it has been ratified by at least 55 of the over 170 Parties to the UNFCCC and given to the depositary, the United Nations Secretary-General. The protocol must be ratified by developed countries accounting for at least 55% of the total 1990 CO₂ emissions from that group. The protocol will be open for signature for one year beginning 16 March 1998.

OFFICERS ELECTED AT COP-3

President: Hiroshi Ohki (Japan)

Vice-Presidents: George Manful (Ghana), T. Gzirishvili (Georgia), Anthony Clarke (Canada), Cornelia Quennet-Thielen (Germany), Sergio Selaya Bonilla (Honduras), Luis Herrera (Venezuela) and Espen Ronnenberg (Marshall Islands)

Chair of the Committee of the Whole: Raúl Estrada-Oyuela (Argentina)

Chair of Subsidiary Body for Scientific and Technological Advice: Kok Kee Chow (Malaysia)

Chair of Subsidiary Body for Implementation: Bakary Kante (Senegal)

Rapporteur: Maciej Sadowski (Poland)

According to political leaders and scientists, the Kyoto Protocol marks an historic commitment by states to act in the interest of future generations. While recognizing that progress had been made, many environment and development NGOs felt that the agreement contained too many potential loopholes and that much stronger targets and commitments are needed.

BACKGROUND

Data from the ice cores suggest we are living in the warmest century for 600 years. The last two decades of the 20th century are the hottest on record, according to the Intergovernmental Panel on Climate Change (IPCC). According to the IPCC, a body of 2500 scientists, the world needs to cut emissions of greenhouse gases by 60% of its 1990 levels in order to restore a balance in the atmosphere.

The earth has been experiencing periodic changes in climate for billions of years. These changes, caused by natural phenomena, took thousands of years to evolve which allowed living species to adapt over time. However in the last 100 years following the Industrial Revolution, the temperature of the earth has risen by between 0.3°C and 0.6°C, the fastest change ever. This is caused largely by emissions of carbon dioxide (CO₂)—the world's most abundant naturally occurring gas and also the principal contributor to global warming—and other gases including methane (CH₄) and nitrous oxide (N₂O). As these gases are expelled into the atmosphere, they create a layer that allows only some of the energy from the sun, in the form of infrared and ultraviolet rays, to be reflected back into space. The energy that is not reflected back causes warming to occur.

Some of the major causes of increasing emissions of greenhouse gases are the burning of fossil fuels for energy and transport; the clearing of forests, which reduces carbon dioxide absorption; cattle raising, which produces methane emissions as a by-product; and use of technology that pollutes. Sea levels have risen globally by 10-25 centimetres in the last 100 years due to thermal expansion of water caused by warming. Rising temperatures are also causing icecaps to melt, which further causes sea levels to rise.

Historically, some countries have achieved a high level of economic development by maintaining production and consumption patterns that are both detrimental to the environment and that have strongly contributed to the present day problem. These countries, which are being held accountable for their emissions, are now being asked to take the lead in achieving greater reduction of greenhouse gas emissions. Developed countries

make up one-fifth of the world's population, yet they are responsible for three-fifths of these emissions. If emissions continue to grow at current rates, it is almost certain that during the 21st century atmospheric levels of carbon dioxide will double from pre-industrial levels. The projected outcome would be a global warming of 1°C to 3.5°C over the next 100 years. According to scientific forecasts the economic, social and environmental effects would be devastating, including the disappearance of the smallest island states, the breakdown of ecosystems, possible lower food production levels, the spread of waterborne and tropical diseases, and mass migration.

“The wilful destruction of entire countries and cultures with foreknowledge would represent an unspeakable crime against humanity...The crime is cultural genocide. It must not be tolerated by the family of nations....No nation has the right to place its own, misconstrued national interest before the physical and cultural survival of whole countries.”

—Kinza Clodumar, President of the Republic of Nauru

In response to growing scientific understanding of the effects of carbon dioxide emissions and of the earth's atmosphere system, in 1988 the UN Environment Programme (UNEP) and the World Meteorological Organization (WMO) established the Intergovernmental Panel on Climate Change. The IPCC's mandate is to assess the state of existing knowledge about: the climate system and climate change; environmental, economic, and social impacts of climate change; and possible response strategies. In 1990 the IPCC released its first report confirming that there is scientific proof that climate change is taking place. The report, which had a powerful impact on both policy makers and public opinion, led to negotiations for a climate change treaty.

In December 1990 the UN General Assembly approved the start of treaty negotiations, which resulted in a declaration that recognizes climate change as a “common concern of humankind;” the importance of the principle of equity; the “common but differentiated responsibilities” of countries at different levels of development; and the principle of sustainable development. The declaration also recognizes the precautionary principle, which states that absence of full scientific certainty should not be used as an excuse for inaction.

The Convention

The United Nations Framework Convention on Climate Change was adopted in New York on 9 May 1992 and opened for signature at the 1992 Earth Summit in Rio de Janeiro (Brazil); at that time 154 states and the

European Union signed the convention, which entered into force on 21 March 1994.

The convention establishes a process for responding to climate change in the following decades and sets up a system whereby governments report on their national greenhouse gas emissions and climate change mitigation strategies. Governments of industrialized countries accepted commitments to take measures aimed at returning their greenhouse gas emissions to 1990 levels by the year 2000. The ultimate objective of the convention is to stabilize atmospheric concentrations of greenhouse gases at levels that prevent human activities from interfering dangerously with the global climate system.

To enable developing countries to contribute to the global efforts to reduce emissions of greenhouse gases, developed countries agreed to provide “new and additional” financial assistance and to promote the transfer of technology. Such assistance was to be channelled through the financial mechanism of the convention, which is operated on an interim basis by the Global Environment Facility (GEF), a fund administered jointly by the World Bank, UN Environment Programme and the United Nations Development Programme (UNDP).

The Berlin Mandate

After the Earth Summit, the Intergovernmental Negotiating Committee/UN Framework Convention on Climate Change (INC/FCCC) continued to discuss matters related to implementation of the convention in preparation for the first session of the Conference of the Parties (COP-1), which took place in Berlin (Germany) from 28 March to 7 April 1995. The COP is the convention's supreme body.

At COP-1 Parties agreed that the commitment in the convention for developed countries to aim to return their emissions of greenhouse gases to 1990 levels by the year 2000 was “inadequate.” In a decision known as the Berlin Mandate, they launched a process to negotiate by COP-3 a protocol or another legal instrument to the convention that would include strengthened commitments for developed countries. The so-called Ad Hoc Group on the Berlin Mandate (AGBM) was set up to conduct these negotiations under the chairmanship of Ambassador Raúl Estrada-Oyuela (Argentina). The AGBM met for eight sessions before forwarding a draft text to COP-3 for further negotiation.

At COP-2, held in Geneva from 8-19 July 1996, ministers released a declaration that stressed the need to accelerate talks on strengthening the convention.

Resumed Eighth Session of the AGBM

A resumed session of the eighth meeting of the AGBM met on Sunday, 30 November 1997 one day before COP-3 opened, in an effort to make progress on outstanding

items and facilitate COP-3 negotiations. It addressed outstanding issues from sessions of the convention's subsidiary bodies held 21-30 October 1997 in Bonn (Germany), namely the treatment of greenhouse gas sinks, the number of greenhouse gases to include, and whether to have single-year targets or the average over a period of years as the target (budget period). A number of documents were considered, including the report of AGBM-8; the revised text for negotiation at COP-3; and a note on measures taken by some non-Annex I Parties to reduce the growth of their emissions. In the convention Annex I Parties are industrialized countries and countries whose economies are in transition. Non-Annex I Parties are developing countries.

During the meeting, Mr. Estrada-Oyuela stressed that information from the press and some governments, among others, was incorrect since it ignored the mitigation efforts already being made by developing countries. He presented a document on measures taken by non-Annex I Parties to reduce their emissions, and he reminded delegates that some developed countries that had not fulfilled their commitments under the convention were also the ones arguing most strongly that developing countries make commitments.

A proposal tabled by the Russian Federation recommended that Annex I Parties establish an umbrella arrangement so that they could collectively determine their net aggregate anthropogenic (human-induced) carbon dioxide equivalent emissions of the greenhouse gases listed in annex A of the protocol, as well as an emission reduction target and the target year for reduction.

Discussion focused on whether to include the six gases in the protocol, or to include three now (CO₂, CH₄ and N₂O) and address the other three at a later stage. The chair proposed that everyone work under the assumption that the protocol would cover the six gases. Other issues discussed included policies and measures, and the different options under review by the informal group on sinks. The chair recalled that while some delegations were calling for a mandatory approach on policies and measures, others were completely opposed. One of the delegations asked the chair to present a balanced proposal for consideration. The chair of the informal group on sinks, Antonio La Viña (Philippines), said that although there was consensus on the importance of sinks, there were scientific uncertainties regarding the absorption capacity of sinks and methodologies used to calculate them. Options presented at the informal discussions did not produce a consensus.

The European Union proposed that non-Annex I Parties or any other convention signatory could notify the depositary at any time of its wish to participate in and/or adopt and implement any or all of the policies

and measures, as well as any of the other processes referred to in the protocol. The Group of 77 developing countries (G-77) and China, which strongly opposed the proposal, insisted that there be no reference to non-Annex I Parties in the adoption of policies, measures or in any commitments adopted under the protocol.

THE THIRD CONFERENCE OF THE PARTIES

Opening Plenary

At the opening plenary on 1 December 1997 in Kyoto, Chen Chimutengwende (Zimbabwe), president of COP-2, called for recognition of the efforts already being made by developing countries to decrease emissions. He said it was impossible for these countries to take on commitments under a new instrument and stressed that delegates would have to agree on a fair and sustainable system of distribution of emission limits and equitable targets.

Hiroshi Ohki, State Minister of the Government of Japan and Director General of the Environment Agency, was elected president of COP-3. He said the outstanding issues to be resolved at Kyoto were the level and timing of "quantified emission limitation and reduction objectives" (QELROs—basically targets and timetables for emission reductions), and the policies and measures to achieve them. He called for further implementation by all Parties of convention article 4.1 and the need to discuss future steps to be taken after COP-3 for effective implementation of the protocol. (Article 4.1 refers to non-binding commitments for all Parties—developed and developing countries—taking into account common but differentiated responsibilities and their specific national and regional development priorities, objectives and circumstances.)

Bakari Mbonde (Tanzania), on behalf of the G-77 and China, stated that developing countries are the most vulnerable to climate change and the most disadvantaged regarding adaptation measures. He strongly opposed the concept of the "post-Kyoto evolutionary process," by which developing countries would acquire binding commitments at a later date. Even though the possibility of developing countries acquiring binding commitments was brought up by a few delegations, in particular the United States and later New Zealand, it was not considered during the discussions. There was strong resistance to the suggestion that commitments from developing countries were necessary at COP-3. The G-77 and China said they supported reducing anthropogenic emissions through the principle of common but differentiated responsibilities, and that it is the responsibility of developed nations to make the initial commitments.

Delegations including the European Union and the Russian Federation restated their positions regarding targets and Annex I consolidated emissions respectively. The EU reiterated its position that by the year 2010 developed countries, either jointly or individually, should make a 15% reduction (compared to 1990 levels) in emissions of the first three gases (CO₂, CH₄ and N₂O). The Russian Federation defended the umbrella arrangement whereby all Annex I Parties would be able to implement the targets as one. The United States delegation said its main concerns were limiting restrictions on emissions trading; the EU's "bubble proposal," which called for burden-sharing groups to reduce greenhouse gas emissions; and the importance of the involvement of developing countries.

The Executive Secretary of the UNFCCC Secretariat stressed the need to focus on the end product, which would have to convince legislators, taxpayers, investors, producers and consumers. He also said that although ratification by governments would be essential "it will be for non-governmental actors, and in particular business, to deliver the investments, the programmes and other actions that will lead to the limitation and reduction of greenhouse gas emissions." Mr. Zammit-Cutajar emphasized the need to reach an agreement that clearly defines its goals and the rules for achieving them. "This prudently rational attitude," he said, "which is surely widespread, provides a contrast to the propaganda that emanates from certain industrial sectors that are on the defensive, propaganda that unashamedly plays games with the science and statistics of climate change. I hope that one of the results of this conference will be to build bridges with those elements of the business community that have the strategic vision to look far ahead and the confidence to grasp the opportunities to which a change of course can lead....I am convinced that a clear and persuasive signal from Kyoto will trigger positive responses at the grassroots of civil society."

The plenary considered a status report on the ratification of the convention that underlined the universal recognition of the importance of climate change since so many states had become Parties to the convention. It also adopted the agenda for the session.

Reports from the UNFCCC Bodies

On the first day of COP-3 delegates heard reports of the Subsidiary Body on Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI). The two subsidiary bodies recommended joint decisions on the development and transfer of technology, activities implemented jointly, division of labour, and a review of the financial mechanism, among others. The report of the Ad Hoc Group on Article 13 (AG-13), a subsidiary body created by COP-1 to consider the establishment of a multilateral consultative process for the resolution of questions regarding implementation of the convention, concluded that the process to be set up

should be advisory rather than supervisory and should provide assistance and consultative advice to all Parties. The AG-13 is now expected to conclude its work by COP-4, to be held 2-13 November 1998 in Buenos Aires (Argentina).

The report of the Ad Hoc Group on the Berlin Mandate was introduced by its chair, Mr. Estrada-Oyuela, who observed that the draft negotiating text was still full of brackets (text not yet agreed). He urged delegations to produce an agreement that "everyone can live with." He also outlined the issues still under discussion: methodologies to estimate emissions by sources and removals by sinks; the approach to sinks under the new instrument; a proposal from Brazil for a new methodology for measuring emissions; and the future development of commitments for all Parties.

The Global Environment Facility presented a report that updated information on efforts to implement previous Conference of the Parties decisions concerning GEF-financed climate change projects and an updated list of the projects. Mohamed El-Ashry, GEF chair, emphasized the consensus among donors for the replenishment target of US\$2.75 billion and noted the preparation of projects for enabling climate change mitigation activities, especially since some countries had complained that GEF procedures were not user-friendly. The EU said it was disappointed that the GEF had not been established as the permanent financial mechanism for the convention. The Central African Republic, China and Uruguay said they were disappointed with the lack of resources and the difficulties encountered by different Parties in obtaining GEF resources to fund greenhouse gas inventories and prepare national communications. Switzerland, supported by the United States, proposed that the GEF be established as the permanent UNFCCC financial mechanism, but no decision was taken at that time.

Plenary

Divergent trends with regard to the development and transfer of technologies were noted by delegates; many developed countries favour a market-based approach and the transfer of technical information, while many developing countries support technology transfers on non-commercial and preferential terms. A delegate from China, who said that action from developed countries should be consistent with Agenda 21, the FCCC and previous COP resolutions, said that development and transfer of technologies is another issue that should be taken up as a separate item at COP-4.

It was observed that access to technology and transfer of technical know-how are imperative for advancing sustainable development. A Japanese delegate urged Parties to strengthen assistance to developing countries

for combating global warming through official development assistance (ODA). Through this proposal, known as the Kyoto Initiative, developing countries would establish information networks and workshops and receive loans to promote: training, cooperation on energy-saving technology, new and renewable energy sources, and forest conservation and afforestation. However a report on *Heat From Japan's ODA*, by the Japan Center for a Sustainable Society and Environment and Friends of the Earth, showed that Japan's ODA finances projects that commit developing countries to greater fossil fuel dependency. In 1995, Japanese aid funded six coal burning 600-megawatt power plants in China, Vietnam and India.

Other delegations called for operationalization of FCCC provisions on state-of-the-art environmentally-sound technologies to be included in the protocol. Another delegate spoke of barriers imposed by developed countries to transfers of technology, including shifting responsibility for transfers to the private sector.

The review process for articles 4.2(a) and (b)—commitments of developed country Parties and other Annex 1 Parties—was postponed since delegations said it was necessary to clarify the outcome of the Berlin Mandate discussions. The US noted that before the review process the outcomes of COP-3 would have to be taken into account. The deadline for a decision on this matter is 31 December 1998.

New Zealand proposed in the COP plenary that non-Annex I Parties (developing countries) agree to adopt binding commitments for a third commitment period. This would be applicable to all non-Annex I Parties except the least developed countries. The proposal, which the G-77 and China adamantly opposed, was not accepted. A Brazilian delegate said that the proposal, based on the principle "If you [Annex I Parties] don't deliver, we [non-Annex I Parties] don't deliver," was not a safeguard for developing countries. He said that his reply to that principle would be, "Until you deliver, we don't discuss."

"There may be some who think that establishing strict rules to reduce carbon dioxide emissions will have an adverse effect on the economy. However, I believe that, on the contrary, setting specific rules will trigger innovation resulting in higher quality products and a reduction in the cost of production. As a result, this will promote capital investment, create new demand, give rise to new industries, and furthermore, bring an end to the trade-off between global environmental conservation and economic development. "

—Ryutaro Hashimoto, Prime Minister of Japan

The High-Level Segment of COP-3, held from 8-10 December 1997, was opened with addresses by several heads of state who underscored the need for a "significant and realistic protocol." Other heads of state, ministers and heads of delegations addressed the plenary in morning, afternoon and evening sessions.

Jose María Figueres, President of Costa Rica, emphasized that an important outcome had been achieved regardless of the agreement at hand: raising worldwide awareness of the threat of climate change. He said that three things were needed at the end of the negotiations: significant emission cuts from industrialized countries, a bridging financial mechanism, and voluntary participation of developing countries.

Al Gore, US Vice-President, told the plenary that it is necessary to take responsibility for a profound, recent modification in the relationship between humankind and the planet. He said it is time to pay careful attention to the consequences of what humans do to the Earth, especially the atmosphere. Mr. Gore said that at COP-3 the United States would bring increased flexibility to working toward a commitment with realistic targets and timetables, market mechanisms and key developing country participation.

Under-Secretary-General Maurice Strong, Executive Coordinator for UN Reform, delivered a message from UN Secretary-General Kofi Annan. In his message Mr. Annan observed that reaching an agreement would be a difficult task, but leadership on the part of developed nations as well as a willingness of developing countries to cooperate in global efforts to reduce the risk of climate change would have a decisive effect on the hopes and prospects for building a secure and stable future for the human community. He also highlighted the UN's central role in the processes leading up to the conventions that address environment and sustainable development, as well as the contributions of the programmes, funds and specialized agencies of the UN system, and the advocacy and involvement of NGOs and civil society. "These groups," said Mr. Annan's message, "continue to help shape the debate; they help hold governments to account; they were a vital presence at the Earth Summit and at all conferences since; and are present on the ground, helping improve the quality of people's lives."

Mr. Mbonde on behalf of the G-77 and China, highlighted the importance of the Berlin Mandate, in which developed countries are compelled to undertake strengthened commitments to achieve their QELROS as well as to advance implementation of commitments under article 4.1. He said this would be done without

new commitments for developing countries. He strongly opposed extra-territorial implementation of targets and welcomed the clean development mechanism.

Dr. Johny Lahure (Luxembourg), on behalf of the EU, opposed differentiation of emission reduction targets for Annex I Parties and flexibility, which he said would weaken the protocol. He supported the six gas basket; joint implementation including rules and safeguards; and trading with strong emission reduction targets, monitoring, sanctions and market safeguards. He also said that suggesting developing countries take up new commitments would be contrary to the Berlin Mandate and detrimental to the negotiations. Instead, the transfer of resources through the financial mechanism could foster voluntary action to limit greenhouse gas emissions in developing countries.

Delegates from developing countries repeatedly rejected voluntary commitments and insisted that developed countries take the lead by agreeing to binding and realistic targets. Samoa, on behalf of the Alliance of Small Island States (AOSIS), said an agreement should contain strong short- and medium-term targets for Annex 1 Parties, in addition to a mechanism for early review of the adequacy of commitments. Responses from developed countries included calls for strong, legally binding commitments and a process for review of commitments by all Parties. They also called for developing country Parties to make voluntary commitments and to begin a "sequencing of obligations," which would eventually lead to binding commitments. Developed and developing countries agreed that funds are needed for technology transfers and for developing countries to develop in a more environmentally-friendly manner.

Controversy revolved around emissions trading; allowing reduction of greenhouse gas emissions by sinks to be calculated in a Party's emission total in the first commitment period; the use of banking of credits; and joint implementation. These were all perceived as loopholes or means to weaken or avert compliance to reduction targets.

COMMITTEE OF THE WHOLE

A Committee of the Whole (COW) was established at COP-3 to finalize decisions on the Berlin Mandate. Mr. Estrada-Oyuela served as chair and also led negotiations on QELROs. The committee began work on the first day of COP-3 with the formation of four main negotiating groups: QELROs; institutions and mechanisms; implementation of article 4.1 of the FCCC and the financial mechanism; and policies and measures. Other issues were considered in various informal

groups, which met simultaneously and reported back to the committee's plenary sessions. After several meetings at the end of the first week of negotiations, the chair called for weekend meetings in order to make progress.

Despite informal discussions and sessions that lasted past midnight, negotiations reached an impasse on the third day of the high-level segment and last day of COP-3. The COW finally resumed after midnight on 11 December to discuss the final draft article by article until 10:15 that morning, when it unanimously agreed to submit a draft text of the protocol to the COP plenary. Later in the afternoon the plenary adopted the Kyoto Protocol.

NGO PARTICIPATION

NGOs, environmental and development groups, and activists have played a pivotal role in bringing the climate change issue to the global agenda and have been deeply involved in the process leading to the establishment of the convention. At COP-3 a total of 3663 persons represented 236 NGOs.

NGOs were also present in large numbers at the Ad Hoc Group on the Berlin Mandate meeting in Bonn on 21-30 October 1997. At the meeting Yasuko Matsumoto of Greenpeace, Japan, and on behalf of the Climate Action Network (made up of over 160 NGOs that share the common aim of reducing greenhouse gas emissions), reminded delegates and other participants that merely stabilizing greenhouse gas emissions would not be enough to prevent human interference with the world's climate system. She emphasized that the climate change convention is not a trade agreement or an economic treaty, but an environmental agreement to protect the earth's climate system and all dependent upon it. This position reflected the views of the vast majority of NGOs at the meeting as well as the sense of urgency they felt was needed in the negotiations.

At COP-3

Before COP-3 officially began, environmental NGOs from around the world demonstrated outside the conference centre and distributed information leaflets calling for strong, legally binding emission reduction targets. The NGOs included Greenpeace, World Wide Fund for Nature, Climate Action Network, Kiko Forum '97—an alliance formed specifically for the conference by 230 Japanese environmental NGOs—Friends of the Earth, and smaller NGOs from around the world.

Two days before COP-3 began, international NGOs and Japanese citizens issued a declaration vowing to make all possible efforts so that adoption of significant

reduction targets at COP-3 would be achieved. The text, known as the COP-3 One-Day Before declaration, was supported by 700 Japanese citizens and NGO representatives. It criticizes developed countries for delaying progress in the negotiations by refusing to adopt strong reduction targets, and it calls on them to reduce greenhouse gas emissions by at least 20% of their 1990 levels by 2005. A representative of Kiko Forum '97 said that citizens will take initiatives when international leaders do not take adequate action.

Kiko Forum '97, the Climate Action Network and other NGOs also criticized what they described as a lack of leadership on the part of the host country for COP-3. "We have to put pressure on the main negative forces inside of these negotiations," said Delia Villagrasa, director of Climate Action Network-Europe. "We have to put our fingers on the sectors in our societies, which are the ones holding back...[including] the US fossil fuel industry and the Japanese Ministry of International Trade and Industry."

During COP-3, NGOs and other groups organized displays of photographs on environmental issues, and quilts containing demands for strong action at the conference. They also held symposiums, workshops, discussion groups, and slide and video presentations. In addition, the UNFCCC Secretariat held briefings for environment and development NGOs, and separate ones for organizations representing business groups. At a forum organized by the Japan Consumers Co-operatives Union, Kyoto Consumers Co-operative and the Kyoto Co-op, consumers discussed ways to contribute to solving environmental problems.

On the second day of the conference, representatives from a South Korean environmental NGO danced outside the conference hall entrance and exhibited three statues of penguins carved in ice that slowly melted over the next few days to symbolize the effects of global warming. Seo Hyung Won, a member of the NGO, said that failing to reach a legally binding agreement at COP-3 would be equal to committing crimes against the most affected developing countries.

Although NGOs could only participate in public meetings of the COP-3 as observers, their activities focused on advocating for stronger measures, responding critically to proposals as they emerged, and highlighting the devastating effects of climate change if not brought under control. The Climate Action Network produced a daily newsletter entitled *ECO* to inform participants about the proceedings.

Throughout the conference a number of well-known NGOs held their own press conferences, and some groups organized silent marches around the conference halls. A demonstration on the theme "Decide at Kyoto!

Mobilize the People!" brought together hundreds of people in a temple in Kyoto, with the aim of capturing the attention of ministers attending the conference and public opinion. Participants included some opposition Diet members such as Naoto Kan, leader of the Democratic Party of Japan, Yasuko Ikenobo of Shinshinto, and Tokiko Nishiyama of the Japanese Communist Party. "This event shows that the problem has now been taken up by the people," said Liam Salter of the Climate Action Network-Europe. "This is something that politicians need to be aware of when they conclude negotiations this week."

A report available at COP-3 entitled *NGOs and Climate Change in Japan* focused on efforts to facilitate dialogue between local government and NGOs. The report was produced by the Global Environment Information Center (GEIC), a joint programme of the United Nations University in Tokyo and the Environment Agency of Japan.

In a competition organized by Friends of the Earth and other NGOs, some private companies and industry associations were nominated for a "Scorched Earth Award." The award was for the organization that in the NGOs' opinion had played an obstructive role in the climate change negotiations, or had made the least progress in taking action to combat climate change. The nominees were the Tokyo Electric Power Corporation, Exxon, Global Climate Coalition, Uranium Institute and Forum, Atomique European, Shell Oil, British Petroleum, ABB, Mitsubishi, Mobil, Ford, General Motors, Chrysler, Elf Aquitaine and the World Business Council for Sustainable Development (WBCSD). John Gummer, former Environment Minister of the United Kingdom, was invited to present the award to the Global Climate Coalition, but their representatives did not attend the event.

On the last day of COP-3, NGOs vowed to lead citizen's efforts to further reduce greenhouse gas emissions. One activist said that negotiations to mitigate global warming had made little progress because national interests are determined by governments. The protocol was widely perceived by NGOs as weak and containing too many potential loopholes; some said it is an important first step but there is still a long way to go.

Adam Markham, director of the World Wide Fund for Nature (WWF) Climate Change Campaign, was very critical. "If this agreement is not improved," he said, "governments will have condemned the world to the human misery of floods, droughts, rising sea-levels and the spread of infectious diseases. The preservation of nature and wildlife—polar bears, the tiger, even Santa's reindeer—are just a few of the many species sucked into the black hole loopholes of this tragically weak plan."

Adam Werbach, president of the US Sierra Club, said the protocol demonstrates that "the nations of the world have soundly rejected the polluter's claims that global warming doesn't exist and that no action is necessary. Any remaining doubt that the planet must end our business-as-usual reliance on polluting fossil fuels has been cast away."

BUSINESS

Groups lobbying on behalf of the interests of business and specific industries also organized activities at COP-3, including press conferences and meetings. Contrary to the calls for strict emission targets by the majority of NGOs attending COP-3, many business leaders argued that targets would have an adverse effect on people's lives. "We are concerned that there may be a serious impact on various economic activities and the Japanese people's lifestyle," said Yoshifumi Tsuji, chairman of the Environment and Safety Committee of the Japan Federation of Economic Organizations (Keidanren).

Some business and industry representatives said that there is no need for any reduction targets. The US-based Global Climate Coalition (GCC), which according to NGOs launched a US\$14 million advertising campaign prior to COP-3, argued that cutting greenhouse gases will cost jobs in the United States. This claim was consistently rebuffed by some US research institutions and NGOs, which argue that many measures already implemented to combat climate change have actually created job opportunities. The GCC was strongly represented at COP-3 and lobbied for the interests of major business groups and the fuel industry. It said that if the outcome of COP-3 failed to meet expectations, it would be due to developing countries' negligence and their lack of will to accept legally binding targets.

At a two-day symposium on Voluntary Business Initiatives for Mitigating Climate Change, Keidanren, the International Chamber of Commerce and the World Business Council for Sustainable Development proposed a statement that said voluntary commitments by industry would be more effective in reducing greenhouse gas emissions than government-imposed regulations since the commitments would be designed to achieve the best results based on each region's economic and social conditions. The statement, which was adopted by the 800 representatives and leaders of business and industry attending the symposium said, "Governments should promote measures that will enable businesses to carry out cost-effective voluntary actions." The question of how to monitor such a voluntary system would be discussed in the future, according to the chair of Keidanren.

Björn Stigson, WBCSD president, said that promoting industries and making efforts to stem global warming

can go hand in hand. He added that substantial results have already been achieved by many businesses.

THE KYOTO PROTOCOL

The Kyoto Protocol contains a preamble similar to that of the convention, and 28 articles and two annexes. The articles include, among others, provisions on the following.

Policies and Measures

Article 2 commits Annex I Parties to implement and/or further elaborate policies and measures in achieving their QELROs in accordance with national circumstances. Such policies and measures could cover energy efficiency; protection and enhancement of sinks; sustainable agriculture; new and renewable forms of energy; carbon sequestration technologies (absorption of carbon dioxide); phasing out of subsidies or incentives that run counter to FCCC goals; sectoral reforms; greenhouse gas emission limitation and reduction; and methane recovery and use. Annex I Parties shall also pursue limitation of emissions from aviation and marine bunker fuels. For this purpose they will work with the International Civil Aviation Organization and the International Maritime Organization.

All Parties agree to work to minimize effects on other Parties—especially developing countries and those identified in convention articles 4.8 and 4.9. If necessary Parties will consider, through the COP serving as the meeting of Parties to the protocol, ways to implement coordination for these purposes. Countries identified in these articles are least developed and/or small island countries, landlocked and transit countries, and/or those with economies that are "highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products." The articles also identify countries with areas that have arid and semi-arid conditions, low-lying coasts, forests and areas liable to forest decay, high urban atmospheric pollution, fragile ecosystems, and those prone to natural disasters and/or liable to drought and desertification.

QELROs and Sinks

Annex I Parties shall ensure that their aggregate anthropogenic carbon dioxide equivalent emissions of greenhouse gases (as listed in annex A of the protocol) do not exceed the assigned amounts expressed in QELROs (as listed in annex B), with the aim of reducing overall emissions by 5.2% below 1990 levels in the commitment period 2008-2012. Annex I Parties are urged to demonstrate progress toward achieving their commitments by the year 2005. Annex A enumerates the six greenhouse gases (CO₂, CH₄, N₂O, HFCs, PFCs and SF₆)

REDUCTION TARGETS (%)

<i>Australia</i>	+8	<i>Latvia</i>	-8
<i>Austria</i>	-8	<i>Liechtenstein</i>	-8
<i>Belgium</i>	-8	<i>Lithuania</i>	-8
<i>Bulgaria</i>	-8	<i>Luxembourg</i>	-8
<i>Canada</i>	-6	<i>Monaco</i>	-8
<i>Croatia</i>	-5	<i>Netherlands</i>	-8
<i>Czech Republic</i>	-8	<i>New Zealand</i>	0
<i>Denmark</i>	-8	<i>Norway</i>	+1
<i>Estonia</i>	-8	<i>Poland</i>	-6
<i>European Economic Community</i>	-8	<i>Portugal</i>	-8
		<i>Romania</i>	-8
<i>Finland</i>	-8	<i>Russian Federation</i>	0
<i>France</i>	-8	<i>Slovakia</i>	-8
<i>Germany</i>	-8	<i>Slovenia</i>	-8
<i>Greece</i>	-8	<i>Spain</i>	-8
<i>Hungary</i>	-6	<i>Sweden</i>	-8
<i>Iceland</i>	+10	<i>Switzerland</i>	-8
<i>Ireland</i>	-8	<i>Ukraine</i>	0
<i>Italy</i>	-8	<i>United Kingdom</i>	-8
<i>Japan</i>	-6	<i>United States</i>	-7

(The above targets represent the percentage by which countries have to reduce their emissions of greenhouse gases compared to 1990 levels.)

together with source categories and sectors in which reductions will be carried out. Annex B lists QELROs with the overall reduction target of 5.2% (see box). QELROs are calculated based on emission levels in 1990. However Annex I Parties may use 1995 as the base year for reduction targets for the long-lived gases (hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride). Parties with economies in transition that choose a baseline different to 1990 to implement their commitments under the convention, in accordance with the flexibility they are allowed under article 4.6 of the convention, can also use that baseline for the purposes of the protocol. Acquisition or transfer of reduction units may be applied to any of the Annex 1 Parties' QELROs. Reduction or limitation targets for subsequent commitment periods shall be established through amendments to annex B in accordance with procedures established by the protocol.

Net changes in greenhouse gas emissions from sources and removals by sinks from activities in the land use change and forestry sectors, limited to afforestation, reforestation and deforestation, shall be used by Annex I Parties to achieve their quantified emission limitation and reduction objectives. Net changes are verifiable changes in emissions within each commitment period. If in the base year land use change and forestry constituted a source of greenhouse gases for a Party, the emissions minus removals shall be included in the base year emissions of that Party. For example, if the amount of carbon dioxide emissions in 1990 of a specific country

is affected by land use such as deforestation, which decreases the amount of CO₂ absorbed, or rice cultivation, which emits large quantities of methane, and in the same year a large area of land in the country is reforested, the calculations to establish its 1990 base net emissions need to be based on these factors.

Annex I Parties are also permitted to transfer greenhouse gas emission reduction units that are below the assigned amounts to the commitment period after the years 2008-2012.

Joint Action or the "EU Bubble"

Countries that have agreed to achieve their reduction targets jointly, namely those within a regional economic integration organization such as the EU, may do so provided that their combined aggregate anthropogenic carbon dioxide equivalent emissions of greenhouse gases (as listed in annex A) do not exceed their assigned commitments as listed in their QELROs in annex B. This shall be accomplished by means of an agreement; its terms shall be communicated to the secretariat, and it shall remain in operation for the duration of the commitment period in question. Modification in the composition of the regional economic integration organization will not affect the countries' commitments under the protocol.

Methodologies

Annex I Parties will, if they have not done so already, set up a national system to estimate emission sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol (see *E&D File, Sustainable Development Treaty Series, No. 9*). A draft decision (FCCC/CP/1997/L.5 of 8 December 1997), submitted by the Committee of the Whole on methodological issues related to a protocol or another legal instrument, states that Parties shall use the revised 1996 IPCC guidelines to establish greenhouse gas inventories. When available, data for the three long-lived gases shall be incorporated into emissions reporting. Emissions based on fuel sold to international transport aircraft or ships shall be reported separately. Emissions resulting from multilateral operations pursuant to the UN Charter shall not be included in national totals, but reported separately.

Joint Implementation

Joint implementation is the transfer or acquisition of emission reduction units resulting from activities that aim to reduce anthropogenic emissions or enhance their removals. These activities, which need not be confined within a country, can be carried out under the protocol provided that they: are agreed to by the Parties involved; provide further emissions reduction or enhancement of removals other than those already taking place; and complement national strategies to meet commitments. Countries that receive credits must comply with methodology and reporting obligations.

Review of Implementation of the Protocol

Expert review teams, coordinated by the secretariat and composed of experts selected from those nominated by the COP serving as the meeting of the Parties to the protocol, shall provide a comprehensive technical assessment of all aspects of implementation and identify any potential problems in the fulfilment of the commitments of Annex I Parties.

A review of the protocol shall be carried out by the Conference of the Parties, serving as the meeting of the Parties (MOP) to the protocol, which shall take any necessary action in accordance with the best scientific information and assessments on climate change and its diverse impacts.

Parties to the convention that are not Parties to the protocol may participate as observers in the Conference of the Parties when it acts as the MOP, although only Parties to the protocol may take decisions. The first review of the protocol will take place at the second session of the Conference of the Parties serving as the meeting of the Parties to the protocol and regularly thereafter.

Advancing Commitments in Article 4.1 of the Convention

All Parties to the convention shall take action in confirming and advancing implementation of commitments under article 4.1 taking into consideration common but differentiated responsibilities as well as national and regional development priorities, and without initiating new commitments for non-Annex I Parties.

Clean Development Mechanism

This mechanism aims to assist non-Annex I Parties (developing countries) in bringing about sustainable development, and Annex I Parties in reaching their QELROs. The mechanism could provide new financial resources to assist non-Annex I Parties to develop along cleaner paths through activities resulting in certified reduction of emissions. Annex I countries will be able to credit these certified reductions to their QELROs. The Conference of the Parties serving as the meeting of the Parties to the protocol and an executive board will be responsible for methods of accountability and transparency of the clean development mechanism. Certified emission reductions acquired between the years 2000 and 2008 can be applied to the first commitment period for Annex I Parties.

Some observers noted that with effective controls to ensure that any potential loopholes are closed, this mechanism could be beneficial to both developed and developing countries.

Emissions Trading

This issue, one of the most controversial, was included in the protocol but left for final definition by the next

meeting of the COP. Parties included in annex B (in the protocol) are permitted to participate in emissions trading in order to achieve their QELROs, but only as a supplement to national actions. Emissions trading allows countries to "trade" parts of their assigned amounts under the protocol. The Subsidiary Body for Scientific and Technical Advice and the Subsidiary Body for Implementation shall assist the secretariat in preparing for COP-4, where this issue will be further addressed.

Non-Compliance

At its first session the Conference of the Parties serving as the meeting of the Parties to the protocol shall consider ways to determine and deal with non-compliance cases under the provisions of the protocol, taking into consideration causes, types and frequency of non-compliance.

Unresolved Issues

There were a number of unresolved issues left for consideration at COP-4 and subsidiary body meetings including, in particular:

- n the modalities of implementation, rules and procedures for emissions trading, now permitted under the protocol, remain to be agreed;
- n the modalities of operation of the clean development mechanism and its location have yet to be determined; and
- n the role of sinks and how real reduction of emissions attributable to sinks, land use change and forestry practices are to be measured requires further work.

UPCOMING EVENTS

- n Meetings of the Subsidiary Body for Scientific and Technical Advice, the Subsidiary Body for Implementation, and the Ad Hoc Group on Article 13, 2-12 June 1998, Bonn
- n COP-4, 2-13 November 1998, Buenos Aires

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(<http://www.unfccc.de>).*

GLOSSARY OF TERMS AND ACRONYMS

AGBM (Ad Hoc Group on the Berlin Mandate): A temporary body created by COP-1 to conduct talks on a "protocol or another legal instrument" containing strengthened commitments for developed countries beyond the year 2000. The AGBM completed its work on 30 November 1997.

Annex I Parties: The industrialized countries listed in Annex I to the UN Framework Convention on Climate Change include the 24 original members of the Organisation of Economic Co-operation and Development (OECD), including the European Union and 11 countries with economies in transition. Six Parties were added to Annex I at COP-3 (Croatia, the Czech Republic, Liechtenstein, Monaco, Slovenia and Slovakia), and the name Czechoslovakia was deleted.

Annex II Parties: The industrialized countries in this annex, which have a special obligation to help developing countries with financial and technological resources, include the 24 original OECD members and the European Economic Community.

Annex A: In the protocol this annex lists the six gases and the sector and source categories that require reductions, as specified in the revised 1996 IPCC Guidelines for National Greenhouse Gas Inventories: Reporting Instructions.

Annex B: In the protocol this section lists Annex I Parties and their respective quantified emission limitation and reduction objectives.

Anthropogenic emissions: Greenhouse gas emissions that are caused by human activities.

AOSIS (Alliance of Small Island States): The 41 members of this ad hoc coalition, which are low-lying and island countries particularly vulnerable to sea-level rise, share common positions on climate change.

COP (Conference of the Parties): This supreme decision-making body of the UNFCCC currently meets once a year to review the convention's progress.

COW (Committee of the Whole): Sometimes created by a COP to facilitate negotiations, as happened at COP-3. When the committee finishes its work, the COP then takes up the text to finalize and formally adopt it during a plenary session.

Emissions trading: Allows countries to "trade" parts of their assigned amounts under the protocol.

Extra-territorial implementation: Achieving the quantified emission limitation and reduction objectives outside of a country's territory by emissions trading or joint implementation.

GEF (Global Environment Facility): The multi-billion dollar GEF, established in 1990, is managed by the World Bank, UN Development Programme and the UN Environment Programme. The facility operates the UNFCCC "financial mechanism" on an interim basis and funds developing country projects. Thirty-three governments recently committed themselves to a target of US\$2.75 billion to replenish the GEF (see Go Between 67).

INC (Intergovernmental Negotiating Committee): The INC met during five sessions between February 1991 and May 1992 to draft the convention and a further six times to prepare for COP-1 before completing its work in February 1995.

IPCC (Intergovernmental Panel on Climate Change): The IPCC, a body of 2500 scientists from all over the world, was established in 1988 by the World Meteorological Organization and the UN Environment Programme. It conducts rigorous surveys of technical and scientific literature and publishes reports widely recognized as the most credible existing sources of information on climate change. The IPCC also works on methodologies and responds to scientific requests from the subsidiary bodies of the UN Framework Convention on Climate Change.

Joint implementation: A country that finances projects to reduce greenhouse gas emissions in other countries may claim the reductions resulting from the projects against its own emissions reduction target.

MOP (Meeting of the Parties): The Conference of the Parties is to serve as the meeting of the Parties to the Kyoto Protocol. Parties to the UN Framework Convention on Climate Change that are not Parties to the protocol may participate as observers in the meeting of the Parties, but decisions shall be taken only by those that are Parties to the protocol.

Non-Annex I Parties: Developing countries.

P&Ms (policies and measures): What Parties will do to meet their emission targets.

QELROs (quantified emission limitation and reduction objectives): These are targets and timetables for reducing greenhouse gas emissions.

Sinks: Any process, activity or mechanism that removes a greenhouse gas, aerosol or precursor of greenhouse gas from the atmosphere.

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