

Bonn Synopsis: A Play-by-Play of the Bonn Negotiations

In July more than 160 governments came together in Bonn, Germany to complete the operating rules for the 1997 Kyoto Protocol. The Bonn conference was the resumed session of the Sixth Conference of the Parties (COP6), after last year's session in The Hague ended in a deadlock between the European Union and the United States.

The Protocol's terms require 55 countries, including countries representing 55% of industrialized country emissions, to ratify the treaty before it can enter into force. The United States, which has announced plans to pull out of the agreement, represents such a significant portion of those emissions that the 55% requirement can only be met if Japan, Russia and the European Union all decide to ratify.

"Crunch Issues" Still Outstanding

While many of the "crunch issues" that stymied agreement in The Hague were still unresolved, most countries came to Bonn with the express intention of achieving consensus and preparing the Protocol for ratification. Given US opposition and the reluctance of key players like Japan to openly break with the US, most countries realized that a failure to reach agreement in Bonn would make it difficult to salvage the Protocol. Outstanding crunch issues included details of the:

- *Market-based mechanisms* that will allow Parties to meet their emissions targets flexibly and at the lowest cost.
- *Compliance system* to help ensure that Parties take their commitments seriously.
- *Land use, land-use change and forestry (LULUCF)* provisions that will allow Parties to account for the emissions reductions and emissions from their domestic carbon "sinks."
- *Financial aid, technology transfer and capacity building* package to help developing countries address the causes and effects of climate change.

Ministers Tackle the Tough Decisions

Jan Pronk, the Dutch Environmental Minister and President of the conference, organized the agenda, setting aside the first four days for technical experts to prepare negotiating texts for a High Level Ministerial Segment. As the segment drew closer, President Pronk asked technical experts to draft a list of "political" issues that could be resolved only by the ministers.

The ministers' arrival brought an increased sense of urgency to the negotiations. During the opening plenary to the high level segment, President Pronk reiterated his view that Parties had the tools they needed to complete their work and prepare the Protocol for ratification. He pointed to the consolidated negotiating text that he had prepared to facilitate the discussions, and referred to the Protocol as "the only game in town." He urged Parties to take the necessary steps towards ratification, even if one nation felt it could not join in (an implicit reference to the United States).

Ministers met behind closed doors, bilaterally and in working groups, attempting to piece together a deal while preserving their individual positions. In fact, the first part of the high level segment saw some Parties hardening their positions even further by resurrecting issues, such as the role of nuclear power in the Clean Development Mechanism (CDM), that had seemingly been resolved at The Hague. As the end of the ministerial segment approached, President Pronk presented his own proposal for resolving the outstanding issues.

Pronk's "Core Elements"

The President's "core elements" proposal consisted of a package of political solutions for the four major areas: mechanisms, compliance, LULUCF, and financing. Key provisions of the mechanisms section included limited use of afforestation and reforestation projects in the CDM during the first commitment period, a pledge by Annex I Parties to refrain from using CDM and joint implementation (JI) credits derived from nuclear power projects, a non-binding agreement to make domestic action a "significant element" of emissions reduction efforts, and a provision on financial additionality. The compliance proposal included a quasi-judicial enforcement branch comprised of members elected on the basis of equitable geographic representation; enforcement consequences aimed at restoring compliance and repairing the damage to the environment; financial payments for non-compliance; and a commitment to adopt an agreement at COP 7 to make the consequences for non-compliance legally binding (these last two provisions would later be dropped). On LULUCF, the proposal would allow "additional activities" under Protocol Article 3.4 during the first commitment period, with individual Party caps on credits from forest management. For finance, Annex II Parties were "invited" to make a political declaration committing themselves to specific financial contributions.

Pronk's Strategy Starts to Pay Off

Late Sunday afternoon Pronk convened a plenary to brief everyone on the state of play and the different Party positions. He explained that although they had substantive concerns about the proposed text, the European Union, the Eastern European Group, and the Environmental Integrity Group (Switzerland, Mexico and the Republic of Korea) had accepted the proposal in its entirety, provided that other countries did not insist on amendments. The Umbrella Group split: Japan, the United States, Russia, Canada and Australia expressed concerns about the finance and compliance sections, while New Zealand, Iceland and Norway said they could accept the text as written. The G-77 and China indicated that they were not yet prepared to accept Pronk's proposal. However, the EU and the G-77 subsequently met bilaterally to discuss a possible declaration on funding, after which the G-77 and China also announced that they could support the Pronk proposal if it was adopted in its entirety.

The Umbrella Group holdouts insisted that the compliance section was unacceptable because of the enforcement branch's composition, the requirements to pay into a non-compliance fund, and the adoption issues. Negotiations continued at an intensive level

on these issues throughout all of Sunday night and well into Monday morning. Environmental NGOs maintained pressure on the Parties throughout the night, remaining at the conference center and lobbying delegates as they moved in and out of closed-door meetings.

Finally, at 11:55 am Monday, July 23rd, delegates emerged from their meetings and reconvened in plenary. President Pronk reported that a compromise on compliance had been reached. The compliance text would be amended in three ways: the consequences of non-compliance to be applied by the enforcement branch would be aimed at ensuring “environmental integrity” rather than “reparation of damage to the environment”; the requirement that monetary payments be made to “repair damage to the environment” would be deleted; and the language on the adoption of binding consequences would be made much less specific. The COP would adopt the compliance regime at this session and would recommend to the first “Conference of the Parties serving as the meeting of the Parties,” (the supreme body of the Protocol after it enters into force) that it adopt procedures and mechanisms relating to compliance “in terms of Article 18” (the Kyoto Protocol article dealing with compliance).

The Parties Reach Agreement

Pronk tabled a draft decision containing two informal papers: the financing, mechanisms and LULUCF sections of his original proposal, and a revised text on compliance. He then proposed that the COP approve the draft decision, referred to as the “political agreement.” There were no objections, and Pronk brought down his gavel.

The agreement is an expression of the political will of the world’s community of nations to work collectively to combat global climate change despite the intransigence of the United States. Following the official approval of the decision, the entire plenary stood and applauded. Parties then took turns expressing their satisfaction with the deal that was struck and their willingness to bring the Protocol home and begin the ratification process. The COP officially adopted the political agreement two days later on July 25th.

A Last Minute “Monkey-Wrench”

For the last few days of the conference, the technical working groups struggled to incorporate the political agreements into the draft negotiating texts, so that the texts could be finalized and adopted by the Parties. However, although Ministers had supposedly resolved the compliance question with their political agreement, Canada, Russia, the US and Japan, led by Australia, attempted to revise the deal dramatically by claiming that key parts of the agreement were “legally impossible” or “redundant.” The LULUCF decision also was under intense debate, as Parties had divergent interpretations of what they had agreed upon. As the end of the conference drew near, it became apparent that the technical decision texts could not be finalized in the time remaining. Consequently, Parties agreed to delay completion and adoption of the technical texts until the seventh conference of the Parties meets in Marrakech in late October. But by announcing their

success to the world, Parties appear to have locked themselves in, and reversal of the agreement reached in Bonn seems unlikely.