

Challenges and Outcomes at the Ninth Session of the Conference of the Parties to the United Nations Framework Convention on Climate Change

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Abstract. From 1 to 12 December 2003, the Ninth Session of the Conference of the Parties to the United Nations Framework Convention took place in Milan, Italy. This conference continued the laborious effort of developing an international climate regime by preparing for the Kyoto Protocol's entry into force. Some two dozen decisions were adopted on a wide range of options for responding to climate change. This paper assesses the progress achieved at the conference on a number of issues. Among these were operational details for implementing forestry projects under the Convention's Clean Development Mechanism, and guidelines for reporting on greenhouse gas emissions and removals from agriculture, forestry and land-use change. Parties also decided on rules with respect to two funds, the Special Climate Change Fund and the Least Developed Country Fund. With respect to developing countries, Parties continued discussions on rules for building response capacity in light of the expected adverse effects of climate change and transferring environmentally sound technology. They also discussed how to incorporate scientific advice from the Third Assessment Report of the Intergovernmental Panel on Climate Change into the negotiations. Although Russia did not ratify the Kyoto Protocol prior to the conference, Milan demonstrated momentum and interest among Parties to support the climate regime. Nevertheless, it is doubtful whether the detailed discussions were able to contribute to preparing for the long term. To this end, this paper concludes that more discussion and leadership is required to bridge the North/South gap if a post-2012 climate regime is to stand.

Key words: climate change, climate policy, Conference of Parties, United Nations Framework Convention on Climate Change, Kyoto Protocol, Marrakech Accords

1. Introduction

The Ninth Session of the Conference of Parties (COP-9) to the United Nations Framework Convention on Climate Change (UNFCCC) was held in Milan, Italy, December 1–12, 2003. The 19th sessions of the COP's two subsidiary bodies, the

Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA), also took place concurrently in Milan. All through the year, there had been hopes that Russian ratification would make it possible to combine this session with the First Meeting of the Parties to the Kyoto Protocol. However, Russia did not move before COP-9. The uncertainty about entry into force of the Protocol that was aimed at giving more substance to the commitments under the Convention, cast a shadow over the proceedings. Nevertheless, significant decisions were taken, and attendance at Ministerial level was high. The session showed that Governments are taking climate change seriously, but that they are uncertain about the role of climate change policies in the overall political framework, with particular emphasis on costs. Therefore, decisions could be made on items which were necessary for the future implementation of the Kyoto Protocol, but there was no real willingness to start preparing for the longer term climate regime. This paper attempts to assess progress made at COP-9 on the most prominent issues of the climate regime.

2. An Assessment of Outcomes

The most difficult negotiations were expected to be those on land use, land use change and forestry, in the jargon known as LULUCF. However it soon became evident that the importance of developing country issues had been underestimated. Not surprisingly, funding emerged as the most contested and difficult item, where major disagreements between North and South as well as within negotiating groups soon became apparent. Furthermore, reporting requirements of developing countries (“non-Annex I Communications”) and the well-known controversies on effects of climate change action on oil-producing countries became seriously contested issues. In the end, solutions were found to enable COP-9 to take more than 20 formal decisions. We now assess each issue in depth.

2.1. CDM AND SINKS

The Clean Development Mechanism (CDM) was one of the biggest surprises coming out of Kyoto. This innovative mechanism allows Annex I Parties to implement projects that reduce greenhouse gas emissions in non-Annex I Parties in exchange for certified emission reduction units (CERs) that replace mitigation action at home. The inclusion of sinks or LULUCF activities was another surprise that the Protocol brought about. These activities allow Parties to offset their emission reductions by enhancing sinks of greenhouse gases (e.g., planting trees). The inclusion of forestry-based activities under the CDM has been a contentious issue in the history of the Protocol, creating major rifts between the European Union (EU) and some Umbrella Group members¹ and also within the Group of 77 (G77).² Parties opposing such inclusion argued that these activities could deviate attention from industrialised

countries' responsibility to reduce domestic emissions, as well as reduce the significance of technology and financial transfers under the CDM (Ramakrishna 2000). Concerns were also expressed regarding the lack of permanence of carbon sequestered in forests, as well as on the implications of committing lands for long periods, raising questions of sovereignty of developing countries (Schlamadinger and Marland 2000). Some environmentalist groups emphasized that these activities could lead to the creation of neo-colonialist "Kyoto lands", characterised by the spread of commercial plantations to the benefit of those more powerful logging companies and local actors (Dutschke 2001; Friends of the Earth 2002). Advocates of including forestry activities under the CDM, however, including the Umbrella Group and some Latin American countries, claimed that all types of abatement strategies had to be put in practice for lowering the costs of reaching emissions targets under the commitment period. It was also argued that emissions from deforestation were responsible for a significant percentage of overall global emissions and that CDM projects could work against this trend and bring financial incentives to conservation and rural development programmes (Klooster and Masera 2000; Fearnside 2001).

In the light of these controversies, the Marrakech Accords (see Boyd and Schipper 2002 or Dessai and Schipper 2002 on the Accords) introduced compromises and restrictions to the development of forestry projects under the CDM. For example, the Accords stated that only afforestation and reforestation (A&R) activities would be eligible under the CDM and only up to a ceiling of 1% of the fivefold amount of a Party's 1990 emissions – that is, 1% per year during the 5-year commitment period. However, the definitions and modalities for inclusion of such project activities during the first commitment period were to be adopted at COP-9. This is why COP-9 became known as the forestry COP.

Pre-sessional consultations on definitions and modalities were based on the draft negotiating text from SBSTA-18 on CDM forestry modalities and procedures, and outlined a new negotiation text prior to the official start of COP-9. Some Parties, particularly some Latin American and African countries, pushed for changing the baseline year for reforestation activities from 1989 to 1999, suggesting that by doing so more land-use data would be available and more countries, particularly the least developed ones, could be eligible for forestry-CDM activities. Parties also hotly debated how to account for non-permanence of forestry-CDM CERs in case a reversal of carbon sequestration actually occurred. Finally, it became far more controversial whether to incorporate in the form of Appendix E to the Decision a standard list of criteria for the socio-economic and environmental impact assessment of forestry-CDM projects.

In the COP-9 final decision the baseline year was kept at 1989 and accounting for positive leakage was excluded. Regarding the issue of non-permanence, the decision defined two types of CERs: a *temporary CER* (tCER), which expires 5 years after its issue and a *long-term CER* (lCER), which expires at the end of the crediting period of the project activity. Both should be replaced after their expiry date and lCERs may also be subject to replacement when the 5-year Designated Operational Entity (DOE)³ evaluation indicates a reversal of net anthropogenic greenhouse gas removals

by sinks. The decision establishes the crediting period for an A&R activity under the CDM at either 20 years, which may be renewed at most twice (up to 60 years), or a maximum of 30 years. In relation to projects' environmental and socio-economic impacts, the decision removed the prior contentious Appendix E and included a more general list of criteria in its Appendix B, which outlines the information required in the Project Design Document. The sequestration threshold for small-scale activities was put at 8 KtCO₂ eq/year but due to lack of time and technical preparation, simplified modalities and procedures for small-scale projects could not be approved on this matter and a decision was postponed to COP-10 as this issue only emerged half-way through COP-9 at the insistence of a group of Latin American countries.

The nature of the decision has made clear that all major groups have compromised their views on the issue as a way of supporting the Kyoto process. Developing countries such as Mexico, Bolivia and Colombia renounced some of their aspirations regarding the baseline year and the EU was more conciliatory by making considerable trade-offs in the area of environmental and socio-economic criteria. Toward the end of the negotiations, some EU countries signalled their commitment to build a bridge between Parties by resolving a conflict within the G77 regarding the sequestration threshold for small-scale projects.

The adoption of a decision on modalities and procedures for A&R under the CDM was an important step for the conclusion of the BAPA.⁴ It has clarified the rules of CDM-forestry activities to carbon buyers and sellers and, therefore, the carbon market in this sector may continue to grow (Lecocq and Capoor 2003). We may expect that several forestry-CDM activities currently in their early development stages will consider pursuing CDM validation and registration in the near future.

Some environmentalist groups have already interpreted the decision outcomes as problematic. This is so because it does not categorically prohibit the use of genetically modified organisms and invasive alien species in projects, leaving such decisions in hands of host countries legislation (Greenpeace 2003). In fact, as defined by the CDM framework in the Kyoto Protocol, the responsibility for assessing whether CDM projects contribute to sustainable development falls upon the host country national authority, which may follow the advice of the project managers, DOEs, and in-country technical organisations and non-governmental organisations (NGOs). Therefore, we could only then suggest that national authorities shall encourage a cross-scale inclusionary and participatory process if either forestry or any other CDM activities are expected to deliver sustainable development in a context of credibility and legitimacy (Brown and Corbera 2003).⁵

2.2. GOOD PRACTICE GUIDANCE FOR LULUCF

In accordance with the Marrakech Accords' decision on LULUCF (11/CP.7), the COP had asked the Intergovernmental Panel on Climate Change (IPCC) in 2001 to revise the Revised 1996 Guidelines for National Greenhouse Gas Inventories (IPCC

Guidelines) for reporting carbons stock changes and greenhouse gas emissions by sources and removals by sinks. This request resulted in the IPCC Report on Good Practice Guidance for LULUCF (herein referred to as GPG), which was approved by the IPCC at its 21st session, in November 2003. The GPG report is the result of 18 months of work by a group of IPCC experts and two rounds of government and expert comments. One of its most interesting features is that it includes new reporting categories and improved methodologies aimed at reducing and assessing uncertainties in order to neither over- nor underestimate carbon stocks and greenhouse gas emissions and removals insofar as possible.

Together with draft common reporting format tables for LULUCF, Parties at COP-9 were expected to adopt the GPG report for developing national greenhouse gas inventories and reporting under the Convention and the Kyoto Protocol. However, given the length of the report (over 500 pages) and its recent approval by the IPCC, the Alliance of Small Islands States (AOSIS) called for more time to assure that national experts properly consider the GPG report. The main concern was ensuring that the guidance provided in the report is fully consistent with the definitions and caps agreed at Marrakech – in particular chapter 4 of the GPG, which includes technical guidance for reporting greenhouse gases for LULUCF activities under the Protocol (namely afforestation, deforestation, reforestation, forest management, grazing land management, cropland management and devegetation). Many elements of the GPG report are necessarily interpretations of decision text coming out of Marrakesh. AOSIS was therefore concerned, for example, about elements of the 1996 IPCC Guidelines which are carried over into the new GPG and which may have no legal foundation in the UNFCCC – as in the case of managed and unmanaged forests and land⁶ – and regarding the use of different definitions for key terms (such as forests) from those used in the 1996 IPCC Guidelines.⁷

As a consequence, the IPCC Good Practice Guidance for LULUCF was recommended for reporting under the Convention, but not yet under the Protocol. The final decision was postponed until COP-10. It remains to be seen how chapter 4 and other sections of the report are adapted for reporting under the Kyoto Protocol. The secretariat will be releasing an updated version of the tables, based on those approved in Milan, and taking into account the guidance provided in the IPCC GPG report and submissions by Parties. This would be the final piece of guidance that LULUCF needs to be fully implementable.

Other issues that apply to future commitment periods but that were addressed at COP-9 are whether devegetation and forest degradation will be included in the second commitment period, and the matter of harvested wood products – where trade complicates accounting for imports and exports.⁸ Also left for further consideration at SBSTA-20 and beyond is the IPCC report on the current scientific understanding of the processes affecting terrestrial carbon stocks and human influences upon them, known as “factoring out.”⁹ This report basically states the current scientific inability to provide a practicable methodology that would distinguish and account for different effects on changes in carbon stocks for any broad range of

LULUCF activities, so it seems it will be up to the SBSTA to come up with the methods for doing so, in accordance with paragraph 3(d) of decision 11/CP.7. This will present a serious challenge to scientists and policymakers in the coming years.

2.3. THE SPECIAL CLIMATE CHANGE FUND

The Special Climate Change Fund (SCCF) was created by the Marrakesh Accords to finance climate change activities in the areas of adaptation, technology transfer, certain specific sectors (e.g., energy transport and agriculture), and activities to assist oil-producing countries diversify their economies (see Dessai 2003 for a full description of the fund). These activities are to be complementary to those funded by the Global Environment Facility (GEF) and by bilateral and multilateral funding. At COP-8, in New Delhi, Parties decided to initiate a process to provide further guidance to the GEF so that a decision would be adopted at COP-9.¹⁰ At SBI-18, it was noted that Parties identified adaptation (to the adverse effects of climate change) as a top priority for funding, as well as technology transfer and its associated capacity building activities.¹¹

Negotiations began in an encouraging spirit, but as soon as the co-chairs of this contact group tabled draft text, dissatisfaction and frustration became apparent. The co-chairs' draft suffered numerous iterations – slightly different versions emerged every other day – but the contact group was unable to resolve certain disputes. Disagreement continued through to the closing SBI-19 plenary, where Parties agreed to forward the draft decision to the COP President for resolution. The contentious sections included the linkages with the Millennium Development Goals,¹² the information required to implement adaptation activities, and most importantly the issue of economic diversification. Much dispute was apparent within the negotiating groups, specifically within the EU and G77. Among other things, laws in individual EU countries were prohibiting them from agreeing to fund economic diversification in oil-exporting countries, and this led to protracted and tense negotiations in small groups. Eventually agreement was reached within, and between, negotiating groups, and a decision was adopted in the last day of the conference.¹³

The adopted decision gives top priority to adaptation activities, emphasising that activities should be country-driven, cost-effective and integrated into national sustainable development and poverty-reduction strategies. The SCCF will also finance technology transfer and its associated capacity building. The implementation of adaptation activities will be informed by national communications or least developed country (LDC) national adaptation programmes of action (NAPAs) and other information provided by the Party. Adaptation activities will be implemented in a range of areas such as water resources management, agriculture, integrated coastal zone management, monitoring of vector-borne diseases and coping with disasters emanating from extreme weather events. The controversial issue of economic diversification was postponed until COP-10, but in the meantime Parties have been

asked to submit their views on activities to be funded in this area and also the other sectors the fund considers.

To some, it was clear that the adoption of a decision was better than having no decision, as this would mean that the fund would not have become operational. However, the bickering negotiations between the EU and the South almost led to a collapse, partially due to the EU's return to "bunker" mentality. According to many Northern delegates, if economic diversification was to be included in the activities to be funded under the SCCF, developed countries would be unable to raise any money with their ministries of finance for this fund and so the SCCF would remain empty since contributions are voluntary for this fund. For the South, in particular Saudi Arabia, this was "backtracking" on the adopted Marrakesh Accords. Prioritising adaptation in the SCCF was an important feat, since human-induced climate change is now detectable at the regional scale (Károlyi et al., 2003), climate change impacts are now detectable in ecosystems (Parmesan and Yohe, 2003; Root et al. 2003) and these are expected to worsen in the future (Thomas et al., 2004). The battle over economic diversification has been postponed, but it will not go away easily.

2.4. LDC FUND

The LDC Fund was also created by the Marrakech Accords. Its aim is to support the work programme of the LDCs, such as the preparation and implementation of NAPAs. Due to a sense of urgency in operationalising this fund, COP-7 promptly provided initial guidance for the operation of the fund to the GEF and also established a LDC Expert Group to serve in an advisory capacity to the LDCs, for the preparation and strategy for implementation of NAPA. At COP-8, Parties agreed that further guidance for the operation of the LDC Fund would be necessary, and this was reinforced at SBI-18. It was therefore up to Parties in Milan to decide on this.

The matter of the LDC Fund began quietly in informal meetings, and ended with a marathon negotiation session involving the Minister of Environment from Tanzania heading the LDCs, the President of the COP and numerous Annex I countries. At the final meeting of SBI-19, the co-chairs of the informal consultations reported that no agreement had been reached on further guidance to the LDC Fund. Discussion then broke out in plenary, amidst protests from the LDCs about the lack of progress. The SBI was forced to forward the issue directly to the COP, and the matter was handled in a small, informal negotiating group. At the heart of the matter was the issue of funding full-cost activities. LDCs wanted adaptation activities identified in NAPAs to be funded on a full-cost basis, whereas developed countries found this unacceptable. They preferred an incremental cost methodology as the activities identified by NAPAs are likely to resemble straightforward development; instead they only want to fund the climate-proofing of such activities. The final decision requests the GEF to consider numerous elements when developing the

operational guidelines for funding the implementation of NAPAs, including criteria for supporting activities on an agreed full-cost basis, taking account of the level of funds available, and the urgency and immediacy of adapting to the adverse effects of climate change.¹⁴ It also highlights a country-driven approach, and equitable access by LDCs to the Fund. The implementation of the decision will be further assessed at COP-10.

It is difficult to assess whether the adoption of this decision was a positive or negative outcome. Negotiations on the guidelines for preparation of NAPAs were long and seemingly well crafted; the decision adopted at COP-9 was rushed and prepared under much pressure. The decision also leaves much of the resolve of how to implement NAPAs in the hands of the GEF, which only seems to move the debate from the UNFCCC to the GEF Council, where LDCs probably have less bargaining power than donor countries. This issue is certainly one to look out for in the future as we move closer to the implementation of adaptation activities in LDCs.

2.5. PROGRESS ON IMPLEMENTATION OF DECISION 5/CP.7

Decision 5/CP.7 originates in the Marrakesh Accords and relates to the implementation of Articles 4.8 and 4.9 of the Convention, as well as Articles 2.3 and 3.14 of the Protocol (see Barnett and Dessai 2002), mainly dealing with the adverse effects of climate change, the LDCs, the impact of response measures and other multilateral work (mainly workshops). Decision 5/CP.7 serves as an umbrella for a range of activities so measuring progress is by no means straightforward. This discussion resulted in a set of SBI conclusions containing a bracketed negotiating text that will be addressed again at SBI-20.

There were positive pre-sessional consultations on this topic where the chair of SBI produced a background paper which identified areas to be discussed. During COP-9, a contact group met several times, but no decision was agreed. Instead, the whole draft decision remains bracketed and annexed to the SBI conclusions, which request Parties and others to submit information on activities relating only to the adverse effects of climate change according to decision 5/CP.7.

The bracketed draft decision was first proposed to Parties by the negotiating group co-chairs and subsequently suffered various changes by the Parties. For example, developed countries wanted to note the “significant progress” in implementing 5/CP.7, whereas developing countries want to note the “limited progress”. Other parts of the text are more promising, and focus on insurance, risk assessment and risk transfer mechanisms. There is also reference to regional workshops and a range of actions under the umbrella of response measures, including the establishment of an expert group on economic diversification.

Postponing a decision to the next SBI was the easy way out for Parties, but this comes at a price to the vulnerable communities and countries identified in Articles 4.8 and 4.9. The fact that the impact of the implementation of response measures are

included in this agenda item make it extremely difficult to move forward, which should not be the case (see Barnett et al. 2004).

2.6. CAPACITY BUILDING

The Marrakesh Accords set out two frameworks for work on capacity building – one for developing countries¹⁵ and another for economies in transition (EITs)¹⁶. In the BAPA negotiations on capacity building, deliberations indicated considerable disagreement, and, unlike discussions on technology transfer, had generated frustration and clear “sides”. Nevertheless, agreement was reached on having two separate decisions for the different groups of countries. At COP-9, Parties were to review these decisions. Parties adopted one new decision without considerable controversy¹⁷ in which they agreed to complete a comprehensive review of the implementation of the capacity-building framework in developing countries by COP-10, after which such a review will be carried out on a five-year basis. For EITs, such a comprehensive review will also be completed by COP-10, but the frequency of further such reviews will be determined by a review of the national communications of those countries.

2.7. ADDITIONAL GUIDANCE TO THE GEF

This is a standing agenda item that is intended to complete and compliment the original Memorandum of Understanding (MOU) between the COP and the GEF on “policies, programme priorities and eligibility criteria related to the Convention for the financial mechanism which shall function under the guidance of and be accountable to the COP,” according to the MOU. The purpose of additional decisions providing guidance is to ensure that new decisions on substantive items are reflected in the GEF’s funding processes.

At COP-9, a decision was adopted based on outcomes from negotiating groups on national communications, capacity building and technology transfer.¹⁸ On national communications, the COP decided that the GEF should monitor the performance of the “global project”¹⁹ to support the preparation of national communications, and provide finance in a timely manner to non-Annex I Parties whose activities are not covered by the “global project.” On capacity building, the GEF should continue to provide financial support to developing country Parties, take into account the capacity-building framework in decision 2/CP.7, and provide financial support to EITs for the implementation of the capacity-building framework in decision 3/CP.7. The GEF should also continue supporting enabling activities relating to technology needs assessments. The COP also requests the GEF to initiate the piloting of an operational approach to adaptation as soon as possible, and report on steps taken at COP-10.

This standing agenda item was not unusually controversial or debated. However, a certain degree of tension was evident, as three other financial issues were being hotly contested (the SCCF, the LDC Fund, and the secretariat's budget for 2004–5). Mention of workshops and other activities taking place subject to sufficient resources also reflects this concern.

2.8. TECHNOLOGY TRANSFER

This issue is relatively uncontroversial in that it is an aspect of climate change policy where developed and developing countries can generally agree. This is due to the nature of the topic, where developed countries are keen to transfer their technologies, and developing countries eager to receive technologies. Nevertheless, this does not imply that it is not politically significant as an issue, due to the relative importance of technology in addressing climate change and its impacts. An important framework for technology transfer was also adopted in the Marrakesh Accords, focusing on five main activities: technology needs and needs assessment, technology information, enabling environments, capacity building, and mechanisms for technology transfer. It also established an Expert Group on Technology Transfer (EGTT) that meets intersessionally.

In continuation of these negotiations, at COP-9 Parties discussed the proposed work programme of the EGTT and adopted SBSTA conclusions on the matter. In the conclusions, the EGTT 2004 work programme is endorsed, but it is noted that the full implementation of the work programme will require additional resources. The conclusions encourage Parties to report more specifically on capacity-building activities relating to technology transfer in their national communications. The United Nations Development Programme (UNDP) and other organisations are invited to provide information to the EGTT on implementation of technology needs assessments and technology transfer capacity building activities. Finally, a workshop is to be organised to address innovative options for financing development and transfer of technology.

2.9. NON-ANNEX I COMMUNICATIONS

The issue of national communications can be considered the heart of the UNFCCC in many respects, most significantly as it is here that policies and measures are listed, and possible projects are identified for funding. The issue has recently become hugely controversial, as it is in these discussions that the issue of large developing countries' emissions appears. In an effort to avoid any calls for emissions reduction commitments by non-Annex I Parties, discussions on non-Annex I communications have become politically charged.

At COP-8, the discussion on non-Annex I national communications generated considerable debate in the opening session of SBI-19. Under this issue, four

sub-items were to be addressed; two of them were passionately contested by developing countries. The most obvious concern lay with the agenda sub-item on the fifth compilation and synthesis of initial national communications, where Parties were to consider a document which contained information on steps taken by non-Annex I Parties to implement the UNFCCC²⁰. This document was vehemently opposed. Although not stated outright, the document essentially demonstrated that non-Annex I Parties are in fact undertaking several important and effective measures toward implementing the UNFCCC, and also toward reducing greenhouse gas emissions. Such a document could be seen as “fodder” to those seeking emission reduction commitments by developing countries. Related to this was the sub-item on timing for submission of second and third national communications. The title of the fourth sub-item was “frequency of submission of second and, where appropriate, third national communications.” Developing countries, led by Brazil, urged that reference to “frequency of” should be removed. The timing issue is linked with the disclosure of information, and also with funding for the preparatory work that is necessary for the national communications. This issue was left for discussion at SBI-20.²¹

While the document on steps taken by non-Annex I Parties was rejected, the fifth compilation and synthesis of initial national communications was considered by Parties, and a decision was taken on the matter.²² The COP requests a compilation and synthesis of initial national communications submitted before 1 April 2005 for consideration at COP-11. The COP also notes that many projects have been proposed by non-Annex I Parties, and requested the secretariat to prepare a document on the possible means to facilitate the implementation of those projects proposed to be funded.

2.10. PROGRAMME BUDGET FOR 2004–5

Discussions on the programme budget are necessary for each sessional period. Since the United States repudiation of the Protocol, however, this has become increasingly complicated, as the United States had requested all activities related to preparation for the implementation of the Protocol to be budgeted separately from those for the implementation of the UNFCCC. As a result, the issue of the secretariat’s budget for 2004–5 had already created significant turbulence at SB-18 in June 2003. Although this was also the case at COP-9, the issue was finally resolved. Australia and the United States continued to call for a separate budget for the UNFCCC and the Protocol. The inclusion of the development costs of the Protocol in the secretariat’s core budget was also contested. The three budget scenarios included a nominal increase over the 2002–3 budget of 9% with a reduction in real terms around 4% (US\$ 35 792 430), no increase, but a reduction estimated in real terms at around 12% (US\$ 32 837 100), and finally “any other amount”. In the final agreement,²³ Parties adopted a budget amounting to US\$ 34 807 326. Noting that the Protocol

may enter into force during the coming biennium, the COP also approved an interim allocation of US\$ 5 455 793 to support Protocol-related activities. The COP also adopted the indicative scale of contributions for 2004 and 2005 for the programme budget. In addition, the decision highlights that the programme budget contains elements relating to the UNFCCC, and to preparatory elements under the Protocol, and that Protocol-related elements in the core budget, the interim allocation and the Trust Fund for Supplemental Activities constitute the portion of the overall resource requirements relating to the Protocol.

This programme budget reflects both hope and uncertainty in terms of entry into force of the Protocol. It also reflects the considerable muscles flexed by the United States in ensuring that the budget contains a separate provision for Protocol activities, although many of the activities cannot realistically be separated from a logistical perspective. This division has now set a precedent for future budgets, although optimists might hope that with a change in the administration on the United States, a change in policy may also come.

2.11. THIRD ASSESSMENT REPORT OF THE IPCC

In general, it is agreed that the publication of the IPCC First Assessment Report led to the adoption of the Convention in 1992. The Second Assessment Report in 1996 led to the Kyoto Protocol negotiations. COP-9 agreed to initiate two new SBSTA agenda items related to the IPCC's Third Assessment Report (TAR) on the scientific, technical and socio-economic aspects of: (1) *impacts of, and vulnerability and adaptation to, climate change*, and (2) *mitigation*.²⁴ This will focus on exchanging information and sharing experiences and views among Parties on practical opportunities and solutions to facilitate the implementation of the Convention.

Although a brief decision was adopted, negotiations were protracted with a clear North–South divide. For developed countries the emphasis was on technical issues, but G77 appeared to be somewhat nervous that such work might lead to pressure, by the back door, for developing country commitments in a second commitment period agreement. However, most Parties were keen to move forward, at least on the level of information sharing and consideration of practical solutions. In particular, China appeared to be eager to see progress, especially in the area of technology. Some observers would see the EU's position as being an attempt to consider, from a technical point of view, how the ultimate objective of the Convention (Article 2) might be approached. But this more ambitious goal was not achieved (yet) and the agreement reached emphasizes the need for information sharing and practical approaches, but at the same time does not preclude the consideration of long-term issues under the broad themes of sustainable development, opportunities and solutions and vulnerability and risk. It will also develop next steps.

In summary, this issue resulted in an agreement to develop a work programme that will stimulate more scientific and technical work on adaptation and mitigation,

with the possibility of opening discussion on the longer-term issues of the Convention including Article 2, when the time is ripe. Therefore, this will be an interesting item to watch in future SBSTA sessions. In theory, there is a possible space here within the negotiations to discuss long-term issues (see Hasselmann et al. 2003) and the objective of the Convention. In practice, the extent that this is possible will depend upon the political, rather than technical, agendas of the Parties most actively involved.

2.12. ANNEX I NATIONAL COMMUNICATIONS

While the issue of the second review of adequacy of commitments under UNFCCC Article 4.2 (a) and (b) was placed in abeyance for the fifth time in a row, some elements of this important topic managed to make its way into negotiations through an unguarded backdoor under the agenda item of Annex I national communications. This issue is important because it addresses one of the keys of the Convention – to ensure a reduction of greenhouse gas emissions by Annex I Parties. Co-facilitated by former UNFCCC Executive Secretary Michael Zammit-Cutajar and José Ovalle of Chile, a discussion reflecting enormous institutional memory took place among experienced negotiators from a range of countries in a small back-room in the conference centre. Addressing the complete data set on Annex I emissions between 1990–2000 available for the first time, clear concern was expressed about rising emissions. The final decision lost many of the initial points, but still concludes that further action is needed by Annex I Parties to meet their commitments.²⁵ A workshop to discuss the issue of preparation of national communications by Annex I Parties is requested, and this may provide a platform for the issue of Article 4.2 (a) and (b) to move further.

2.13. MINISTERIAL ROUND-TABLE DISCUSSIONS

During the high-level segment of the COP, three round-table sessions were held towards the end of the second week. The three themes of the round-tables were “climate change, adaptation, mitigation and sustainable development”, “technology, including technology use and development and transfer of technologies”, and “assessment of progress at the national, regional and international levels to fulfil the promise and objective enshrined in the climate change agreements, including the scientific, information, policy and financial aspects”. Unlike the round-tables at COP-8, these round-table discussions avoided resulting in any type of declaration, mandate or similar document, although this had been suggested by a “leaked” document several weeks before the conference. The particular emphasis of such a suggested “Milan Mandate” may have been on greater commitments from developing countries. Instead, the round-table discussions led only to a COP

President's "Summary", which does not contain references to individual Parties' statements.²⁶

Much of the discussions reiterated Parties political positions, but some honest exchange of views also took place. A couple of messages from the President's summary are worth noting. "Many Parties highlighted that climate change remains the most important global challenge for humanity. In meeting this challenge, the international community is confronted with a clear choice between collective irresponsibility or maturity." Although no names were made explicit, this is a clear plea for the United States to come back on board with the Kyoto process. A similar appeal has recently been done by the UK Government's Chief Scientific Advisor, Sir David King, urging the United States to take leadership in emissions control (King 2004). With this in mind, many Parties emphasised that every effort should be made to implement the Kyoto Protocol even though it has not entered into force yet. Parties also noted the importance of adaptation as a response to climate change. Perhaps not surprisingly, "some Parties mentioned that uncertainties in the legal and political field are now bigger than in science." This could require a larger emphasis on social science, in particular policy and legal analysis, in the realm of climate change research.

2.14. SIDE EVENTS

When certain issues are taboo in the COP process, side events²⁷ are a good way to explore different possibilities. COP-9 had over 100 side events covering a huge range of topics from CDM idiosyncrasies to equity in adaptation, transportation, climate change impacts, renewable energy, international emissions trading, amongst many others (ENBOTS 2003). Because the COP process was not particularly exciting (in comparison with previous COPs), side events counted with the presence of numerous negotiators, leading some observers to say that the most valuable outcomes of COP-9 occurred during the side events. COP-9 was characterized by a surprisingly large number of side-events addressing the post-Kyoto period or second commitment period (see Aldy et al. 2003; CAN 2003; Philibert et al. 2003; MEJ 2003; NIES/IGES 2003; WBGU 2003). Events ranged from discussion seminars where different countries and other actors were able to present their positions, to presentations of reports such as that from the WBGU (German Global Change Advisory Council), which set out possible architectures for a post-Kyoto regime. Overall, there was a considerable degree of optimism that ways forward would be found in developing the international climate regime.

3. Discussion and Outlook

As always, COP was filled with hard work, difficult negotiations and interesting side events. It is not easy to assess the overall impact on international climate politics by

the events in Milan; all COP meetings are part of an ongoing process. Furthermore, it is interesting to look at the results in the perspective of what did not happen: it was certainly negative that this could not be the first COP/MOP, and that formal entry into force of the Kyoto Protocol still seemed uncertain. COP-9 was very much business as usual, and in fact it may be argued that this session, with its decisions on sinks in the CDM, and guidelines for the funds linked to the Convention in reality finalized the 2001 agreements of Bonn and Marrakech.

On 11 December 2003, Kyoto celebrated its sixth anniversary since its adoption at COP-3 in Japan. It was not a joyful celebration since Russia still had not ratified the Protocol, which would allow it to enter into force. At the end of the first week, a statement by a Russian policy advisor in Moscow denying that the Russian Federation would ratify the Protocol, incorrectly reported as having been spoken in Milan, initiated a wave of uncertainty and fear, spread by the international press. To those not in Milan, this appeared to be the biggest concern. To those at COP-9, this statement was – although delayed – effectively denied: Russia was continuing to assess the impacts of ratification on its economy. But lack of commitment by the Russians in either direction left many conference participants worried, regardless of the statement. It is possible that Russian President Putin, after an expected successful election in the spring, might find it in line with Russian interests to ratify. But the uncertainty about Russian intentions could also have had a crippling effect on COP-9, and that did not happen.

The opening day of the COP was struck by two events: a general strike of the public transports in Milan and an article by Paula Dobriansky, US Under-Secretary of State for Global Affairs, in the *Financial Times*²⁸ calling the Kyoto Protocol “an unrealistic and ever-tightening regulatory straitjacket, curtailing energy consumption”. Dobriansky argued that there are only two ways to substantially reduce greenhouse gas emissions. One is to use existing technologies, which according to her is the “wrong” way. The other is to use “breakthrough” technologies, which is the US approach. This approach is similar to the traditional view of technological change in conventional economics, which may be characterised as “manna from heaven” – where innovation just happens, thereby making technology cheaper. The alternative view that is increasingly accepted by researchers across Europe is that technology is a complex process strongly influenced by economic factors and public policy. In this view, the costs of production fall with increasing investment and experience. Crucially, the direction of industrial innovation and technological development is influenced by policy that stimulates markets and supports products. This new economic view results in a radically different policy message. Policy to promote innovation in low-carbon technology and greenhouse gas reduction targets must be combined. The transition to a low-carbon society will require both technology policies to provide the push and targets to provide the market “pull”. As Robert Watson, the former IPCC chair, has noted: “technologies exist or can be developed... but it will take political will, enhanced research and development activities, public-private partnerships, and supporting policies to overcome barriers

to the diffusion of technologies into the market place” (Watson 2003). There was agreement, amongst Parties participating in the roundtable discussion, that an appropriate combination of near-term and long-term actions was critical. Further research into the optimal mix of near- and long-term options is certainly warranted.

Besides being the forestry and side event COP, COP-9 was also the development and funding COP. Many formal and informal discussions about adaptation to climate change and development took place, not least because of the operationalisation of the SCCF and the LDC fund. UNDP/GEF's Adaptation Policy Framework²⁹ was launched at COP-9 and is expected to be widely used by developing countries who are trying to develop strategies, policies and measures for adaptation to climate change. The GEF also announced a new strategic priority “Piloting an Operational Approach to Adaptation”, which is expected to help operationalise future guidance for the Convention on adaptation. This programme is initially being funded for three years with US\$ 50 million. In this instance, it seems that for once adaptation policy is ahead of the adaptation science, but considering the scale of the potential adverse effects it is not surprising that adaptation to climate change is finally being considered seriously, although the voluntary funding is clearly insufficient. Nevertheless, some Annex I countries re-pledged their 2001 Bonn commitment to finance climate change activities in developing countries, including adaptation. Much policy and science research work is still necessary in this area. For example, is adaptation to climate variability the same as adaptation to climate change? (Adger et al. 2004). This seems a very pertinent question for the implementation of NAPAs within the context of the LDC fund. It is clear that adaptation to climate change needs to be based on present day climate variability and the vulnerability it creates, but for the UNFCCC, “climate change” only relates to human-induced climate change, which can create implementation problems because of uncertainty (Pielke 2004). Another issue that was troubling many negotiators was the meaning of “mainstreaming” adaptation to climate change. Different understandings by Parties led to widespread confusion and a build-up of distrust during the SCCF and LDC fund negotiations. To some mainstreaming means there is no need for additional funding, because adaptation and climate change concerns will be integrated into development projects. To others, mainstreaming means an added-cost activity of incorporating adaptation in development projects and programmes (Schipper et al. 2003). At the end of the day, however, it all boils down to whether or not extra cost will be involved. Some climate change is now inevitable so adaptation to climate change will certainly start to play an increasingly important role in the Convention process.

All this means that the heavy process of developing an international climate regime moves on, laboriously. Technical agreements on budget and on non-Annex I communications, guidance to GEF or good practice guidance for LULUCF might seem ephemeral in comparison with the dimensions of the global problem. But this is how international co-operation works, and the impact of the small steps should not be underestimated, as long as the sense of direction is still there.

And that is of course the crucial question: Milan kept the process going, but did it also provide some basis for the work that must start now to prepare for the long term? The uncertainty about the final destiny of the Kyoto Protocol obviously complicates the analysis. Much more needs to be done to facilitate future North/South discussions. COP-8 and COP-9 saw a growing rift between the EU and key developing countries and, conversely, the growing compatibility of United States and developing country positions. The EU has a particular responsibility in promoting contacts with G77 and, therefore, should attempt to provide leadership in bridging the North/South gap. But the agreement of a work programme on mitigation and adaptation within the framework of the IPCC TAR discussion could open the road to discussions among key countries on the post-2012 regime. There are certainly many obstacles on the road, essential national interests being challenged, and the continuing unwillingness of the Bush Administration to recognize that global problems cannot be solved by unilateral action. But the side events in Milan showed that wide groups of scientists and NGOs are engaged and governments feel their responsibility. It will be necessary to tackle the long-term climate regime with full recognition of the important issues of equity and justice that arise (Paavola and Adger 2002).

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Notes

1. The Umbrella Group represents a loose alliance of Annex I States not affiliated with any other negotiating group, and includes Australia, Canada, Iceland, Japan, New Zealand, Norway, the Russian Federation, Ukraine and the United States.
2. UN developing countries lobbying group that was founded in 1964 and later expanded to represent 133 nations.
3. In the CDM project cycle, a DOE is an auditing firm responsible for validating and verifying the initial viability and development of CDM projects in their objective to generate CERs.
4. FCCC/SBSTA/2003/L.27.
5. For a further analysis of the decision, see Boyd et al. (2004).

6. Because all emissions and removals from anthropogenic sources should be accounted for, this brings up the question of accounting for emissions from the so-called unmanaged forests or unmanaged land.
7. Personal communication with I. Fry.
8. The discussion on degradation and devegetation is based on the IPCC Report on Definitions and Methodological Options to Inventory Emissions from Human-Induced Degradation of Forests and Devegetation of Other Vegetation Types; the one on harvested wood products follows a technical paper prepared by the UNFCCC Secretariat on accounting for harvested wood products.
9. It is known as “factoring out” since it involves the factoring out of direct human-induced changes in carbon stocks and GHG emissions and removals by sinks, from those due to indirect human-induced and natural effects and past practices in forests.
10. Decision 7/CP.8.
11. FCCC/SBI/2003/8.
12. See <http://www.developmentgoals.org/>.
13. Decision 5/CP.9.
14. Decision 6/CP.9.
15. Decision 2/CP.7.
16. Decision 3/CP.7.
17. Decision 9/CP.9.
18. Decision 4/CP.9.
19. The global project refers to GEF funding for non-Annex I national communications.
20. FCCC/SBI/2003/INF.14.
21. FCCC/SBI/2003/L.30.
22. Decision 2/CP.9.
23. Decision 16/CP.9.
24. Decision 10/CP.9.
25. Decision 1/CP.9.
26. FCCC/CP/2003/CRP.1.
27. One to three hour sessions mostly organized by NGOs, but also by the secretariat and Parties, that occur in parallel to the negotiations, usually in the same conference centre.
28. *Financial Times*, 1 December 2003, “Only new technology can halt climate change.”
29. See http://www.undp.org/cc/apf_outline.htm.

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