

**Summary Notes of the
7th Conference of the Parties
of the
UN Framework Convention on Climate Change
29 October – 10 November 2001
Palais des Congrès, Marrakech, Morocco**

**by
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Summary

Building on the Bonn Agreements in July 2001 on occasion of the 6th Conference of the Parties (COP-6, part II) of the UN Framework Convention on Climate Change (UNFCCC), it was up to COP-7 in Marrakech, Morocco, to finalize the Buenos Aires Plan of Action (COP-4, 1998). This became necessary as the Kyoto Protocol itself left the precise nature of that agreement open to further specification and negotiation. Given a bundle of last minute compromises, it appears as if the Kyoto Protocol is now ready for ratification on occasion of the 2002 World Summit on Sustainable Development by marshalling the required majority of 55 countries representing 55% of 1990 carbon dioxide emissions. The compromises resulted from pressure by several Umbrella Group countries (excl. the USA), whose ratification is crucial for the Kyoto Protocol to come into force, and the willingness of the European Union (EU) to save the Kyoto Protocol. The Kyoto Protocol, as it presently stands, is an agreement on the architecture of how to accomplish emission reductions among industrialized countries. If this architecture will be successful to achieve the ultimate objective of the UNFCCC (UNFCCC Article 2) over time remains to be seen.

1. Introductory Note

This observer attended UNFCCC COP-7 during 5-10 November 2001, registered as a scientific NGO (Potsdam Institute for Climate Impact Research). Evaluations are based on onsite observations, review of accessible media, personal interviews, and personal judgment. Much of the last-minute compromises occurred during high-level negotiations behind closed doors during the early hours of 10 November 2001.

2. General Observations

- The Bonn Agreements of July 2001 required further specification, were open to conflicting interpretations, and needed additional agreements on the fine print. The principal decisions taken at Bonn were maintained, although some see the “Marrakech Agreements” (see links at the end of this summary) as a further softening of the Bonn Agreements – and many observers regard the Bonn Agreements as weakening the rules agreed upon at Kyoto.
- The threat of not agreeing at Marrakech proved powerful, both for those demanding concessions (principally members of the Umbrella Group, excl. the USA) and the EU. Given the silent presence of the USA and lack of it presenting an alternative to the Kyoto Protocol, it was up to the EU to “salvage” the Kyoto

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Protocol by making concessions in return for the international leadership role the EU has volunteered on the issue.

3. Specific Observations

- *Compliance Mechanism*: The compliance mechanism will consist of a facilitative and an enforcement branch; the latter is able to levy a 30% fine on the amount of emissions in excess of national (or EU-wide) permits; these additional reductions will have to be accomplished in the second commitment period, and non-compliance would also entail exclusion from the Kyoto Mechanisms. The latter can be waived after a country demonstrates confidently how it will comply with the obligations during the second commitment period (incl. the fine). The First Meeting of the Parties (MOP-I) will decide on whether the compliance mechanism will be put into practice by a decision of the MOP or a formal amendment to the Kyoto Protocol. Legally-oriented negotiators suggested that international law will provide for a stronger compliance mechanism than a mere MOP-decision.
- *Mechanisms*: Agreements on the use of the three Kyoto Mechanisms (emissions trading, joint implementation, and the Clean Development Mechanism [CDM]) is related to the compliance mechanism (see above) and appropriate reporting. In essence, countries have carbon dioxide equivalent permits (Kyoto Protocol, Annex –B), and each of the three mechanisms creates carbon equivalent offsets under its own label. All of them are now interchangeable for compliance issues, and Annex-B allowances are bankable for future compliance periods. Eligibility for mechanisms is not contingent on meeting all requirements for reporting on sinks during the first commitment period. At the insistence of Japan, there exists an expedited form for reinstatement of eligibility for the mechanisms in case of initial non-compliance. Provisions were agreed for CDM projects to be eligible since the beginning of 2000.
- *Sinks*: Already during COP-6, part II, at Bonn, sinks provided the method of permitting political compromises (net uptake by forests, land use & land change). Russia used strong pressure at Marrakech to double its allowance on forest sinks to 33 Mt of carbon per year as compared to the Bonn Agreements.
- *Reporting*: Fulfilling reporting requirements serves as a prerequisite for eligibility for the Kyoto Mechanisms as well as the enforcement of compliance. COP-7 agreed on provisions for expert review teams to audit country reports.
- *Funding & Developing Countries*: While developing countries were clearly eschewing obligations to reduce their emissions, their support was indispensable for the Bonn Agreements. Three funds were created, the special climate fund and the least developed countries fund (with the latter supporting national adaptation plans in such countries), both under the UNFCCC; in addition, an adaptation fund was established under the Kyoto Protocol. The three funds served as compromise for the G77 plus China and were assisted by a “joint political declaration made by the European Community and its member States, together with Canada, Iceland, New Zealand, Norway and Switzerland, on their preparedness to collectively contribute € 450 million/\$ 410 million annually by 2005, with this level to be reviewed in 2008.”
- *“Self-Determination”*: Against its will, Turkey was originally accorded Annex-II status in the UNFCCC, and COP-7 allowed it to retreat to Annex-I status. Already at COP-4 in Buenos Aires, Kazakhstan had made it known that it wished to be treated as an Annex-I country for the purposes of the Kyoto Protocol; after

long opposition from other developing countries, it will be permitted to do so and will have to negotiate an Annex-B obligations in the future. While Argentina was launching its own plans at COP-4 in Buenos Aires for an alternative route for developing countries to take on obligations, it remains unknown what happened to such plans. The Argentine address at the high-level segment was cancelled.

4. Evaluation

- *The Art of Negotiating*: While Bonn “saved” Kyoto, it is the Marrakech Agreements that saved both. Failure at Marrakech was a real possibility, but the concessions made at the last minute, esp. by the EU, saved the architecture of the Kyoto Protocol. After the exit of the USA in spring 2001 from the negotiation table, Russia, Japan, Canada and Australia used their power as crucial members needed for ratification to extract concessions. They did not succeed on all aspects, but all available sources indicate that they drove a hard bargain. Many observers think that the 5.2% reduction goal for the developed countries will not be met. This evaluation is clearly subject to the additional assumptions observers had made earlier. As the final rules of accounting become only clear by Marrakech as well as hopes for ratification for the Kyoto Protocol, such calculations regarding the impact of the Kyoto Protocol were clearly premature. What has happened, esp. with respect to the generous inclusion of sinks is the acceptance of additional challenges for high-quality accounting.
- *The European Union*: The European Union clearly played a more united role than before in global climate politics. Solidifying its leadership role since early 2001, it could offer concessions to make ratification of the Kyoto Protocol possible. How long can this strategy be sustained?
- *The Umbrella Group*: Members of the Umbrella Group were able to drive a hard bargain (see above). What remains unclear is the future role of the USA. Until mid-2001, the USA was expected to present its own, alternative architecture for global climate protection, yet at Marrakech it only reiterated its insistence on domestic measures. It is unclear how this should be evaluated. On the one hand, the world has learnt how *not* to miss US leadership on climate change. On the other hand, US firms will be impacted by the Kyoto Protocol and fears of a competitive dis/advantage for the USA have led some industries to lobby the White House to re-engage in the global discussions. Furthermore, there are now more bipartisan efforts for US reengagement on the global level. Given the preeminence of efforts at dealing with the terror attacks of 11 September 2001, it can be expected that the US will not come up with a major strategy before spring 2002 – too late to influence the architecture of the Kyoto Protocol.
- *Developing Countries*: Many developing countries reiterated their preferences for poverty eradication and economic development. They succeeded in the extraction of three funds (see above), but the developing countries did not agree to mandatory funding. It remains unclear how developed countries will position themselves for the global allocation of permits and emission reduction obligations. Per capita allocations, as requested by India for a long time, are roughly as politically viable as the reallocation of current per capita GNP on an equal basis. This observer expects developing countries to have a hard time developing policy positions on this topic, yet it may well break the architecture of the Kyoto Protocol in the long run. The developed countries should invest substantial resources into considering alternatives to per capita entitlements while keeping

political feasibility in mind, and also support the discussion *within* relevant developing countries.

- *Environmental NGOs*: These groups try to influence the negotiations as watchdogs in favor of environmental integrity. It remains unclear what they have achieved. It is becoming common place to acknowledge their deficit of democratic legitimacy in democratic countries. They certainly remain important as a counterweight to industry NGOs, but their impact via TV and print media is easily overrated. Whenever it matters, industrial NGOs know how to influence results.
- *The Big Picture*: The Marrakech Agreements may allow the Kyoto Protocol to be ratified by 2002. A range of smaller decisions are yet to be taken in the future, so the precise contents of the Kyoto Protocol will evolve, as in other policy domains. If the Kyoto Protocol will have any effect beyond the counterfactual emissions path remains unclear as the Kyoto Protocol is presently more an agreement on architecture, not yet an agreement on emission reductions. These have to come materialize in the future. The compliance mechanism, heralded by some as far-reaching and innovative, has clear design problems. Countries who wish to opt out, can do so de facto without penalty (except if they wish to re-enter). And those non-compliant countries which remain inside the Kyoto Protocol will fight for a favorable decision by the enforcement branch. Furthermore, the levy for non-compliance has only been agreed on for the second commitment period, and countries expecting non-compliance in the first commitment period will adjust their negotiation position for the second commitment period accordingly (endogeneity problem). Thus, I expect it difficult to push countries substantially to do more than their domestic politics force them to do. After all, governments are principally liable to their national legislature (or selectorates) and much less so to (incomplete) supranational or international legislatures. It would have been preferable to ask for ex ante collateral for non-compliance (e.g., in the form of treasury bonds, subject to a judicial decisions).
- *Overall*: The climate change regime and its Kyoto Protocol have been salvaged for the time being; if it will be practicable and witness causal, measurable effects in terms of environmental impact remains to be decided.

Links to Select Resources:

- COP-7 Dedicated Website: <http://www.unfccc.int/cop7/index.html>
- “Marrakech Agreements”:
http://www.unfccc.int/cop7/documents/accords_draft.pdf (26 Nov. 2001)
- Environmental Negotiations Bulletin (Climate): <http://www.iisd.ca/climate/cop7/>;
<http://www.iisd.ca/linkages/download/pdf/enb12189e.pdf> (summary document)
- EU Evaluation of COP-7:
http://europa.eu.int/comm/environment/climat/marrakech_report.pdf
- German Government Document (COP-7 evaluation):
<http://www.bmu.de/download/dateien/cop7.pdf>
- Press Overview (see separate SaveThis File).
- UNFCCC Website: <http://www.unfccc.int>