

**CLIMATE CHANGE: THE 11TH CONFERENCE OF
THE PARTIES TO THE UNITED NATIONS
FRAMEWORK CONVENTION**

Tim Williams
Science and Technology Division

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TABLE OF CONTENTS

	Page
INTRODUCTION	1
WHAT IS A COP?.....	1
A. Side Events.....	2
B. COP/MOP-1	3
ISSUES AT COP-11 AND COP/MOP-1	3
OUTCOMES.....	4
A. Adoption of the Marrakesh Accords.....	4
B. Commitments for Periods After 2012	4
C. Compliance.....	5
D. The Clean Development Mechanism.....	5
E. Adaptation	7
F. Other Issues	8
1. Deforestation.....	8
2. Carbon Capture and Storage.....	8
CONCLUSION: WHAT THE FUTURE HOLDS	9



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CLIMATE CHANGE: THE 11TH CONFERENCE OF THE PARTIES TO THE UNITED NATIONS FRAMEWORK CONVENTION⁽¹⁾

INTRODUCTION

On 16 February 2005, Prime Minister Martin announced that Canada would host the 11th Conference of the Parties (COP-11) to the United Nations Framework Convention on Climate Change (UNFCCC) in Montréal. The announcement was made on the date that the Kyoto Protocol – the binding treaty created under the UNFCCC – came into force for Canada and all other countries that had ratified it.⁽²⁾ This Conference therefore also acted as the first Meeting of the Parties (COP/MOP-1) to the Protocol.

The following paper describes what occurs at a COP and some of the issues and decisions discussed at COP-11 and COP/MOP-1. It concludes with a discussion of what the future may hold, post-Montréal.

WHAT IS A COP?

The UNFCCC, as its name suggests, is a framework for action to reduce greenhouse gas (GHG) emissions and, to a certain extent, to adapt to climate change. The Kyoto Protocol can also be seen as a framework document that established general principles aimed at reducing GHG emissions, such as binding targets, but did not set out the “rules of the game” to be followed in reaching the targets. These rules were to be formed through further negotiations.

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- (1) This paper is based on a document prepared for the delegation from the Parliament of Canada to the Asia Pacific Parliamentary Forum, Indonesia, 15-19 January 2006.
 - (2) For more on the UNFCCC and the Kyoto Protocol, please see Tim Williams and Michel Charron, *The Climate Change Convention and the Kyoto Protocol*, TIPS-113E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 26 May 2005.

The intergovernmental negotiation process consists basically of the COP, meetings of the subsidiary bodies (see below), and a series of workshops.

The COP is the highest decision-making authority of the Convention. It is an association of all the countries that are Parties to the Convention. The COP meets every year, unless the Parties decide otherwise.

The Convention established two permanent subsidiary bodies: the Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI). These bodies give advice to the COP, and each has a specific mandate. The SBSTA and the SBI traditionally meet in parallel, at least twice a year.⁽³⁾

Many significant negotiations occur during the lead-up to the COP but important negotiations also occur during the COP. Much of the negotiation process is open to certified observers and, even more so, all delegates. The COP itself usually meets in conjunction with the two subsidiary bodies. Smaller meetings on specific subjects are held in “contact groups,” and informal meetings take place to negotiate the language of decisions. It concludes with “high-level” meetings of ministers and senior officials from the various governments. It is during the high-level meetings that final decisions are made, often after long and arduous negotiations during informal meetings and the more formal contact groups.

Significant decisions finalized at some of the COPs include:

- COP-3, 1997: The Kyoto Protocol;
- COP-4, 1998: The “Buenos Aires Action Plan,” which established deadlines for finalizing work on the Kyoto mechanisms, compliance issues, and policies and measures; and
- COP-7, 2001: The Marrakesh Accords, a series of decisions governing compliance, use of sinks and the implementation of the Kyoto mechanisms. These were forwarded to the COP/MOP-1 for approval.

A. Side Events

The UNFCCC has a mechanism for accrediting non-governmental organizations “qualified in matters covered by the Convention” to participate as observers. These organizations have many different points of view regarding action on climate change. As well as being observers, they may also organize side events where they can express their points of view

(3) UNFCCC, Meetings, <http://unfccc.int/meetings/items/2654.php>.

and showcase their efforts to address climate change. In some cases, these side events may be considered by some conference participants as more important than the COP itself.⁽⁴⁾

Parallel events, which are often open to the public, are held outside of the COP on a variety of issues related to climate change.

B. COP/MOP-1

The COP/MOP-1 is a legally distinct meeting from the COP-11. Until the Protocol came into force, decisions pertaining to the Protocol were taken at the COPs, for forwarding to the COP/MOP for final adoption. Now such decisions will take place at the COP/MOPs. Certain Parties to the Convention, such as the United States and Australia, are not Parties to the Protocol and therefore do not have an official role in the COP/MOP decision-making process.

ISSUES AT COP-11 AND COP/MOP-1⁽⁵⁾

Among other issues, the following were discussed at COP-11 and, more particularly, at COP/MOP-1:

- adoption of the Marrakesh Accords;
- commitments for periods after 2012;
- procedures and mechanisms relating to compliance under the Kyoto Protocol, including the election of the members of the Compliance Committee;
- improvement of the clean development mechanism; and
- increased focus on adaptation to climate change.

(4) Mr. Elliot Diringer (Director, International Strategies, Pew Center on Global Climate Change), *Evidence*, House of Commons Standing Committee on Environment and Sustainable Development, 31 May 2005.

(5) Information contained in the following sections is derived from the International Institute for Sustainable Development summary of the meetings (<http://www.iisd.ca/download/pdf/enb12291e.pdf>), as supplemented by the experience of the author as a member of the Canadian delegation.

OUTCOMES

A. Adoption of the Marrakesh Accords

The Accords were quickly adopted without amendment. This positive outcome had not been certain in advance: the decisions required consensus, and any one country could have withdrawn its support at the last moment.

B. Commitments for Periods After 2012

One of the most important aspects of these meetings was discussion regarding actions to be taken in the longer term, in particular how to proceed after the first Kyoto commitment period ends in 2012. Paragraph 9 of Article 3 of the Protocol states:

Commitments for subsequent periods for Parties included in Annex I shall be established in amendments to Annex B to this Protocol, which shall be adopted in accordance with the provisions of Article 21, paragraph 7. The Conference of the Parties serving as the meeting of the Parties to this Protocol shall initiate the consideration of such commitments at least seven years before the end of the first commitment period referred to in paragraph 1 above.

Since 2005 marks the beginning of this seven-year period, the Protocol required that such consideration start at the COP/MOP-1 held in Montréal.

Initial discussions focused on whether or not the eventual decision might refer to a possible broadening of the Protocol to include Parties that do not currently have binding targets. It was suggested that reference be made to Article 9 of the Protocol, which states that a review of the Protocol should commence (coordinated with pertinent Convention reviews), followed by appropriate action.

The G77/China negotiating bloc adamantly refused to accept a reference to Article 9. This group stated that paragraph 9 of Article 3 explicitly refers only to Annex I (developed countries with binding targets), and that Article 9 is not triggered until COP/MOP-2. Various other countries, however, insisted that it was useless to discuss further commitments of Annex I countries in a vacuum, when it is widely acknowledged that emissions from developing countries will surpass those of Annex I countries in the near future.

As a compromise approach, Canada suggested the initiation of a parallel dialogue on long-term approaches to climate change under the Convention, as opposed to under the Protocol.

The United States, being a Party to the Convention, refused to participate in future negotiations that might lead to further commitments; accordingly, the U.S. delegation left the negotiations. It returned with a proposal to initiate a dialogue as long as it was non-binding and would not lead to negotiations.

In the end this proposal was acted upon and a three-tiered package of decisions was accepted. The COP/MOP-1 decision refers only to initiating “a process to consider further commitments for Parties included in Annex I for the period beyond 2012,” while the COP decision initiates a non-binding dialogue that it explicitly states will not lead to negotiations. The official report of the COP/MOP-1 will ask Parties for input regarding Article 9 of the Protocol by September 2006, two months before official talks on this Article are scheduled to take place at COP/MOP-2.

C. Compliance

Saudi Arabia had introduced an amendment to the Protocol, as required for the adoption of compliance procedures and mechanisms that have binding consequences. However, in the end the COP/MOP approved and adopted “the procedures and mechanisms relating to compliance under the Kyoto Protocol,” without prejudice to the outcome of negotiations toward the adoption of an amendment with legally binding consequences. The decision was made with a view to completing the amendment to the Protocol in two years.

Any party to the Protocol that has not met its Kyoto target for the first commitment period (2008-2012) will be penalized by having the amount of emissions in excess of this target added, plus 30%, to the target set for it in the second Kyoto period. In addition, it may not be allowed to sell its credits on an international market through the Protocol’s emissions trading mechanism.

D. The Clean Development Mechanism

The clean development mechanism (CDM) is one of the three Kyoto mechanisms that were designed to help developed nations meet their targets more easily and also to promote the transfer of technology and other capacity-building tools to the developing world. This

mechanism is a key part of the Protocol in that it gives both developed and developing Parties strong reason to stay at the bargaining table and make it work.

The CDM allows developed countries to establish projects in the developing world that are in line with sustainable development criteria and that verifiably reduce GHG emissions. In return, the project proponent receives credits for the GHG emission reductions that can be used against its target or sold through the international emissions trading mechanism. In many cases this kind of project will achieve emission reductions at a lower cost than can be done domestically. It will thus benefit both the proponent and the developing world, while reducing emissions.

The CDM is the only mechanism that is currently operational. However, the supply of credits that the CDM is supposed to generate (technically known as Certified Emission Reduction Units or CERs) has been limited by an onerous process (particularly verification criteria and assurance that the project goes beyond business as usual) and an underfunded CDM Board that judges proposals. The short supply drives up the price of CERs and limits the effectiveness of the CDM.

Improving the CDM was therefore a priority for all countries, but for different reasons. Parties in the developed world wanted easy access to cheap credits to ease the burden of meeting their targets, and those in the developing world wanted greater access to technology and funding for projects that would improve their environment. How to increase the supply of credits without reducing their environmental credibility was the crux of the negotiations.

In the end the COP/MOP adopted a number of decisions relating to the CDM. One of these included a requirement that the proceeds of CERs be shared, with a portion going to cover the CDM Board's administrative expenses. The share will be determined using a progressive approach: the first 15,000 CERs per project will be subject to a levy of US \$0.10 per CER, and above this threshold the levy will be US \$0.20 per CER. The Board was also called upon to identify measures to strengthen the CDM, giving full explanations for its decisions.

With respect to the environmental integrity of the projects, the discussion centred on the concept of "additionality." This term refers to the fact that, to qualify as a CDM project, the GHG emission reductions must go beyond (be in addition to) an agreed-on baseline of what would have happened in the absence of the project. The COP/MOP called on the CDM Board to request public submissions on new ways of addressing this issue and on ways of improving the "additionality tool" currently used to assess projects.

The CDM (like the other Kyoto compliance mechanisms) has an absolute need for a system that can rapidly verify transactions of different carbon credits under the Kyoto Protocol. This system is known as the International Transaction Log (ITL). The COP/MOP made a decision regarding the ITL's implementation, stating among other things that it should be implemented in 2006.

In addition, investors need to know that their proposed projects will receive credit over a longer time frame than that of the current commitment period (which ends in 2012). One of the decisions on the CDM referred to the importance of ensuring that the CDM carries on beyond the 2012 time frame.

E. Adaptation

Adapting to climate change, while it is a goal of both the Kyoto Protocol and the Convention, has until recently received less attention than trying to mitigate it through reducing emissions. A number of factors have begun to change this balance.

The first is the realization that GHG-related anthropogenic climate change will continue for some time to come as a result of emissions that have already occurred.

Perhaps more important, however, is the realization that overall development issues are paramount in the developing world. Adaptation to climate change should therefore be built into mainstream sustainable development through such programs as land-use planning, coastline protection and the development of building codes – efforts that should be occurring in any case. The Convention and the Protocol can be used to augment these efforts by building capacity in developing countries to respond to climate-related disasters.

Adaptation was discussed at many of the side events of the Conference. The COP/MOP adopted a decision on the purpose of the Adaptation Fund that was established under the Kyoto Protocol. The decision refers to guidance on the Fund's operating policies and program priorities, as well as eligibility criteria for its operation, which will be adopted at COP/MOP-2. The decision also asked the Subsidiary Body for Implementation to request information from Parties for guidance on how the Fund should operate.

A COP decision adopted the five-year program of work of the Subsidiary Body for Scientific and Technological Advice on impacts, vulnerability and adaptation to climate change. This program aims “to improve [Parties', and in particular developing nations'] understanding and assessment of impacts, vulnerability and adaptation, and to make informed

decisions on practical adaptation actions and measures to respond to climate change on a sound, scientific, technical and socio-economic basis, taking into account current and future climate change and variability.”

F. Other Issues

1. Deforestation

The concept of using the UNFCCC or the Kyoto Protocol to create incentives to prevent deforestation received considerable attention at COP-11. The idea was spurred by a request from Papua New Guinea and Costa Rica to include an agenda item on “Reducing emissions from deforestation in developing countries – approaches to stimulate action.” The general concept is that giving a value to forests in the form of carbon credits would reduce the economic pressure to cut them down.

In the end, it was decided to discuss this issue under the COP and not the COP/MOP. The discussions resulted in a COP decision to request that Parties and observers submit their views on the scientific and methodological issues to the SBSTA, by 31 March 2006. Parties were also requested to share information and policy experiences, and the SBSTA was asked to organize a workshop.

2. Carbon Capture and Storage

Carbon capture and storage refers to the removal of carbon from emissions and its storage in isolation from the atmosphere – for example, in geological formations or in the ocean. There has been a good deal of discussion and experimentation with these technologies, especially with regard to such questions as the permanence of storage and possible negative effects on ocean life.

The Intergovernmental Panel on Climate Change released a special report on this subject just prior to the meetings in Montréal. The report suggested that carbon capture and storage was generally technically feasible, particularly geological storage, but that it could increase the cost of electricity production by US\$0.01-\$0.05 per kilowatt hour.

The subject was taken up by the SBSTA, which adopted conclusions that asked the UNFCCC Secretariat to organize a workshop, and encouraged Parties as well as the private sector to support related research, development and deployment of these technologies.

CONCLUSION: WHAT THE FUTURE HOLDS

Over 40 decisions were adopted at COP 11 and COP/MOP-1. Apart from the adoption of the Marrakesh Accords, which put the Protocol into operation, the most important are those referring to what happens beyond 2012.

A package of decisions and informal agreements were agreed to that will see developed countries with targets (the Annex I countries) begin a process toward establishing further commitments. In addition, a non-binding dialogue involving all Parties to the Convention was initiated, as well as a request for preparatory submissions on the review of the Protocol, which is to begin in a year.

There was a risk that the Protocol could have effectively died in Montréal if the Marrakesh Accords had not been adopted and the Parties had not agreed to at least begin a process of looking beyond the 2012 time frame, including the question of how to broaden the impact of the Convention and Protocol beyond the Parties that currently have targets. The fact that this risk was averted is reason to describe the Montréal meetings as a success. However, the futures of the Convention and the Protocol are still very uncertain.

The United States seems to consider the Conference of the Parties as mostly a forum for the exchange of climate change policy ideas. Dr. Paula Dobriansky, Under Secretary of State for Democracy and Global Affairs and Head of the U.S. delegation, stated:

The Conference of Parties does provide a forum for the active exchange of what countries are doing to address climate change in the near term, in the medium term and in the long term. ... we also believe firmly that negotiations will not reap progress, as I indicated, because there are differing perspectives.⁽⁶⁾

The Russian Federation, moreover, attempted to have a reference to voluntary action added to the COP/MOP decision regarding future commitments of the Annex I Parties. Russia first became a signatory and a Party to the Protocol in the knowledge that its target was such that it need take no action and still it would receive credits for its reductions, the result of its collapsed economy. In a second commitment period, if its economy continues to improve, Russia will almost certainly have to take some action. Through its intervention, the Russian

(6) The Embassy of the United States of America, Press Briefing by the Delegation of the United States COP 11/MOP 1, <http://www.state.gov/g/rls/rm/2005/57867.htm>.

Federation may have signalled at COP-11 that it, like the United States, is unwilling to take anything more than voluntary action.

The United States and the Russian Federation account for over 30% of the world's GHG emissions. It will be difficult to convince any Party to take on more onerous mandatory targets without the participation of these two countries.

In addition, the developed Parties to the Protocol will, in general, have difficulty meeting their targets for the first commitment period. Countries of the developing world have made it very clear that the developed world must show leadership in reducing emissions before they will take any action that could in any way compromise their development.

These are large hurdles to overcome if a second Kyoto commitment period is to include further mandatory reductions and if the Protocol, and even the Convention, are to be used as a platform for engaging greater efforts from countries currently without targets.