

A call for climate justice

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MUHAMMED SHAHIDUL ISLAM

ONLY a few days to go before the Fifteenth Conference of Parties to the United Nations Framework Convention on Climate Change (COP15) in Copenhagen, it may be worthwhile to recapitulate some key observations made by global leaders and eminent participants in the Global Editors' Forum held in the Danish capital between October 9 and 11. This was staged jointly by the Project Syndicate, an international media think-tank, and the Danish government.

The gathering of leading opinion shapers, 300 media representatives from all around the world including editors, politicians, climate specialists, scientists and economists from both developed and developing countries, was organized in order to address the questions: How close are we to an agreement to preserve world's environment from further degradation? Also, what are the major impediments and how to evolve best instruments in terms of reaching an effective and fair agreement on this difficult matter?

Bangladesh's State Minister for Environment and Forests, Dr. Hasan Mahmud, took part in the Forum's special panel on 'The Politics of Climate Change and Energy Security'. This panel focused on the domestic and international politics of global warming and energy security, including 'the impact of scarcity and the search for alternative energy sources on both governments and

the world order.' Also the Danish Minister for Climate and Energy, Mrs. Connie Hedegaard and the former German Foreign Minister and leader of the Green Party, Mr. Joschka Fischer, were amongst the panelists. This Panel was held on the morning of Sunday, October 11.

Bangladesh emits carbon only 0.2 ton, developing countries 1.6 ton and developed countries 15-20 ton. Though, Bangladesh pollutes less, yet she is the most vulnerable country. Describing the miserable condition of Bangladesh, Dr. Hasan Mahmud said, "our country is now under cross-fire of developed countries (differences)."

He said there is no alternative to reaching negotiation in the forthcoming COP15 climate conference of 192 countries of the world. We must come to an agreement, in the interest of all countries, rich and poor, they being susceptible to rich change effects, sooner or later.

Joseph Stiglitz, Professor of Economics, Columbia University and Nobel laureate said the central point of climate vulnerability resistance must be poverty alleviation. He mentioned that climate change and poverty alleviation are interrelated. He also said, "Developing countries, LDCs and countries like Bangladesh should invest more to preserve rain forest. That will lead them along economic development pathway. He called upon the developed countries to create opportunities for investment in education, health and infrastructure of these countries" and added that to resist climate vulnerabilities these future tar-

geted programmes for those countries would have to be assured.

European Commission President Jose Manuel Barroso said: "I am very concerned about progress towards a positive outcome in Copenhagen but I remain determined to succeed. The EU has contributed a lot to this negotiation with our binding emission reduction targets, and our ideas on finance, which received a positive welcome in New York. Now is not the time to look for Plan B or we will end up with Plan F -- for failure. We will continue to do all we can to seal the deal in Copenhagen."

He also said, "It is an important moral issue: firstly in a development context where developing countries, as Kofi Annan has said so eloquently, will bear the brunt of climate change, while having the least means of tackling it; and secondly, in an inter-generational context. We simply have no right to impose the pain and the cost of climate change on future generations. Moreover, Nick Stern tells us, definitively, that tackling climate change later will cost much more than doing it now."

He also said, "I am often told by developing countries that we, the industrialized world, are responsible for climate change. My response is: you're right. But correctly assigning responsibility for the past doesn't address the future. If the industrialized world reduced its emissions to zero today, and if the developing countries continued with business as usual, we would still reach the dangerous level of 650 ppm (parts per million) by

2050."

He emphasized on the need for a truly global deal. He said, "Please remember that we are not asking the same commitments from developing countries. Developed countries have to put on the table binding economy-wide targets for CO2 reduction. We must strive to achieve the necessary, collective 25-40% reductions by 2020."

Prime Minister of Denmark Lars Lokke Rasmussen said, "We have to do more. National actions, although ambitious, are not enough. And this is exactly why we need a new global agreement. An agreement that can create the framework to lead the world the rest of the way."

He sounded positive on sealing the deal in Copenhagen. He also said, "We have taken the necessary decisions and we have created a highly competitive green economy." He also mentioned that in 2011 20 per cent of Danish energy production will stem from renewables. And by 2020 it will be 30 percent; most of this will come from wind turbine. Last month he opened the world's largest off shore wind turbine park in the North Sea. Such turbine will produce enough electricity to supply 200,000 households.

He underlined that a political agreement of the intended magnitude requires full engagement at the highest level. Success will depend on the continued engagement of Heads of State and Government.

Kofi Annan, Former UN Secretary-General said, "More than 20 million people were displaced by climate related disasters, and this number will grow". He also said, "Livelihoods are being ruined and lives lost -- with the most vulnerable paying the highest price".

He maintained "For being universal and ambitious, any future agreement must be underpinned by climate justice. Businesses and countries must put the future of the planet before short-term

profits".

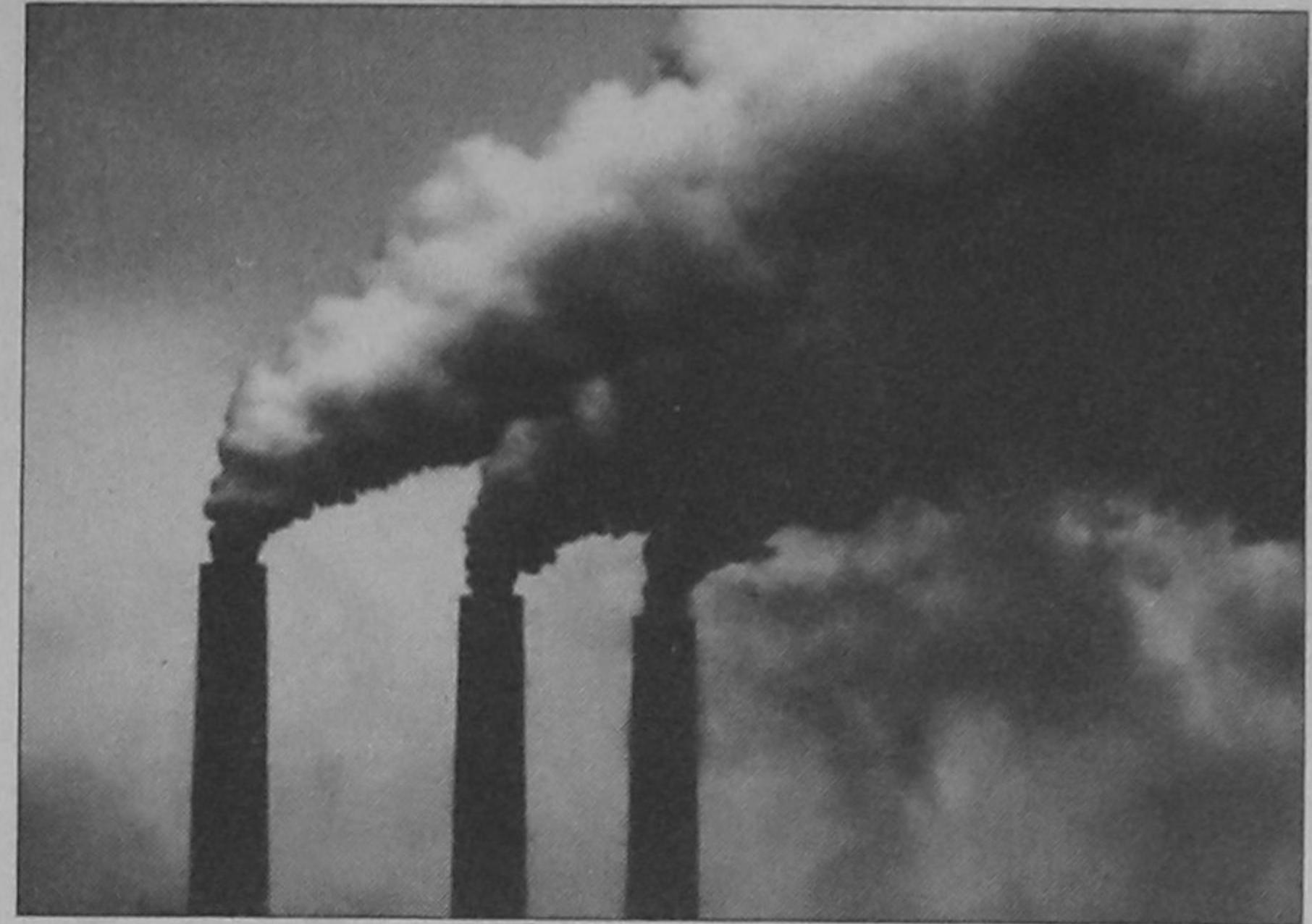
President Obama has said about climate change, "science is beyond dispute and the facts are clear and that delay is no longer an option".

The former UN Secretary-General said, "The United States in particular has a huge responsibility to come to Copenhagen with the ambitious and generous position the world expects from it".

According to Kofi Annan, "Climate justice means, firstly, that a new agreement will be successful only if it is perceived by all participating countries to be equitable; climate justice demands that the industrialized countries meet their historical responsibility for the accumulation of greenhouse gases in our atmosphere; while all countries need to take steps to reduce emissions, the developed economies must take the lead by making the most dramatic cuts -- something within their capability; they must lead in

ensuring global emissions peak by 2020 -- and fall by at least 50% from 1990 levels by 2050; to achieve this, industrialized nations need to commit themselves to reduce emissions by between 20 and 40% by 2020 as Japan and the EU have already pledged to do; first-emerging economies such as Brazil, China, India and South Africa also need to engage meaningfully but in a way which does not prevent them improving standards of living through economic growth; this requires them to commit to reducing their energy intensity significantly by 2020, and agreeing to emission reduction targets afterwards; these steps by both industrialized and fast-emerging economies must be backed by national policies and targets that can be monitored and verified."

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Negotiation in Copenhagen: Issues of Bangladesh

Fifteen years have already been passed but negotiation processes of UNFCCC have yet to deliver a substantial outcome regarding mitigation, adaptation, financing and technology transfer in line with the related articles of the convention for supporting developing countries to combat climate change, rather than providing a complex and tedious negotiation process.

Md. NASIR UDDIN

CLIMATE change is no longer a distant threat. According to IPCC (Intergovernmental Panel on Climate Change), the effects of climate change have already been observed, and scientific findings indicate that precautionary and prompt action has become imperative.

Preferring economic development rather than for sustainability, industrialized countries invested heavily in carbon intensive technologies, such as coal-fired power plants, massive road systems, and electrical grids. Some greenhouse gases remaining in the atmosphere for centuries, human induced emissions have guaranteed the inevitability of climate change regardless of policy responses. Most greenhouse gases have been and are emitted to meet the needs of modern industrial societies. The burden of impacts is likely to be most serious in developing countries even though they have contributed very little to historical emissions.

Developed countries account for high percentages of annual greenhouse gas emissions. In 2000 total emission of all greenhouse gases was 24,790 million tonnes CO2 equivalents of which share of the G8 countries, least developed countries and other countries were 48%, 0.4% and 51.60% respectively. Annual CO2 emission per person from the burning of oil, natural gas and coal in 2003 for USA, Russia, UK, Japan, China, Brazil, India, Senegal and Bangladesh were 20 tones, 11.2 tones, 9.5 tones, 9.4 tones, 2.7 tones, 2.0 tones 1.0 ton, 0.5 ton and 0.2 ton, respectively.

Since the beginning of the industrial revolution the atmospheric concentra-

tion of carbon dioxide has increased exponentially from about 280 parts per million (ppm) in 1800 to over 380 ppm in 2006. The concentration of carbon dioxide and methane in the atmosphere are now at the highest levels over 650,000 years. The level of carbon dioxide in the atmosphere is very closely linked to global temperature. IPCC has projected that by 2100 atmospheric concentration of carbon dioxide could have reached between 540 ppm and 970 ppm and that, as a result, global surface temperature could rise by between 1.4 degree C and 5.8 degree C.

Climate change threatens the basic elements of life for people around the world -- access to water, food, health, and use of land and the environment. On current trends, average global temperatures could rise by 2 - 3°C within the next fifty years or so, leading to many severe impacts, often mediated by water, including more frequent droughts and floods.

Rising sea levels will result in tens to hundreds of millions more people flooded each year. There will be serious risks and increasing pressures for coastal protection in South East Asia (Bangladesh and Vietnam), small islands in the Caribbean and the Pacific, and large coastal cities, such as Tokyo, Shanghai, Hong Kong, Mumbai, Calcutta, Karachi, Buenos Aires, St Petersburg, New York, Miami and London. By the middle of the century, 200 million more people may become permanently displaced due to rising sea levels, heavier floods, and more intense droughts, according to one estimate. Melting or collapse of ice sheets would raise sea levels and eventually threaten at least 4 million Km2 of land, which today is home to 5% of the world's population.

Bangladesh is especially vulnerable to climate change because of geographic exposure, low incomes, and greater reliance on climate sensitive sectors such as agriculture. It is noticed that climate related disasters such as floods, droughts, and tropical storms are gradually increasing in Bangladesh along with frequent depression in Bay of Bengal.

In particular, sea level rise is of grave concern to a developing country like Bangladesh with a vast, low-lying, densely populated deltaic coast. Tens of millions of people are at risk of becoming climate refugees. One meter sea level rise will inundate about one fifth area of Bangladesh which will displace 25-30 million people. This is many times higher than the entire population of all Pacific islands combined, and twice the total population of Australia or the Netherlands. Bangladesh is the victim of climate change without inducing any climate change activities.

Bangladesh is fully committed to addressing the challenges of climate change and has signed the UN Framework Convention on Climate Change (UNFCCC) in June 1992 at Rio and ratified it on 15 April 1994 and the Kyoto Protocol on 22 October, 2001.

Bangladesh attaches highest priority to the Climate change negotiation and is playing a vital role on behalf of LDCs from the first Conference of the Parties (COP) of UNFCCC, held in Berlin, Germany in 1995. The ensuing 15th Conference of the Parties of the UNFCCC in Copenhagen is of prime importance for LDCs and SIDS in general and Bangladesh in particular. The following issues are needed to be considered by this COP for combating future climate change regime:

• The adaptation fund must be fast tracked and the least developed countries should get top priority under it.

Efforts are should made to substantially increase the level of support to the LDCs, particularly through operationalizing and developing new mechanism/instruments with adequate resources, in adaptation needs of various sections such as agriculture, forestry, protection of coastal belt, biological diversity, eco-system, infrastructure, health etc, so that they can manage climate risk and adapt better to the speed and the scale of climate change and its impacts.

• Adaptation fund and LDCs fund under GEF should be simplified with reduced transaction costs. Greater focus of the funds should be accorded to the project and programme implementation, not on reports and consultation exercises. The RAF should be revised to take into consideration the special situation of the most disadvantaged countries, the LDC Parties. The GEF criteria of co-financing of adaptation projects are a serious constraint for the LDCs. GEF should look for options to overcome this conditionality. Global environmental benefits should not be used as criteria for access to funds under the RAF.

• Agreement for development of vulnerability index and categorization of countries according to their vulnerability in order to identify scale of specific needs and actions for adaptation to climate change under future climate change regime is urgently required.

• Efforts should be made for process simplification and uniform geographical distribution of CDM projects along with capacity building of LDCs.

• There should be consensus for establishment of an International Adaptation Centre to address relevant needs, finding of priorities and devices of adaptation regime. This institution will spearhead the sharing of know-how and practice to build necessary capacity among the vulnerable nations, pooling, sharing and building on each other's capacity.

• Preferential access to environmentally sound technologies know-how, prac-

tices and process pertinent to climate change is crucial for LDCs. There should be specific modalities in the post Kyoto instrument for the development, application and diffusion of both mitigation and adaptation technologies to LDCs at an affordable cost.

• Any further delay in setting targets for deeper cuts in GHG emission will jeopardize the very existence of millions of people with little staying power. COP 15 should agree on firm reduction commitment without which effective adaptation measures cannot be designed along with funding and technology deployment. Bangladesh believes that to prevent dangerous anthropogenic climate change, the global average temperature increases must be kept as far below 2°C as possible. In this regard, deeper cut of GHG (40% within 2020 and 80% by 2050) is urgently needed.

• Displacement of millions of people from coastal areas is inevitable due to sea level rise as indicated by the IPCC. COP should consider the permanent migration issue of climate refugees.

Fifteen years have already been passed but negotiation processes of UNFCCC have yet to deliver a substantial outcome regarding mitigation, adaptation, financing and technology transfer in line with the related articles of the convention for supporting developing countries to combat climate change, rather than providing a complex and tedious negotiation process.

Attitudes of the World Leaders who are the top emitter manifest that COP-15 may not yield any encouraging result regarding deep emission cut for the second commitment period. It is noticed that there is lack of progress to comply with present commitment period too by the Annex-I countries. Bangladesh as a most vulnerable country to climate change cannot sit idle or cannot depend only on UNFCCC. Hopefully, the government of Bangladesh is pursuing intensive bilateral talks with the countries and development partners for getting support to combat climate change.

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Legal avenues for climate deal

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PARTIES to the UN Framework Convention on Climate Change (UNFCCC) and parties to the Kyoto Protocol are going to Copenhagen along with the negotiation texts consolidated from Barcelona. The mandate is to reach a new agreement or agreements at the UN Climate Change conference. The small sphere of this feature aims to examine and evaluate the different legal options of the (to be) agreed outcomes of Copenhagen climate deal.

Emerging norms, principles and rules of prevention and mitigation have evolved, particularly since the 1972 Stockholm Declaration on Human Environment to address problems of global environmental changes. Twenty years later, climate change appeared as a distinct issue of international legal regime in 1992, through adoption of United Nations Framework Convention on Climate Change (UNFCCC), [the Convention].

The COP-3 of the Convention in Kyoto, Japan, on 11 December of 1997, adopted the Kyoto Protocol [the Protocol], a legally binding instrument to supplement and strengthen the Convention. The Protocol imposes, *inter alia*, detailed obligations mainly on the developed nation-parties

to reduce the GHG emission. The emissions targets set by the Protocol are to be achieved during its first commitment period, 2008-12. Usually the end of the first commitment period requires additional commitment periods.

Article 3.9 provides the avenue of an amendment of the Protocol for the next commitment period and calls for negotiations on further commitments to begin at least seven years before the end of the first commitment period. As such, in 2005, pursuant to the said Article of the Protocol established an Ad Hoc Working Group (AWG-KP) to review the Protocol and to agree on further commitments for Annex I Parties. In Copenhagen, an agreed amendment to the Protocol should be adopted at the Meeting of the Parties (MOP).

On the other hand, the Bali Action Plan adopted by the COP-13 of the Convention launched "...a comprehensive process to enable the full, effective and sustained implementation of the Convention through long-term cooperative action, now, up to and beyond 2012, in order to reach an agreed outcome and adopt a decision at its fifteenth session..."

The AWG-KP negotiating track compels to suggest amendment of the Protocol for a second commitment period. In this case, legal implication is clear which is evidently set out in its

Article 3.9 for their subsequent commitment period. Then again the AWG-LCA track is mandated to enhance implementation of the UNFCCC. However, legal nature of the outcomes of the Bali Action Plan is not certain. Bali Action Plan only specifies that an "agreed outcome" should be reached and a decision should be adopted in COP-15.

The Convention and Protocol share a common objective, common principles and common institutions and as such some of the parties propose a single instrument, approved by both the Convention and the Protocol. Submissions of different parties suggest variety of preferences on the legal architecture of Copenhagen deal. Three main approaches in legal nature found in the submissions are:

1. A new Protocol under the Convention and ending the Kyoto Protocol after its first commitment period.

2. Amendment of the Kyoto Protocol for second period and the other outcomes to be dealt under the Convention.

3. Amendment of the Kyoto Protocol while creating another Protocol under the Convention for developing countries and non-Kyoto Parties.

Adopting a new Protocol combining the outcomes of two working groups is an ambitious undertaking that would

require significant additional time phase through COP decisions. In this case, The Kyoto Protocol would be terminated subject to ending first commitment period or at some point of entry into force of the new Protocol. But abandoning the Protocol is a very dangerous strategy that puts equity, justice and adequacy concern at risk. The Protocol and its clear distinction between developed and developing countries and their respective obligations is the best tool for ensuring the principle 'common but differentiated responsibilities'.

In addition, in the current political climate it is not conceivable that parties will be able to agree on any alternative treaty/Protocol that is stronger than the Kyoto Protocol in terms of its top down approach, legally binding, economy-wide targets for developed countries, compliance mechanisms and long-term viability.

The Copenhagen deals would lead to a new policy direction to govern the climate regime. However, this of course suggests that under present and potential impacts of climate change, global community would adopt a comprehensive policy commitment to response climate change that would create further pathway for appropriate legal and institutional frameworks. Equity would be the heart of the future commitments and a fair distribu-

tion of efforts would be made by the parties based on common but differentiated responsibility.

In other words, Annex I countries must accept responsibility for the emissions that have contributed disproportionately to causing climate change, denying atmospheric space to developing countries and its adverse impacts on the poor. On the other hand developing countries are not obliged legally to emission reduction.

Climate politics does not signal either in Bangkok or Barcelona to deliver appropriate outcomes as obliged by the mandate of the two AWGs. US has made clear it will not sign on an internationally binding agreement unless China, India and other 'advanced developing countries' also sign on such agreement. European Union had also decided to pursue a 'single new agreement', which they want under LCA working group. On the other hand the G 77 and China called on the developed countries which are the parties to the Protocol to go for second commitment.

Wide differences, mainly between developed and developing countries made the climate deal expected in Copenhagen uncertain. Instead of rigorous emission reduction commitment climate politics is turning now to aim at

mere a 'Political Declaration'. However, global community is looking forward to Copenhagen with due expectation that developed countries, which attributed the cause, should take responsibility under the auspices of equity, justice and climate debt.

Developed countries must comply with their legally binding responsibility to ensure a robust second commitment period under the Kyoto Protocol. It is essential that the AWG-KP and AWG-LCA tracks be kept distinct, as per the existing legal mandates. Strong efforts must be directed towards aggressively advancing work in the AWG-KP and ensuring ambitious mitigation action for Annex I countries under the post-2012 agreement.

A sizable Bangladesh delegates is also going to Copenhagen. An appeal to Bangladesh delegates is to concentrate on the text particularly where climate induced migration (Climate Refugee) issue is formulated weakly [Page 54, FCCC/AWGLCA/2009/14, 20 November, 2009] and to consult with legal experts to suggest appropriate formation. A single line with sense on migration in the Copenhagen climate deal would put forward the issue to the legal norms.

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