
Different views of countries on workstream 1 of Durban Platform

by Meena Raman

1. Introduction

Parties to the United Nations Framework Convention on Climate Change (UNFCCC) have made written submissions to the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP), including in giving their views on the new agreement to be concluded in 2015.

An analysis of the submissions of countries by Third World Network on what the 2015 agreement should be like reveals a contrast of views among developed and developing countries.

The main divergence is over the issue of differentiation that currently exists in the Convention between developed and developing countries over their obligations, especially in relation to the mitigation of emissions and the application of the principle of common but differentiated responsibilities and respective capabilities (CBDRRC) in the new agreement.

Developed countries advocate the need for a “dynamic” approach to the CBDR principle and are opposed to a differentiation in obligations based on a developed–developing country binary but are for differentiation based on “type and scale of efforts” in mitigation among all countries. Most developing countries are opposed to this approach and do not want a re-categorisation of countries. They do not want a re-writing or re-interpretation of the Convention, its principles, provisions and annexes.

Parties agreed in Durban, South Africa at the UNFCCC’s 17th meeting of the Conference of Parties (COP 17) to adopt a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties in December 2015, and for it to come into effect and be implemented from 2020. At COP 18 in Doha, Qatar last year, Parties also agreed that they will consider elements for a draft negotiating text no later than 2014, with a view to making available a negotiating text before May 2015.

From 29 April to 3 May 2013, Parties are meeting in Bonn, Germany under the ADP to advance further work and is co-chaired by Jayant Mauskar (India) and Harald Dovland (Norway).

2. Views of developing countries

A number of developing countries from the Like-Minded Developing Countries (LMDC), which includes Bolivia, China, Cuba, Dominica, Ecuador, Egypt, El Salvador, India, Iran, Iraq, Malaysia, Mali, Nicaragua, the Philippines, Saudi Arabia, Sri Lanka, Sudan, and Venezuela, stress that the outcomes of the ADP must be consistent with principles and provisions of the Convention and cannot lead to its re-interpretation or re-writing, including the annexes. They stress that the work of the ADP is to reinforce the Convention and to enhance action on implementation, not a negotiation for a new regime. They emphasised the

importance of the equity and CBDR principle and the continued recognition of differentiation of the nature and level of obligations between developed and developing countries.

The LMDC stressed that the outcome of the ADP must be fair, multilateral and rules-based under the Convention that brings into effect the right to equitable access to sustainable development, and the sharing of atmospheric space and resources taking into account cumulative historical responsibility.

Similar views were also expressed by the Alliance of Small Island States (AOSIS), which does not want a re-interpretation or re-writing of the Convention's principles, provisions and annexes. The LDCs also stressed the importance of the principle of CBDRRC.

However, developing countries in the 'Independent Alliance of Latin America and the Caribbean' (AILAC), comprised of Chile, Colombia, Costa Rica, Guatemala, Panama and Peru, are of the view that there is a need for a new approach to mitigation and adaptation. They want all countries to have mitigation commitments based on their contribution in terms of emissions and their economic capacity, among other variables.

Ethiopia wanted a review of Annex 1, based on per capita emission of each party which is in excess of its fair share, looking at cumulative GHG of each country in 2020 from 1751. It wanted emission rights or atmospheric space to be computed by using formula and recognition of inter-generational debt accumulation.

3. Highlights from selected submissions of developing countries

Like-Minded Developing Countries (LMDC)

- Principles of the Convention must fully apply to the work of the ADP.
- Outcomes must be consistent with principles and provisions. There cannot be re-interpretation or re-writing of the Convention, including the annexes.
- Work of the ADP is to reinforce the Convention and to enhance action on implementation.
- It is not a negotiation for a new regime.
- Stress particular importance of equity and CBDR principles. Need to continue recognition of differentiation of the nature and level of obligations between developed and developing countries.
- Application of historical responsibility and developed countries taking the lead.
- Article 4.7 of the UNFCCC is key. (This article states –“The extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of the developing country Parties.”)
- Build on the outcome of the Bali Roadmap and its implementation.
- Need for review of the adequacy of commitments of developed countries.
- Need to address Convention implementation gaps.
- Kyoto Protocol (KP) system of top-down science and rules-based regime for developed countries must continue. For non-KP developed country Parties, there should be a similar mitigation regime to ensure comparability of efforts among developed countries.
- For developing countries, paragraph 1(b)(ii) of the Bali Action Plan continues to be relevant for nationally appropriate mitigation actions (NAMAs) to be enabled and supported.

- Outcome must be fair, multilateral and rules-based under the Convention that brings into effect the right to equitable access to sustainable development, and the sharing of atmospheric space and resources taking into account cumulative historical responsibility.
- Learn lesson of carbon market collapse.
- Scope of work to be based on paragraph 5 of decision 1/CP.17 (Paragraph 5 states: “*Also decides* that the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall plan its work in the first half of 2012, including, inter alia, on mitigation, adaptation, finance, technology development and transfer, transparency of action, and support and capacity-building, drawing upon submissions from Parties and relevant technical, social and economic information and expertise”).
- Form of the outcome will follow substance and content.

AOSIS

- New agreement should continue to build on the Convention, including its principles and provisions.
- Principles of equity and CBNDRRC must be reaffirmed. CBNDRRC is at the heart of the Convention. Key to this is the notion of historical responsibilities.
- Goal of ADP is not to rewrite or renegotiate the Convention and its principles or provisions. The annexes are an integral part of the Convention.
- Want a protocol.

LDCs

- Want a new protocol.
- All principles important including CBNDRRC.
- Bold actions needed from all Parties based on their respective capabilities.
- Should build on and enhance commitments set out in the KP for Annex 1 Parties.
- Different commitments among different categories of Parties; issue of differentiation is important.
- New regime should not undermine or lower the standards set by the KP.
- Top-down legally binding with individual commitments that fulfil the needs of science-based emission reductions.
- Need for periodic review.

AILAC (Chile, Colombia, Costa Rica, Guatemala, Panama and Peru)

- Need for a new approach to mitigation and adaptation – all countries should have mitigation commitments based on their contribution in terms of emissions and their economic capacity, among other variables.
- Convention principles are dynamic, allowing for a broad spectrum of differentiated commitments for all.

China

- Durban Platform is to further enhance the full, effective and sustained implementation of the Convention.
- It is by no means a process to create a new international regime, nor to renegotiate, rewrite or reinterpret the Convention and its principles and provisions.
- Process and outcome shall be in full accordance with the principles, provisions and structure of the Convention, in particular the principles of equity and CBNDRRC.

- Dichotomy between developed and developing countries is the very foundation of the Convention regime.
- Attempts to modify the annexes of the Convention or to re-categorise would delay the process with nothing to come in the end.
- Implementation of the Bali Action Plan shall be the starting point of the Durban Platform process. Effective implementation of commitments/actions under the 2nd Commitment period of the KP and the Bali Action Plan could enhance mutual trust.
- Outcome applicable to all is in the same manner as the Convention and the KP.
- Does not mean or imply uniformity of responsibilities and obligations for all Parties in terms of nature, content and magnitude.
- Outcome shall define differentiated responsibilities between developed and developing countries, reflecting historical responsibilities of developed countries and giving full consideration to the development stages and respective capabilities of developing countries.
- Poverty eradication is the first and overriding priority for developing countries.
- Post-2020 enhanced actions are to comprehensively implement the provisions of the Convention covering mitigation, adaptation, finance, technology development and transfer and capacity building.
- Any unresolved issues from the Bali process such as equitable access to sustainable development, trade and unilateral measures, and IPRs shall continue to be discussed.
- On mitigation, developed countries shall undertake ambitious, legally binding and economy-wide quantified emission reduction commitments and targets in accordance with their historical responsibilities and capabilities and as demanded by science, mainly through domestic actions.
- For developing countries, they will take diversified enhanced mitigation actions in the context of sustainable development, national circumstances and enabled and supported by adequate finance, technology and capacity building.
- Adaptation actions shall be further enhanced with support.
- Legal form shall be determined by substance of the outcome of the negotiations.

India

- Work of the ADP is integral to package of decisions adopted in Doha.
- Work should be informed by the respective subsidiary bodies and mechanisms of the Convention on progress achieved.
- The ADP must involve a mechanism for receiving and accounting for regular and comprehensive feedback from respective subsidiary bodies/mechanisms.
- Under the Convention means adherence to all principles and provisions, with no reinterpretation of principles or annexes.
- Successful outcome must be built on equity and CBDR not only to raise the level of ambition to the goal of climate stabilisation, but also to ensure the goal of social and economic development and poverty eradication is not compromised.
- Actions and commitments must be differentiated on the basis of equity in terms of historical responsibilities and imperative of social and economic development and poverty eradication.
- “Applicable to all” in the Durban Platform decision does not signal dilution of differentiation.
- Universality of application does not translate to uniformity of application.
- Avoidance of unilateral measures is a key principle.
- Review of adequacy of commitments must be immediately taken up and integrated into ADP workplan.

- ADP must build on model of KP – science and rules-based mitigation model enabling ambitious emission reductions in developed countries.
- Paragraph 5 of the Durban decision sets out scope of work.
- Annex 1–non-Annex 1 distinction must be maintained. Any other approach would involve re-interpretation.
- Must also address equity, unilateral measures and IPRs.
- Annex 1 continue to take quantified emission limitation and reduction objective (QELRO) while non-Annex 1 undertake NAMAs enabled by finance and technology transfer.
- Adaptation requires predictable and adequate Annex 2 funding.
- For finance, need to increase quantum of financing.
- For technology transfer, need for facilitative IPR regime that balances rewards for innovators with common good.
- Need for common accounting rules for measurement, review and verification (MRV) of developed country mitigation targets, and MRV of finance.
- Creation of compliance system as part of ADP system but with differentiated structure for Annex 1 and non-Annex 1. Annex 1 subject to compliance and consequences while non-Annex 1 through a set of incentives.
- Legal shape cannot be pre-judged. Need to agree on substantive content first.

Singapore

- ADP not an exercise in re-writing principles and provisions of the Convention.
- Must be based on CBDRRC and equity,
- Common responsibility does not equate to identical responsibility.
- Key factor for differentiated responsibilities is the concept of historical responsibilities.
- Annexes embody notion of historical responsibilities.
- Agreement must be flexible in accommodating different actions from Parties.
- Key to flexibility is nationally determined actions (NDAs) based on CBDR and on national priorities, objectives and circumstances.
- No to top-down formula and/or criteria to determine mitigation contributions.
- Type and scale of action cannot be internationally imposed.
- National circumstances are important and understood in terms of context (of Parties), constraints and contributions.

Ethiopia

- Some developing countries' GHGs and economies have grown. No longer sufficient to leave mitigation to Annex 1 Parties identified in 1992 and it may even no longer be sufficient to assign financial support requirements to Annex 2 Parties identified as rich in 1992.
- Need to revise the two annexes of the Convention – need to review at five-year intervals according to article 6 of the Convention.
- Review of Annex 1 should be based on per capita emission of each Party which is in excess of its fair share, looking at cumulative GHG of each country in 2020 from 1751. Emission rights or atmospheric space can be computed by using formula. The 2020 generation will be benefiting from the development brought about by its previous generations. Need for recognition of inter-generational debt accumulation.

- Annex 2 needs to be revised by ranking Parties in descending order according to GDP and according to GCP per capita. Formula is suggested with a median value and those above would be in Annex 2 and those below would be in non-Annex 2.
- There will be a grace period of 2 years for new Annex 1 or Annex 2 Party.

4. Views of developed countries

The main concern of developed countries appears to be the issue of mitigation in the new agreement. All developed countries are advocating legally binding commitments for “major economies”/“emerging economies”/“major emitters” with the agreement having the same legal effect (unlike the Kyoto Protocol which provides for emission reduction commitments only for developed country Parties).

The developed countries do not want categorisation of countries to be Annex 1 and non-Annex 1 or a developed–developing country “binary approach” or “two-room approach”. They stress the need for a “dynamic” approach to the principle of CBDRRC. Hence, they are opposed to a differentiation in obligations based on a developed–developing country binary but are for differentiation based on type and scale of efforts among countries.

Developed countries stress the need for the new agreement to allow for mitigation commitments that reflect ‘fairness’ and “fair shares”, with the European Union also referring to the need for “equity”. However, there is no reference at all in their submissions to the historical responsibility of developed countries for contributing the largest share of historical global emissions of greenhouse gases.

The developed country submissions emphasise the need for a spectrum of commitments for mitigation from all countries and for a common accounting, transparency and review system in the new agreement.

The members of the Umbrella Group (including the United States, Australia, New Zealand and Japan) clearly want a legally binding ‘pledge and review’ approach where countries set their own targets according to their national circumstances. These countries are opposed to any top-down international setting of commitments and a carbon budget approach. The European Union, while endorsing this approach as a start, also wants to address the gap between commitments and reductions required to achieve the below 2 degree C goal.

Australia and New Zealand in their submissions are advocating a “schedules approach” similar to that used in the WTO (where developed and developing countries make commitments in various schedules). All the developed countries want market-based mechanisms to meet their mitigation ambition.

5. Highlights from submissions of selected developed countries

United States

- Agreement “under the Convention” is that the agreement should further the Convention’s objective. Parties are guided by, among other things, the principles set forth in Article 3 but principles are a means to an end, not an end in themselves – so need to apply them in such a way that they promote ambition towards the Convention’s objective in the post-2020 period.
- Can expect 2015 package to include all pieces devoted to elements on climate regime – e.g. mitigation, reporting/review, adaptation, finance and technology.
- Agreement should provide for Parties to define their own mitigation contributions, taking into account national circumstances, capacity and other relevant factors. A template might be drawn up to reflect a variety of contributions.

- An approach that imposes contributions is neither realistic nor likely to result in wide participation/implementation. Hard to imagine agreement on any formula or criteria for imposition of contributions; hard to imagine Parties would be willing to have other Parties dictate their contributions, given national sensitivities.
- Will need flexibility to update their contributions.
- Would reflect differentiation – mitigation contributions would be expected from all Parties (with the possible exception of LDCs).
- Contributions would fall along a spectrum or continuum. There is a common commitment to come forward with mitigation contributions; self-identification of measures would result in self-differentiation.
- Ambition demands transparency in terms of implementation. Envision common system of reporting and review.
- Open to international legal form of the instrument, e.g. “protocol”, “agreement” or “implementing agreement” – “hub” agreement with core elements and associated “spoke” decisions containing much of the detail, so easier to amend decisions than by amending agreement.

Australia

- Design that is fair, flexible, robust and dynamic.
- “Fair” creates confidence that all countries contributing their fair share. Move past “two-room system”.
- Flexible means able to accommodate a range of efforts, giving countries flexibility to define their efforts in line with their diverse and changing national circumstances and capabilities; not QELRO/carbon budget like KP.
- Robust – allows countries to understand what efforts others are undertaking through transparency and accounting arrangements.
- Dynamic – drives increasing effort over time.
- Greater global mitigation, in particular, action by “major economies” is key. Core of 2015 agreement must be a mitigation system in which all countries contribute to reducing or limiting emissions, while differences accommodated in circumstances and capacity through a flexible and dynamic system of commitments.
- National schedules have significant potential as a model that can capture diversity by accommodating a full spectrum in type and scale of effort. National schedules annexed to the 2015 agreement – each country to inscribe a commitment appropriate to national circumstances. Nationally determined commitments locked into schedules. All “major economics” could reduce/limit emissions across their economies – developed and countries with greatest capacity make absolute economy-wide reductions.
- Scope of agreement – look at “value-add” of new agreement. Mitigation is central to agreement.
- Set some parameters for defining different types of commitments to aid comparability (e.g. global warming potentials, gases etc).
- Have a system for implementing commitments and tracking performance – robust transparency and accounting framework.
- Have review mechanism to allow countries to periodically revisit their efforts.
- Structure – combination of legally binding ‘core’ commitments; supporting provisions, rules and institutions, which may be binding or non-binding in effect; national schedules annexed to agreement.

- Recognises differentiation in the type, scale and substance of countries' efforts, differentiation must not extend to legal form of commitments – same degree of binding-ness.

New Zealand

- Active participation of all major developed and emerging economies.
- Applicable to all in equal legal footing, with a common rule-set as its foundation, but also taking into account Parties' different national circumstances and capacities.
- Maximises mitigation ambition.
- Transparency at its core including through MRV.
- Effective global carbon market with a global price on carbon through a common framework of rules or standards.
- No government can be compelled to commit to more than it feels confident of doing, or more than it considers its fair share.
- On negotiating process – reference to WTO “small group” initiatives.
- Agreement needs to be politically and legally realistic so that those who matter will be on board early.
- Parties need to be confident of their ability to deliver on commitments and not fear failure. Reference to Montreal Protocol – confidence-creating approach of delayed compliance (10 years) for certain developing countries.
- Designing a framework that enables increasing ambition over time. Reference to WTO – successive negotiating rounds. Regular reviews (four-yearly) of control measures under Montreal Protocol.
- Design of agreement accommodates a range of actions so long as these are quantifiable so that goals can be adjusted. Reference to WTO sectoral approaches e.g. agriculture and textiles that take into account particular circumstances.
- Appropriate assistance to those whose limited capacities mean they are unable to fully or immediately fulfil the obligations. Reference to Montreal Protocol where developing countries whose annual calculated level of consumption of ozone-depleting substances is less than 0.3 kg per capita are entitled to financial and technical cooperation and entitled to delay their compliance for 10 years.
- Full transparency and a review process for ensuring compliance with agreed rules and individualised commitments. Reference to WTO's Trade Policy Review Mechanism.
- Dispute settlement processes-reference to WTO where rules developed over time.

Japan

- Agreement must be “applicable to all”; the binary structure (referring to Annex 1–non-Annex 1 distinction) is not suitable for the 21st century.
- Follow approach similar to Cancun agreements.
- Differentiation should be on “substantive measures” to be taken by each Party, taking into account national circumstances.
 - Common and effective international review system
 - Promoting joint-crediting mechanism/bilateral offset credit mechanism as part of market mechanisms.

European Union

- Should be a protocol under the Convention with following elements – objectives, mitigation and accounting (including market mechanisms), adaptation, means of implementation (finance, technology transfer, capacity building), transparency of action and support, mitigation review and simplified ways to raise ambition and compliance.
- Legally binding mitigation commitments must be formulated in accordance with the principles of the Convention including CDBRRC, recognising that responsibilities and capabilities evolve over time.
- Those Parties with greatest responsibilities and capacities to take on most ambitious mitigation commitments, in the form of economy-wide targets.
- Design elements of an appropriate spectrum of commitments.
- Some questions that the EU suggests for discussions are around:
 - how to ensure environmental effectiveness and minimise potential risk of carbon leakage between highly competitive economies;
 - how can we define a spectrum of legally binding mitigation commitments for all Parties that may vary in substance and their associated level of ambition in order to reflect different responsibilities and capabilities in a way that is widely perceived as equitable and fair while sufficient to keep on track for below 2 degrees C;
 - how do design a spectrum to incentivise Parties to commit to more ambitious targets;
 - how do design an effective accounting and transparency regime, in the context of a spectrum of commitments that ensures comparable and transparent emissions data;
 - how we encourage ambition to ensure there is no gap between commitments and reductions that are required to achieve the 2 degree C objective;
 - what is the role of means of implementation in this context?

Norway

- Need for more robust MRV framework in new agreement developing more specific provisions for transparency and accounting.
- For all countries, commitments and obligations must be based on national circumstances, responsibilities and capabilities.
- Support differentiation in degree and/or types of commitments –i.e. differentiation in form and content.
- Framework is flexible and evolves over time.
- Incentivise participation and sufficient ambition.
- Common accounting framework, including through carbon market.
- A range of options for mitigation commitments (spectrum of commitments).
- Should address what is level of common rules and approaches to address environmental integrity.

Environmental Integrity Group

- Want a legally binding instrument; same legal form.
- Common rules for MRV and accounting; solid verification process – ex ante comparability of efforts is crucial.
- Mitigation commitments for all Parties with differentiation in the efforts – quantified economy-wide emission reduction targets or actions according to CDBRRC and equity – spectrum of commitments.
- Ensure fairness and equity.

- Dynamic framework – allowing for increase of ambition and development in differentiation, reflecting changing economic realities, national circumstances, CBDRRC.
- One instrument with thematic components or approaches or one core legally binding agreement with annexes that accommodate diversity according to CBDRRC and equity.
- Countries in a condition to do so shall support (finance) action and capacity building in developing countries according to recipient countries' national circumstances and respective capabilities.
- Could explore different combinations of approaches – KP and bottom-up voluntary schemes like Cancun pledges.
- Reference to Montreal Protocol – differentiation in terms of timing for phasing out ozone.
- WTO referred to for example of one core undertaking composed of different agreements.
- Also International Convention on Prevention of Pollution from Ships – same legal obligations for all Parties and combines different types of annexes.