Third World Network

Paris Climate News Updates

(November-December 2015)

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NOTE

This is a collection of 28 News Updates and an analysis prepared by the Third World Network for and during the recent United Nations Climate Change Talks – the twenty-first session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21) and the eleventh session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP 11) – in Paris, France from 30 November to 11 December 2015.

The Climate Change Battle in Paris: An initial analysis of the Paris COP21 and the Paris Agreement

Meenakshi Raman

THE Paris Agreement adopted by the 21st Conference of Parties (COP21) under the United Nations Framework Convention on Climate Change (UNFCCC) on 12 December, was the outcome of major battles on a multitude of issues, especially between developed and developing countries.

Developing countries by and large had these negotiating objectives. They wanted to (a) defend the Convention and not let it be changed or subverted; (b) ensure that the Agreement is non-mitigation-centric with all issues (including adaptation, loss and damage, finance and technology, besides mitigation) addressed and in a balanced manner; (c) ensure differentiation in all aspects be reflected, with the principles of equity and common but differentiated responsibilities and respective capabilities; (d) ensure that developed countries enhance the provision of finance and technology transfer; (f) ensure that 'loss and damage' is recognised as a separate pillar apart from adaptation and for (g) legally binding provisions, especially on the developed countries.

The United States and allies (especially those under the Umbrella Group) wanted the opposite. They mounted an onslaught on the Convention, seeking to weaken the provisions and their obligations; redefine differentiation so as to blur the different obligations of developed and developing countries; and a legal 'hybrid' (in terms of what clauses are and are not legally binding), mainly to suit the US administration's relations with the US Congress, which is hostile to the climate change issue.

COP21 was a battleground that involved an onslaught (with both defensive and offensive interests) of the US and its allies versus the resistance and offensive by the Group of 77 and China, and especially the Like-minded Developing Countries (LMDC) (which includes India) that had comprehensive negotiation positions and a well operating machinery.

A major concern was how the French Presidency of COP 21 would behave, in light of the polarised positions.

Towards the end, an important meeting took place between the LMDC and the French Presidency (who were crafting the final compromise), during the night of Friday, 11 December, where the LMDC presented its 'super-redlines'. These included: that the purpose of the Agreement is to enhance the implementation of the Convention in accordance with the principles and provisions of the Convention; reflection and operationalisation of equity and CBDR across all elements; clear differentiation between developed and developing countries on the mitigation efforts; commitment by developed countries on provision of finance, technology transfer and capacity-building with no transfer or extension of obligations to developing countries to provide finance.

The LMDC conveyed the message that with 30 countries in its grouping representing more than 50% of the population of the world and 70% of the poor, it wanted the COP to be a success but that the outcome must be balanced, and not depart from its super-redlines. In the end French took the LMDC points, and got the US to agree.

The COP 21 Presidency was generally viewed as playing a fair and difficult role in securing a delicate and balanced outcome, except for an incident in the final plenary that somewhat marred the process.

This is the 'should incident' where the US wanted the word 'shall' to be replaced with the word 'should' in Article 4.4 of the Agreement that related to the mitigation efforts of Parties. The US wanted developed and developing countries to be treated in a like manner legally, as the original version referred to 'shall' for developed countries and 'should' for developing countries. Instead of raising the issue from the floor of the plenary, the US request was accommodated by the COP Presidency by what was termed a 'technical correction' and the word 'shall' was then replaced with 'should' and was read out by the Secretariat. This was viewed with dismay by some LMDC delegations, but as there was no formal objection, the US-inspired amendment stood.

Another incident was when Nicaragua put up its flag in the final session of the Paris Committee that adopted the Paris Agreement but it was ignored by the Chair. The Minister of Nicaragua made a strong statement protesting against his being ignored, after the agreement had been passed, to be forwarded to the COP to be adopted.

Highlights of the Paris Agreement

To understand the COP21 outcome, a reflection on the key clauses of the Paris Agreement and the decision that adopted it is important. Below is an initial assessment of the issues that form the context of the clauses, and the final outcome, with an assessment as to whether the views of developed or developing countries (or both) prevailed.

Given that the Agreement is a new legal instrument, it will have to be ratified by Parties for it to come into effect. It will enter into force after at least 55 Parties to the Convention, accounting in total for at least an estimated 55% of the total global greenhouse gas emissions, have deposited their instruments of ratification or acceptance. (The Agreement is expected to come into effect post-2020.)

The Agreement (12 pages) was adopted as an annex of a decision (19 pages) of COP21.

Purpose of the Agreement (Article 2)

Article 2 of the Agreement states in sub-paragraph 1 that: *'This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by*:

(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.'

Sub-paragraph 2 states that 'This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC), in the light of different national circumstances.'

The purpose of the Agreement was a major area of contention between developed and developing countries.

In the four years of negotiations, the common refrain of developing countries under the G77 and China was for the Agreement not to 'rewrite, replace or reinterpret the Convention'. The G77 and China, including its sub-groupings especially the Like-minded Developing Countries (LMDC) and the African Group, constantly stressed that the purpose of the Agreement is to enhance the implementation of the Convention on the elements of mitigation, adaptation, finance, technology transfer, capacity-building, and transparency of action and support.

Developed countries, on the other hand, appeared to focus more of their attention on the 'objective' of the Agreement, which was perceived by developing countries as a mitigation-centric approach linked only to the temperature goal, with an attempt to weaken the link to the Convention provisions and the obligations of developed countries under the Convention, especially on the means of implementation (finance, technology transfer and capacity-building).

Hence, the reference to 'enhancing the implementation of the Convention' is seen as a positive win for developing countries.

Although the goal of limiting temperature rise well below 2°C above pre-industrial levels is clear, reference to the pursuit of efforts to limit the increase to 1.5°C is seen as a major victory for many developing countries, especially the Small Island Developing States, the Least Developed Countries, Africa and the ALBA countries.

Developing countries also wanted the focus to also be on adaptation and finance and to ensure that the global response is in 'the context of sustainable development and efforts to eradicate poverty'.

Several senior developing country delegates did express their unhappiness over the reference to 'finance flows' in Article 2(1)(c) of the Agreement rather than a reference to the provision of financial resources from developed to developing countries, the commitment language of the Convention.

A major win for developing countries is Article 2.2 that states that the Agreement will be implemented to reflect equity and the principle of CBDR-RC, in the light of different national circumstances.

A key issue throughout the Durban Platform process and at COP21 was whether and how the principle of CBDR-RC will be operationalised in all the elements of the Agreement.

Developed countries had been insisting that the agreement must reflect the 'evolving economic and emission trends' of countries in the post-2020 timeframe, while developing countries continued to argue that given the historical emissions of developed countries, developed countries continue to bear the responsibility in taking the lead in emission reductions and in helping developing countries with the provision of finance, technology transfer and capacity-building as provided for under the UNFCCC.

At the COP in Lima in 2014, where the issue of differentiation was also hotly contested, Parties underscored their commitment to reaching an ambitious agreement in Paris that reflects the principle of CBDR-RC, in light of different national circumstances. This was eventually the 'landing-zone' arrived at in the Paris Agreement.

Nationally determined contributions (NDCs) (Article 3)

Article 3 (previously known as Article 2bis during the negotiations) states that, *'As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.'*

Article 3 symbolises the 'battle' over the nature of the agreement to ensure that the NDCs are not viewed only as being 'mitigation-centric' (Article 4 refers to the element of 'mitigation', Article 7 to 'adaptation', Article 9 to 'finance', Article 10 to 'technology development and transfer', Article 11 to 'capacity-building' and Article 13 to a 'transparency framework for action and support').

The LMDC was the major proponent for all Parties to regularly prepare, communicate and implement their intended NDCs (INDCs) towards achieving the purpose of the Agreement. It also proposed that INDCs will represent a progression in light of Parties' differentiated responsibilities and commitments under the Convention.

It was an uphill task during the negotiations to get developed countries to see the viewpoint of the LMDC in this regard. The proposal was to ensure that the contributions of Parties are viewed in a comprehensive manner, reflecting the respective obligations they have under the provisions of the Convention, and not to confine the contributions only to mitigation as desired by the developed countries.

Mitigation (Article 4)

The following sub-paragraphs of Article 4 are among the main highlights in relation to mitigation:

'1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of GHGs as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.

'2. Each Party shall prepare, communicate and maintain successive NDCs that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.'

The US was against any reference that each Party shall implement the NDCs that it has communicated, as this would make it an obligation for the US and others to implement the emissions reduction target communicated. To accommodate the US 'problem', all Parties have to do is to 'pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions'. What this means is that there is an obligation to take the measures necessary, **with the aim of achieving** the emissions reduction target, but not to achieve the target itself (emphasis added).

'3. Each Party's successive NDC will represent a progression beyond the Party's then current NDC and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.'

'4. Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.'

Article 4.4 was another major paragraph of contention between developed and developing countries. Many developing countries wanted the nature of the mitigation efforts to be differentiated between developed and developing countries, reflecting the existing provisions of the Convention that are based on historical responsibility and CBDR.

The US and its allies in the Umbrella Group were opposed to any form of differentiated efforts, preferring that Parties 'self-differentiate' among themselves, while recognising that those who have undertaken absolute emission reduction targets before should continue to do so in the post-2020 timeframe.

While this sub-paragraph continues to provide the policy space for developing countries in undertaking any type of enhanced mitigation efforts (including relative emission reduction targets which are economy-wide and non-economy-wide actions), over time, developing countries will have to move to economy-wide targets, in light of their different national circumstances.

The term 'over time' is not precisely defined and there is also no reference that developing countries have to undertake 'absolute' emission reduction targets, which was what developed countries and some developing countries were pushing for during the negotiations.

Adaptation (Article 7)

In sub-paragraph 1 of Article 7, Parties agreed to *'establish the global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal referred to in Article 2'.*

Developing countries had been pushing for a long-term goal or vision on adaptation to ensure that there is parity between adaptation and mitigation and to avoid having only a mitigation-centric goal linked to the temperature goal. This goal also links the adaptation response to the temperature goal.

In relation to the global goal on adaptation, developing countries had during the negotiations proposed 'an assessment of the adequacy of support' from developed countries to developing countries as well as the 'recognition of increased adaptation needs and associated costs in the light of mitigation efforts…'.

What eventually found its way in the adaptation section (in sub-paragraph 14 of Article 7) is the reference to the global stocktake (in Article 14) which states that the stocktake *'shall' 'review the adequacy and effectiveness of adaptation and support provided for adaptation' as well as 'review the overall progress made in achieving progress made in achieving the global goal on adaptation…'.*

According to sub-paragraph 3, *'the adaptation efforts of developing country Parties shall be recognised…'*, with the modalities to be developed for such recognition.

Developing countries during the negotiations wanted to ensure that the adaptation efforts they are undertaking with or without international support is recognised as their contribution to climate action.

Loss and Damage (Article 8)

One major victory for developing countries is the recognition of 'loss and damage' as a separate article to the Paris Agreement, distinct from 'adaptation'. Developing countries had been arguing very hard for 'loss and damage' to be separately recognised.

(The term 'loss and damage' refers broadly to the entire range of damage and permanent loss associated with climate change impacts in developing countries that can no longer be avoided through mitigation nor can be avoided through adaptation.)

The anchoring of 'loss and damage' as a distinct article in the Agreement came at a costly price when a deal was made behind closed doors between the US, European Union and some Small Island Developing States and Least Developed Countries in the final hours, prior to the draft agreement being released to Parties for consideration and adoption.

The compromise reached is found in paragraph 52 of the decision text which provides that Parties agree *'that Article 8 of the Agreement does not involve or provide a basis for any liability or compensation'.*

According to one source, the deal was between the US, EU, and five small island states. It seems that most developing countries were completely unaware of the deal being done. The deal might have also been linked with getting reference to 1.5°C in the long-term temperature goal in the Paris Agreement in Article 2.1 (a).

According to several experts who have been following the UNFCCC negotiations, the clause in paragraph 52 on exclusion of liability and compensation does not preclude financial resources from being allocated to developing countries seeking funds to address the adverse impacts related to loss and damage.

Finance (Article 9)

Prior to the final outcome in the Paris Agreement, the thrust of the developed countries' position on the issue of finance was to increase the scope of countries (to include developing countries) who should be 'donors' of climate finance by proposing terms in the text like 'all Parties in a position to do so' should provide financial resources or that the mobilisation of climate finance is a 'shared effort' of all Parties.

The key sub-paragraphs on finance which were agreed to are:

'1. Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.'

This paragraph continues to ensure that developed countries are not absolved from their existing financial commitments under Articles 4.3 and 4.4 under the UNFCCC.

However, the G77 and China had, during the negotiations, pressed for the provision of these resources to be 'new, additional, adequate, predictable, accessible and sustained' but these terms did not find place in the Agreement, except for a reference in sub-paragraph 4 on 'the provision of scaled-up resources' (see below).

Sub-paragraph 2 states that *'Other Parties are encouraged to provide or continue to provide such support voluntarily.'*

Instead of the reference to 'all Parties in a position to do so' also having to contribute to climate finance (which was opposed to by many developing countries), the above paragraph was agreed to, which stresses the 'voluntary' nature of such support.

Sub-paragraph 3 provides that *'As part of a global effort, developed country Parties should continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds through a variety of actions,... and taking into account the needs and priorities of developing country Parties. Such mobilization of climate finance should represent a progression beyond previous efforts.'*

Many developing countries including the LMDC preferred the reference to the provision of financial resources by developed countries instead of the focus on the 'mobilisation' of climate finance. The Paris Agreement provides for both the provision of support by developed countries and the mobilisation of climate finance.

In the earlier version of the draft agreement (version 2 issued on 10 Decenber by the COP 21 President), there was reference that the provision and mobilisation of climate finance 'shall represent a progression beyond previous efforts from a floor of USD100 billion per year…' and 'towards achieving short-term collective quantified goals for the post-2020 period to be periodically established and reviewed…'.

It is notable that the reference to the US$100 billion per year as a floor did not make it to the Agreement but is found in paragraph 54 of the COP 21 decision which states as follows: *'Also decides that, in accordance with Article 9, paragraph 3, of the Agreement, developed countries intend to continue their existing collective mobilization goal through 2025 in the context of meaningful mitigation actions and transparency on implementation; prior to 2025 the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall set a new collective quantified goal from a floor of USD100 billion per year, taking into account the needs and priorities of developing countries.'*

In Cancun in 2010, Parties had agreed to developed countries mobilising US$100 billion per year by 2020. With the Paris Agreement, a five-year extension has been obtained to reach this target and a new quantified goal will be set for the period after 2025. Senior developing country negotiators also point out

that the mobilisation of existing climate finance as stated above, is conditional on 'meaningful mitigation actions and transparency on implementation', which was actually previously agreed to under the Copenhagen Accord (in 2009) and later affirmed in the decision in Cancun.

Developed countries, with the US in particular, were against the indication of any quantified target on the scale of resources in the Paris Agreement.

Developing countries, through the G77 and China on the other hand, pressed for clear 'pathways to annual expected levels of available resources towards achieving short-term collective quantified goals for the post 2020 period to be periodically established and reviewed' and for 'financial resources to be scaled up from a floor of USD 100 billion per year, including a clear burden-sharing formula, and in line with needs and priorities identified by developing country Parties…'.

Technology transfer (Article 10)

In the negotiations on technology transfer, the LMDC had called for the establishment of a global goal on the transfer of technologies by developed countries and know-how as well as for the provision of financial resources for collaborative research and development of environmentally sound technologies and enhancing accesses of developing countries to such technologies that match their technology needs.

There was also a proposal from India for developed countries to provide financial resources to address barriers related to intellectual property rights (IPRs) and facilitate access to technologies.

The African Group proposed a technology framework to be adopted that will provide direction and guidance in relation to technology assessments, including in identifying options for enhancing access and to address barriers.

These proposals were opposed by developed countries.

The real value for developing countries is the establishment of the technology framework that includes 'the assessment of technologies that are ready for transfer' (as reflected in paragraph 68 of the COP 21 decision).

In addition, there is now a link established between the Technology Mechanism and the Financial Mechanism to allow for collaborative approaches in R and D and for facilitating access to technologies, which somewhat reflects the call by India to provide financial resources to address barriers related to IPRs and facilitate access to technologies.

The IPR issue has been a long-standing battle between developed and developing countries under the UNFCCC process, with strong opposition by developed countries led by the US in particular, to even mention the words 'IPRs'.

Transparency of action and support (Article 13)

With a 'bottom-up' system in place for countries to nationally determine (not multilaterally determine) their contributions to climate change efforts under the Agreement as advanced primarily by the US, there was a push by developed countries to have a common and unified system in place (which is not differentiated between developed and developing countries) on 'transparency of action' – which is a 'top-down' rules-based system in providing clarity on the content and information regarding those efforts.

Developing countries on the other hand were pressing for a transparency framework which is differentiated between developed and developing countries and better rules on 'transparency of support' which relates to information from developed countries on the means of implementation (finance, technology transfer and capacity-building).

The main bone of contention therefore was whether such a transparency framework should be differentiated between developed and developing countries.

What was agreed to is a transparency framework with flexibilities taking into account the different capacities of countries and builds on the existing transparency arrangements (that is currently differentiated between developed and developing countries).

Global Stocktake (Article 14)

During the negotiations, the main issue around the global stocktake was around its purpose and scope. (Stocktake is a 'code'for taking stock of the implementation by Parties collectively of their progress). The

idea was for a periodic stocktake of the implementation of the Agreement and there were options as to the purpose of the stocktake: whether to assess the overall/aggregate/collective progress towards achieving the objective of the Convention or the Agreement's long-term goal.

On the scope, for developed countries, the stocktaking was primarily for considering the aggregate effect of the mitigation contributions of Parties in light of the long-term mitigation goal linked to the temperature goal, while for developing countries, it was to consider the overall implementation of obligations of Parties (consistent with the differentiated responsibilities), in relation to mitigation, adaptation and the means of implementation.

Under the Agreement, the global stocktake, which will be conducted every five years, is to be comprehensive, considering mitigation, adaptation and the means of implementation and support, and undertaken in the light of both equity and the best available science. This will avoid a mitigation-centric process which also takes into account considerations of equity. Thus the developing countries' viewpoints prevailed in this clause.

In a related matter, in the COP 21 decision under the section on intended nationally determined contributions (INDCs), paragraph 17 notes with concern *'that the estimated aggregate greenhouse gas emission levels in 2025 and 2030 resulting from the INDCs do not fall within least-cost 2°C scenarios but rather lead to a projected level of 55 gigatonnes in 2030, and also notes that much greater emission reduction efforts will be required than those associated with the INDCs in order to hold the increase in the global average temperature to below 2°C above pre-industrial levels by reducing emissions to 40 gigatonnes or to 1.5°C above pre-industrial levels by reducing to a level to be identified in the special report referred to in paragraph 21 below.'*

In paragraph 20, Parties agreed that a facilitative dialogue among Parties will be convened in 2018 *'to take stock of the collective efforts of Parties in relation to progress towards the long-term goal referred to Article 4(1) of the Agreement* [which relates to the long-term temperature goal and the mitigation goal] *and to inform the preparation of nationally determined contributions (NDCs) pursuant to Article 4, paragraph 8, of the Agreement* [which relates to the communication of the NDCs]'.

The 'facilitative dialogue' above appears to be an ex-ante process to inform the preparation of the NDCs, and is only about mitigation, unlike the global stocktake.

The EU has been a major proponent of a review process every five years to assess if Parties' mitigation contributions are on track in meeting the long-term mitigation goal and for enhancing (or ratcheting up) the contributions of Parties accordingly.

Many developing countries, especially from the LMDC, were worried about such a ratcheting up process due to concerns that with developed countries not doing their fair share of the effort (taking into account their historical emissions), the pressure would be on developing countries to plug the emissions gap to limit the temperature rise. Due to this concern, they had been opposed to any ex-ante process to review the INDCs prior to their communication by Parties.

Clearly, the EU has got its way, against the concerns of the LMDC.

Conclusion

The developing countries started the Paris talks with some clear objectives and principles. Though some aspects were diluted, it got its red lines protected, though it did not get some of its offensive points accepted (for example, clearer targets on finance or a reference to IPRs as a barrier to technology transfer). Some of the important points gained by developing countries was that

- The Paris agreement is not mitigation-centric as desired by developed countries, although in some aspects mitigation does gets pride of place;
- The developing countries to a significant extent successfully defended the Convention and stopped the plans of developed countries to drastically re-write the Convention.
- Differentiation between developed and developing countries was retained in the main, although weakened in some areas.
- The principles of equity and CBDR were mentioned in a specific clause in the important Article 2 on purpose of the Agreement, and operationalised in some key areas of the Agreement.
- Sustainable development and poverty eradication as important objectives of developing countries were referred to as the context of actions by developing countries in some key areas.

– Developed countries should take the lead in mitigation and finance is referred to in the agreement.
– Although the temperature goal is to limit temperature rise to well below 2°C from pre-industrial levels, the reference to pursuing efforts to limit temperature rise to below 1.5°C (this 1.5° as the target was called for by small island states, LDCs, Africa and ALBA countries) is significant;

True, the Paris Agreement also means that big pressures will be put on developing countries, and especially the emerging economies, to do much more on their climate actions, including mitigation. But these enhanced actions need to be taken, given the crisis of climate change that very seriously affects developing countries themselves.

The Agreement also fails to provide actions that fulfil the 2°C pathway, let alone 1.5°. The emissions gap between what countries in aggregate should do and what they pledged to do in their INDCs up to 2030 is very large. This has led many commentators to condemn the Paris COP21 as a failure.

However another perspective is that COP21 is only a start, and the Agreement represents an agreement internationally to enhance individual and collective actions to face the climate catastrophe. A real failure would have been a collapse of the Paris negotiations, Copenhagen-style, or an outcome that only favours the developed countries with the rewriting of the Convention.

The Agreement, from this perspective, has laid the foundation on which future actions can be motivated and incentivised, a baseline from which more ambitious actions must flow. There are mechanisms in place in the Paris Agreement, such as the global stocktake, that can be used to encourage countries to raise their ambition level.

International cooperation, however inadequate and flawed, remains intact from which much more cooperation can flow in future.

The outcome represented by the Paris Agreement, that a bottom-up approach is taken on enabling each country to choose its 'nationally determined contribution' with presently very weak or even no compliance, was the only possibility, given the state of many governments (including the United States) generally not being ready or willing or able to undertake legally binding targets.

It can be expected that developed countries will pile pressure on developing countries, especially emerging economies, and also try to shift or avoid their obligations. For the developing countries, they should invoke the overall context of what will make a low-carbon pathway a reality – finance, technology transfer, capacity-building plus adaptation, loss and damage, all in the context of sustainable development and poverty eradication. They must also remain firm and united in the negotiations and other processes ahead, starting from now, even before the signing and ratification of the Agreement.

AUTHOR: Meenakshi Raman is Senior Legal Advisor and Coordinator of the Climate Change Programme of the Third World Network. The contribution of Martin Khor is gratefully acknowledged. This article has also been published in the *Economic and Political Weekly*, 9 January 2016.

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Paris News Update 1

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Key Issues at COP 21 on the Paris Agreement

30 November, Paris (Meena Raman) – The Paris agreement is expected to be the most important outcome of the 21st meeting of the Conference of Parties (COP 21) to the UNFCCC, to be held from 30 November to 11 December.

The negotiations taking place under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) have two workstreams – one to deliver the Paris Agreement, which is to come into effect post-2020 under workstream 1 and the other, a decision on workstream 2 which deals with pre-2020 actions.

Under the Paris Agreement, negotiations will focus on a 31- page document which comprises the draft agreement and a 19-page accompanying decision.

At the last session of the ADP in Bonn, Germany, in October, developing countries led by the G77 and China rejected a non-paper produced by the ADP Co-Chairs for the negotiations, as the document was found to be 'unacceptable, unbalanced and lop-sided'. This led to many proposals from developing countries for insertion into the document in order to rebalance the texts. Developed countries also submitted proposals to the document, which led to the current document for Parties to begin negotiations in Paris.

The work of the ADP will commence on Sunday, 29 November (before COP 21 officially opens) and is expected to conclude on Saturday, 5 December, with the production of a revised draft agreement and accompanying decision for transmission to the COP for its eventual adoption.

In effect, negotiators have less than five days to arrive at an agreement under the ADP in the first week of the Paris talks. Issues that are not able to be resolved by then are expected to be considered by Ministers in the second week, which begins on Monday, 7 December.

In the current text for negotiations, there are proposals on several key issues that reflect clear divergences between developed and developing countries. Whether resolution will be found to ensure an agreement which is equitable and fair remains to be seen.

There is no expectation for an ambitious outcome that would ensure that Parties are on track to limit temperature rise to less than 2°C from pre-industrial levels, let alone 1.5°C.

The present temperature has now exceeded by 0.8°. Global emissions are increasing by about 50 billion tonnes a year. The remaining 'space' in the atmosphere to absorb more emissions (before the 2° limit is reached) will be exhausted in 20-25 years or so.

However, judging from what developed countries in particular have conveyed through their intended nationally determined contributions (INDCs) on their emission reduction targets for the post-2020 timeframe, we are far away from limiting temperature rise to less than 2°C.

In fact, a recent review by civil society organisations of the INDCs of Parties shows that developing countries are doing their fair share, while developed countries are far away from meeting their targets from a historical and equity perspective. (See http://www.twn.my/title2/climate/info.service/ 2015/cc151106.htm).

The NGOs involved in the study include ActionAid International, Asian Peoples Movement on Debt and Development, Center for International Environmental Law, Christian Aid, CIDSE, EcoEquity, Friends of the Earth International, International Trade Union Confederation, LDC Watch International, Oxfam, Pan African Climate Justice Alliance, Third World Network, What Next Forum, and WWF.

According to the review, a country's fair share depends on two factors: its historical responsibility (i.e. its contribution to climate change in terms of cumulative emissions through the years), and capacity to take climate action, using national income

over and above what is needed to provide basic living standards as the principal indicator.

The key findings of the study include:

- Together, the commitments captured in INDCs will not keep temperatures below 2°C, much less 1.5°C, above pre-industrial levels. Even if all countries meet their INDC commitments, the world is likely to warm by a devastating 3°C or more, with a significant likelihood of tipping the global climate system into catastrophic runaway warming.
- The current INDCs represent substantially less than half of the reduction in emissions required by 2030.
- The ambition of all major developed countries falls well short of their fair shares, which include not only domestic action but also international finance. Those with the starkest gap between their climate ambition and their fair shares include:

  – Russia: INDC represents zero contribution towards its fair share;
  – Japan: INDC represents about one-tenth of its fair share;
  – United States: INDC represents about a fifth of its fair share;
  – European Union: INDC represents just over a fifth of its fair share.

- The majority of developing countries have made mitigation pledges that exceed or broadly meet their fair share, but they also have mitigation potential that exceeds their pledges and fair share.
- Most developed countries have fair shares that are already too large to fulfil exclusively within their borders. The remainder of their fair shares must therefore be accomplished by enabling an equivalent amount of emissions reduction in developing countries through financing and other support. This accounts for almost half of the reductions that need to take place globally, which indicates the need for a vast expansion of international finance, technology and capacity-building support.

Hence, the challenge in the Paris deal is whether developed countries will agree to not only taking the lead in cutting their emissions adequately and according to the 'fair shares', but also in providing the means to developing countries to undertake sufficient climate actions.

The test in Paris will be whether the agreement concluded will still be able to save the planet and the poor of the world in a timely fashion, with the right kind of 'enablers' for more ambition in the coming years, which is both equitable and fair.

This will indeed be a huge challenge, given the many complex and divergent positions that remain to be solved in so short a time.

What are the key issues that need to be resolved?

1. Differentiation

A key issue throughout the Paris agreement is whether and how the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC) will be operationalised in all the elements of the agreement.

The application of this principle in all the elements of mitigation, adaptation, the means of implementation and the transparency framework is expected to be deeply contentious.

Developed countries have been insisting that the agreement must reflect the 'evolving economic and emission trends' of countries in the post-2020 timeframe, while developing countries continue to argue that given the historical emissions of developed countries, developed countries continue to bear the responsibility in taking the lead in emission reductions and in helping developing countries with the provision of finance, technology transfer and capacity-building as provided for under the UNFCCC.

It must be recalled that in Lima, at the last COP, Parties underscored their commitment to reaching an ambitious agreement in 2015 that reflects the principle of CBDR-RC, in light of different national circumstances.

2. Will the agreement be mitigation-centric?

Another underlying and very fundamental issue is whether the purpose of the Paris agreement will be to enhance the implementation of the Convention provisions in all the elements (mitigation, adaptation, finance, technology transfer, capacity building and transparency) as demanded by developing countries, or if it will be mainly a mitigation-centric agreement as preferred by developed countries.

The 'battle' over the nature of the agreement is located in Article 2 *bis* of the current negotiating text under the heading of 'general'.

The proposal in Article 2 *bis* is from the Like-minded Developing Countries (LMDC) for all Parties to regularly prepare, communicate and implement their INDCs/NDCs towards achieving the

purpose of the agreement/objective of the Convention. It also states further that the INDCs will represent a progression in light of Parties' differentiated responsibilities and commitments under the Convention. It also includes a provision that successive INDCs will be communicated by Parties before the expiry of the previous contributions. (Parties have communicated either a five- or ten-year contribution).

The other option in relation to Article 2 *bis* proposal is from developed countries not to have a text in this regard.

The proposal by the developing countries is to ensure that the contributions of Parties are viewed in a comprehensive manner, reflecting the respective obligations they have under the provisions of the Convention, and not to confine the contributions only to mitigation as desired by the developed countries.

Since the Warsaw COP in 2013, where the notion of INDCs was born, developed and developing countries have expressed a difference of views on what the INDCs should contain. Attempts by developed countries to define INDCs as only mitigation contributions were thwarted in Lima last year. For a large number of developing countries, the INDCs of developed countries are also supposed to reflect the contributions they will make on finance and technology transfer in addition to what they will do on mitigation as set out in the Convention and for developing countries, their contribution could be mitigation and adaptation, coupled with an indication of their financial, technology and capacity building needs.

Hence, the Article 2 *bis* proposal is to provide for this comprehensive notion, and for progression to be shown on all the elements and not just limit this to only mitigation.

The 'battle' is also evident in how the mitigation contribution is termed as developed countries in Article 3 (on mitigation) prefer the notion of a 'nationally determined mitigation contribution' (NDMC), while developing countries want to use the term 'nationally determined mitigation component of the contribution' (NDMCC).

3. Will the Paris agreement be legally binding?

A major question is whether the Paris agreement will be legally binding, like for example the Kyoto Protocol.

While the Paris agreement can be legally binding, what commitments in respect of the various elements are actually legally binding depends on the precise language and their content in the final outcome. This has to be viewed in the context of each element. The test is whether the elements amount to actual commitments for Parties or are mere best endeavour clauses. Hence, the devil is in the detail.

4. Global goal

The 'collective long-term global goal' which is currently mitigation-centric is reflected in the mitigation section of the agreement under Article 3. However, there is also a proposal under Article 2, under the heading of 'purpose' of the agreement.

Under the 'purpose', there are two options – one reflecting the option of having no text and the other which has the option of holding the increase in the global average temperature of below 2°C, or below 1.5°C; as well as to pursue a transformation towards sustainable development, to foster societies that are resilient to climate change and economies that are low in greenhouse gas emissions (GHGs) and to ensure food production and distribution is not threatened as well as to increase the ability of Parties to adapt to the adverse impacts of climate change and to effectively respond to the impacts of the implementation of response measures and loss and damage.

In Cancun in 2010, Parties already recognised the need for deep cuts in emissions so as to hold the increase in global average temperature below 2°C above pre-industrial level. Whether the Paris agreement will reflect the 1.5°C limit remains to be seen.

Under Article 3 on the 'collective long-term goal' in relation to mitigation, there are three options. The first option refers to notions of low carbon/ emission transformation, climate or carbon neutrality, peaking of emissions by a certain time frame, reduction in net emissions of a certain percentage below 2010 levels by 2050; or reductions according to the distribution of a global carbon budget based on climate justice as well as net zero emissions over the course of the century.

The second option is for Parties aiming to reach long-term global low-emission transformation, in the context of sustainable development and equitable access to atmospheric space.

The third option has a number of sub-options including a reference to the long-term temperature goal referred to in Article 2; a rapid reduction of emissions by certain percentages; and decarbonisation of the global economy over the course of this century (the latter is a proposal from the United States).

With so many sub-options, negotiating a mitigation goal has proved to be difficult in the past

since the Bali Action Plan in 2007, without the link to other goals on adaptation, finance and technology transfer.

Developing countries have been pushing for goals or a long-term vision on the other elements as well.

In the adaptation section under Article 4, the first para relates to the issue of a goal/or long-term vision on adaptation, which is viewed by many developing countries as an important idea to ensure parity between a long-term perspective in relation to mitigation and adaptation. The G77 and China has called for a global goal or long-term vision which, *inter alia*, covers an assessment of the adequacy of support from developed countries to developing countries; that recognises the adaptation efforts of developing countries and the recognition of increased adaptation needs and associated costs in light of mitigation efforts. There is a proposal for no text in this regard from developed countries.

As regards finance, the G77 and China has made a proposal for the provision and mobilisation of financial resources from developed countries to be scaled up from a floor of US$100 billion per year from 2020, including a clear burden-sharing formula among them, with a clear road map with individual annual targets in the post-2020 period. This proposal does not indicate a clear number for the financial target post-2020 as developed countries are opposed to having any numerical figure. Whether developed countries will accept a scaling up of resources from the US$100 billion per year from 2020 remains to be seen.

In relation to technology development and transfer, the LMDC has called for the establishment of a global goal on the transfer of technologies by developed countries and knowhow as well as in providing financial resources for collaborative research and development of environmentally sound technologies and enhancing accesses of developing countries to such technologies that match technology needs of developing countries. The developed countries have resisted this and have called for no text in this regard.

5. Mitigation (Article 3)

a) Efforts to be undertaken

On the mitigation element, in terms of the efforts to be undertaken, the text generally provides that Parties will regularly prepare/communicate/ implement their INDCs/ NDC or NDCMC. One option reflects the principle of CBDR-RC in this regard while the other does not.

A key issue to resolve is whether the commitment includes the implementation of the mitigation contribution or if it is just to communicate the contribution. At issue is whether the United States (US) can make a commitment internationally to implement its emission reduction target.

Also at issue is how the mitigation efforts among Parties will be differentiated with the following options on the table:

- The first option is for no text on 'differentiated efforts'; which means Parties 'self-differentiate' among themselves, which is an option preferred by the Umbrella Group of countries in particular;
- The second option is for differentiation between developed and developing countries with developed countries undertaking quantified economy-wide absolute emission reduction commitments/targets, which are comparable, measurable, reportable and verifiable, covering all GHGs and implemented domestically without any conditions and developing countries undertaking diversified enhanced mitigation actions/efforts in a measurable, reportable, and verifiable manner, in the context of sustainable development and supported and enabled by the provision of adequate finance, technology and capacity-building by developed country Parties. This is a proposal from the LMDC;
- The third option is to follow the Lima formula which is that the efforts are in accordance with CBDR-RC, in the light of national circumstances; and
- The fourth option is a proposal from Brazil which essentially proposes that each Party that has previously communicated/implemented absolute economy-wide emissions reduction or limitation targets to continue to do so and all Parties should aim to do so over time.

It is important to note that currently, under the Convention, only developed countries are required to undertake absolute economy-wide emission reductions. In Cancun in 2010, developing countries agreed to undertake nationally-appropriate mitigation actions (NAMAs), which are to be supported and enabled by technology, finance and capacity-building. Under the NAMAs, it is up to developing countries to determine what kind of mitigation efforts they can undertake; whether they are absolute emission reduction targets, quantified targets relative to business as usual, carbon intensity of GDP or non-economy-wide actions.

b) Will the mitigation reduction targets/or contribution be legally binding?

To answer this question, where the intended NDMCs/NDMC/NDMCCs are 'housed' becomes relevant. The following are the various options in para 9 of Article 3.

There are two options – Option 1 has the following options:

The mitigation contributions communicated shall:

- be published on an online registry maintained by the secretariat; or
- be in an annex to the agreement; or
- be on the UNFCCC website.

Option 2 is for the mitigation contributions of developed countries to be inscribed in Annex A to the agreement while that of developing countries be inscribed in Annex B to the agreement.

It has become clear from recent news reports that the US will not agree to the emission reduction targets being annexed to the agreement, which will make the targets legally binding, if the Paris agreement is a legally-binding treaty, as is the case with Annex B of the Kyoto Protocol.

If the US concerns are taken on board, then the emission reduction targets will have to be housed outside of the Paris agreement, as was the case with the Cancun pledges which were contained in an information document maintained by the secretariat on the UNFCCC website, differentiated between developed and developing countries. In Lima last year, Parties agreed that the INDCs that they are to communicate are published on the UNFCCC website.

Given the US situation, it is unlikely for the emission reduction targets or contributions to be made legally binding under the Paris agreement.

c) Issue of progression

On the issue of 'progression', the current text provides that each Party's mitigation contribution will be progressively more ambitious over time. The LMDC has also proposed further additions that the progression of ambition of developing country mitigation contributions will be supported and enabled by enhanced means of implementation over time. Whether developed countries will accept the LMDC proposal is a challenge.

d) Should the mitigation contribution of developing countries be unconditional?

Another important issue to resolve is whether the mitigation contribution of developing countries is unconditional, or at least in part. 'Unconditional' means not conditional upon the provision of finance and technology transfer. In response, developing countries refer to Article 4.7 of the Convention which provides that '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.'

As regards the INDCs that have been announced, many developing countries have conditioned the full implementation of their mitigation contributions on the basis of the provision of finance and technology transfer. Some have also indicated an unconditional mitigation component alongside an enhanced conditional one.

e) Communication of successive mitigation contributions

Another issue that needs to be resolved relates to the 'cycle' or periodicity for the communication of a Party's contribution.

As pointed out by the UNFCCC Secretariat's synthesis report of the INDCs that have been submitted, 'Most Parties communicated either a 5 or 10 year time frame for the implementation of their INDC. Many of the communicated INDCs refer to periods of implementation up to 2030, while a few INDCs specify a period up to 2025.'

There are proposals on the table for the mitigation contributions to be communicated every five years – an option preferred particularly by the European Union (EU). There is also an alternative option for successive contributions to be communicated before the completion of the current implementation cycle. The alternative proposal is from the LMDC to take into account those INDCs which involve a 10-year timeframe for implementation.

Hence, whether there should be a harmonisation of the successive mitigation contributions will be the subject of debate.

A related question is whether there should only be a 'cycle' for mitigation, or if this should also apply to the implementation of other elements on adaptation, finance and technology transfer as well. Many developing countries are concerned that having a 'cycle' for mitigation alone would lead to a mitigation-centric approach, with the other elements being disregarded and de-linked from the mitigation contribution. This relates to the proposal in Article 2 *bis* referred to above.

f) Should there be a consultative period or an ex ante consideration of the mitigation contributions?

Another vexatious issue relates to whether there should be a consultative period or ex ante consideration of mitigation contributions proposed by Parties, prior to their finalisation.

There are three options on the table in this regard. The first proposal provides that there be a 12-18 month period for a process related to consideration of the mitigation contributions including their aggregate effect in the light of the long-term temperature goal. The second option provides that there be no consultative period or an ex ante consideration, with the third option being that this issue be considered under the element on 'transparency'.

A concern from a number of developing countries is that this consultation or ex ante consideration of the mitigation contributions could lead to developing countries having to bear the responsibility of filling the emissions gap that result from the very low ambition of developed countries' emission reduction targets. With developed countries not doing their fair share of the mitigation effort, especially considering their historical emissions, the fear is that developing countries will be pressured to ramp up their mitigation targets and take on more of the burden, with the responsibility shifting from developed to developing countries.

This becomes all the more worrying when there is no consideration of whether the means of implementation for undertaking those efforts are adequate and provided for effectively to developing countries.

See also related discussion below on the issue of global stocktake.

g) Should Parties be allowed the use of international carbon markets?

Another issue of controversy is whether Parties will be allowed the use of international carbon markets in reducing their emissions. According to the synthesis report of the INDCs by the UNFCCC Secretariat, 'over half of the communicated INDCs indicate that Parties plan to use or are considering the use of market-based instruments from international, regional or domestic schemes, including the clean development mechanism (CDM)'. The Secretariat has examined 119 INDCs communicated by 147 Parties by 1 October.

For several years now, even prior to the ADP negotiations, developed countries, with the European Union in particular, and some developing countries have been advancing proposals for new international market mechanisms under the UNFCCC. Several developing countries have also opposed the creation of new market mechanisms.

In the negotiating texts under consideration, there are proposals for the creation of new market mechanisms. There is also an option that does not support any text in this regard, thus opposing the creation of such new mechanisms.

6. Adaptation (Article 4)

Apart from the issue of whether there should be a long-term vision or goal on adaptation as set out above, another issue of importance is whether each Party should or may submit an adaptation communication or undertaking, similar to what is being demanded by developed countries for a mitigation contribution.

There is a proposal from developing countries that the adaptation communication or undertaking is periodically provided, in conjunction with a mitigation cycle. There is an alternative option that there be no text on this.

Likewise, there is a proposal that the communications or undertakings on adaptation be recorded either in a registry or via another modality or be posted on the UNFCCC website. The counter proposal to this is to not have any text in this regard.

These proposals clearly indicate the push by developing countries especially to treat adaptation with the same parity as mitigation.

7. Loss and damage (Article 5)

On the issue of loss and damage, the main bone of contention between developing and developed countries is whether there should there be an international mechanism on loss and damage defined under the Paris agreement. There are two options in the text: one from the G77 and China for such a mechanism to be spelt out while the other option reflects the position of the Umbrella Group that does not want any reference to loss and damage as a separate article.

8. Finance (Article 6)

On the issue of finance, the thrust of the developed countries' position is to increase the scope of countries to include developing countries who should be 'donors' of climate finance by proposing terms in the text like 'countries in a position to do so' and to also reduce the scope of developing countries who are recipients of finance under the Convention, and to limit that to the 'poorest and most vulnerable'. This issue is expected to be highly contentious.

Another problematic proposal from developed countries is contained in the decision text in para 45 in relation to finance which pre-conditions the support a developing country can obtain upon the communication of its mitigation contribution and the submission of 'timely reports' as regards transparency.

9. Technology transfer (Article 7)

Apart from the proposal by developing countries to establish a global goal on technology transfer as referred to above, there is a proposal from India for developed countries to provide financial resources to address barriers related to intellectual property rights (IPRs) and facilitate access to technologies. There is also a proposal from the LMDC for developed countries to provide support for research, development and application of environmentally sound technologies and facilitate their transfer and access to developing countries, including in addressing barriers to access and know-how.

The African Group also has proposed a technology framework to be adopted that will provide direction and guidance in relation to technology assessments, including in identifying options for enhancing access and to address barriers.

These proposals from developing countries are opposed by developed countries with options for no text in the agreement.

10. Capacity building (Article 8)

In capacity building, the G77 and China has called for an international capacity building mechanism to enhance and coordinate capacity building. Developed countries do not want the creation of any new mechanism.

11. Transparency framework (Article 9)

On the transparency framework covering both action and support, the main issue is whether such a framework should be differentiated between developed and developing countries.

Options include a differentiated framework between developed and developing countries building on existing arrangements (proposed by the LMDC); a unified system with built-in flexibility to take into account Parties' differing capacities and applicable to all (proposed by the US and New Zealand); a tiered system based on self-differentiation with no backsliding (proposed by the Arab Group) and a framework, building on existing arrangements that takes into account Parties' different capacity (a proposal from Brazil and the African Group).

12. Global stocktake (Article 10)

The main issue around the global stocktake is its purpose and scope. The idea is for a periodic stocktake of the implementation of the agreement and there are options as to the purpose: whether to assess the overall/aggregate/collective progress towards achieving the objective of the Convention or the agreement's long-term goal.

On the scope, for developed countries, the stocktaking is primarily for considering the aggregate effect of the mitigation contributions of Parties in light of the long-term mitigation goal, while for developing countries, it is to consider the overall implementation of obligations of Parties (consistent with the differentiated responsibilities), in relation to mitigation, adaptation and the means of implementation.

For the EU, the proposal is for a review process every five years to assess if Parties' mitigation contributions are on track to meeting the long-term mitigation goal.

Conclusion

The above are just some of the key issues that reveal how contentious the Paris talks will be. Yet there is a universal desire to make Paris a success. This requires very skilful facilitation that is fair and inclusive as well as transparent. The gaps have to be bridged for the contentious issues. With only a few negotiating days in Paris, time is not on our side. So, delegates and observers are all gearing up for a lot of pressure and working through late nights in the two weeks ahead.

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The Rocky Road from Durban to Paris

30 November, Paris (TWN) – Around 7 am on a Sunday, 11 December 2011, the seventeenth session of the Conference of the Parties (COP 17) concluded in Durban, South Africa, with the establishment of a new subsidiary body to the United Nations Framework Convention on Climate Change (UNFCCC). The body was called the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP).

The ADP was established 'to launch a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention', which would be 'applicable to all Parties'. It was also decided that the ADP 'shall complete its work as early as possible but no later than 2015 in order to adopt this protocol, another legal instrument or an agreed outcome with legal force at the twenty-first session of the Conference of the Parties and for it to come into effect and be implemented from 2020'.

The four years have passed and COP21 is now scheduled to begin. Through the past four years, talks among over 195 countries, Parties to the UNFCCC, have been tough and lengthy and the road from Durban to Paris, rocky. The core issues continue to remain unresolved (see TWN Update 1).

However, the process to deliver a smooth outcome has been far from satisfactory, especially for developing countries. The consequences of right processes not being followed in the past along with what kind of process is followed here in Paris will have a bearing on how negotiations progress here and on the outcome as well.

Tracing the history of just the processes followed since Durban, it emerges that developing countries have had to struggle to even make their voices heard and their proposals included in negotiation texts. Their call that the process all the way up to Paris must be open, transparent, inclusive, and Party-driven, marked by direct negotiations among the Parties on the basis of texts that they have produced themselves has not been easy.

For a successful and legitimate outcome in Paris, lessons from the past are valuable.

The incoming French Presidency of COP21 has assured through this year that they do not have a 'Plan B' and that there would be no surprises in Paris. They have stressed before that the French Presidency is not working on a text and neither does it want to produce one. All they want is an 'orderly and timely' delivery of an agreement that lasts.

What follows are the highlights of processes followed since Durban, which also forewarns that for COP21 to be a success, the process needs to be driven by Parties and there should be no surprises with respect to negotiations or the texts. A review of the history will provide useful lessons.

Durban 2011

The Durban climate talks were scheduled to close on 9 December, but it continued until the morning of 11 December. By then, several ministers and senior officials had already left. The draft decision pertaining to the ADP was provided at an informal plenary late on the night of Saturday, 10 December. It was given to the remaining participants as part of a package of four decisions on a 'take-it-or-leave it' basis, with little time for the members to consider or discuss among themselves, in an unusual and unprecedented set of procedures. It was also unusual how a decision to launch such an important negotiation process was made with very few terms of reference to frame the talks or the outcome that would come from it. (It was decided that the ADP would plan its work in the first half of 2012.)

At Durban, negotiations were also happening under two other negotiating tracks – the Ad Hoc Working Groups on Long-term Cooperative Action (AWG-LCA) and the Kyoto Protocol (AWG-KP).

Many of the differences were papered over in the 'take-it-or-leave-it' decision-making mode of the final plenary meetings, and the objections of developing countries, especially to many parts of the report and decision from the AWG-LCA and AWG-KP, were simply brushed aside by their Chairs (who were from the United States and New Zealand respectively). The Chair then of the AWG-LCA was Daniel Reifsnyder of the US, who is now the current Co-Chair of the ADP, along with his Algerian counterpart, Ahmad Djoghlaf.

Despite strong concerns raised by many developing countries over the lack of balance in the report of the outcome of the work of the AWG-LCA, the Chair in an unprecedented move transmitted the report to the COP under his own authority. Many concerns raised especially by developing countries during the final session of the AWG-LCA were brushed aside with the unusual procedure of transmitting the outcome document to the COP under the authority of the Chair despite it not enjoying any consensus from the UNFCCC Parties.

Several developing countries raised concerns over many specific issues and the lack of balance in the text, especially in relation to mitigation actions of developed and developing countries, with the breaking down of the firewall between them, and the absence of the recognition of historical responsibility and the principle of common but differentiated responsibilities (CBDR).

Doha 2012

Work under the ADP continued in roundtables and workshops around two workstreams: workstream 1 on post-2020 arrangements and workstream 2 on pre-2020 climate action.

Developing countries were concerned that the roundtables and workshops were being used to introduce new concepts and models for climate actions that moved Parties away from the Convention's principles and provisions. They also called for a stop to the informal roundtables and workshops and proposed Party-driven negotiations to begin. Developing countries made it clear that any conclusions could only be drawn from a formal, structured, open, participatory and Party-driven negotiating process.

Warsaw 2013, to Lima 2014

The ADP negotiations under the Co-Chairs Kishan Kumarsingh (Trinidad and Tobago) and Atur Runge-Metzger (EU) saw developing countries expressing their frustration over the process. In Lima, the talks under the ADP were even on the brink of collapse, only to be saved by the COP 20 President from Peru.

During the intersessionals in 2013, the G77 and China had called for negotiations to resume in a focused and Party-driven mode in Warsaw (COP19). However, when the Warsaw COP began, developing countries found themselves in a situation where their proposals were not included in the negotiating text. China articulated this and expressed surprise that at the end of long consultations on the text, the draft decision remained the same and was not a Party-driven outcome. Referring to textual changes proposed by the Like-Minded Developing Countries (LMDC), China felt that nothing had been captured. It expressed serious problems in relation to the balance with more emphasis on mitigation and less on the means of implementation. It also referred to the proposal by the BASIC (Brazil, South Africa, India, China) ministers, which was supported by many Parties, but which was not reflected in the text.

The final plenary at Warsaw saw deep divide and exchanges between developed and developing countries in relation to preparations for the 2015 'agreement' over attempts by developed countries to break down the 'firewall' and 'differentiation' between developed and developing countries, as currently exists in the Convention and its annexes. A last-minute huddle to resolve differences during the plenary led to a text that allowed the decision to be adopted.

Over the course of 2014, developing countries reiterated and intensified their call for real negotiations to begin. They stressed that the process should be Party-driven and be fully inclusive and transparent. They also said that the process must build on inputs from Parties and any outputs of the process should reflect inputs from Parties. They repeated this statement several times over that year.

In the run-up to Lima, the LMDC asked when actual negotiations would begin with text on the screen for Parties to negotiate. In response, Co-Chair Runge-Metzger replied that, 'as soon as all Parties agreed on how to proceed, if people say yes, then we are ready to go but we have not heard that yet'. To this, Ecuador asked: 'Can I, through you, ask all the Parties who are against proceeding with text to state their reasons and indicate when we can begin with this procedure?' There was, however, no response from any developed country in this regard.

Meanwhile, developed countries were generally satisfied with the process and they felt that the discussions helped deepen understanding of Parties' positions and registered their trust in the Co-Chairs' guidance, while acknowledging that the pace

of progress was not as fast as they would have liked it to be.

Developing countries were abundantly clear and gave ample warnings that they did not want to be faced with a situation of a 'take it or leave it' approach with regard to the text to be adopted.

During the intersession in June 2014, Minister Xie Zhenhua, Vice Chairman of the National Development and Reform Commission of China, said that the Co-Chairs should not parachute a negotiating text and 'we don't want to see the repeat of a Copenhagen scenario'. (Minister Xie was referring to the Copenhagen Climate Conference in 2009 that ended in disarray because a secretive meeting of leaders of 26 countries convened by the Danish Presidency of the conference was seen as undemocratic by many developing countries, and the Copenhagen Accord arising from that meeting was thus only 'noted' and not adopted.)

India also made a strong pitch for formal negotiations to begin, with text from Parties. But the developed countries appeared comfortable with the 'workshop' mode of work with discussions based on issues posed by the Co-Chairs. Clear divergences remained as the Africa Group, the LMDC and the Arab Group preferred to progress work and negotiate on the basis of written proposals from Parties.

Developing countries were also opposed to having last-minute 'huddles' to resolve issues on the negotiating texts. Stressing the need for clarity on the way ahead, the G77 and China said the format of the future sessions of the ADP had to be modified. The LMDC said that it 'will not accept being made, due to a mismanaged process, to press around each other in an undemocratic, non-inclusive, and non-transparent "huddle" at the last hours and minutes of the COP just to finalise a decision ... We want to see draft texts from Parties on screen, on paper, being directly negotiated by the Parties with each other, in order to narrow differences, find convergence and achieve consensus,' said Ecuador for the LMDC in the intersessional in October 2014.

Despite warnings through the year, the Lima COP proved disastrous on process for the developing countries. Their demands that the traditional method of work of putting texts on a screen, and making changes to the text as countries made their proposals, reached new heights as the countries perceived that the Co-Chairs were less than interested in accepting their proposals.

The ADP Co-Chairs instead seemed to continue what they had done in the previous year, which was to merely listen to comments and proposals made by the Parties and then for them to come out with new versions of the draft decision text. This was considered to be not a Party-driven but a Chair-driven process by many of the developing countries, which was not acceptable to them.

With talks on the brink of failure as key red lines were missing from the text prepared by the ADP Co-Chairs, it took COP20 President Manuel Pulgar Vidal, the Minister of Environment of Peru, to step in and assume charge and 'save the show'.

The road to Paris

The ADP talks this year have been held for about 25 days spread over February, June, September and October.

In February, countries took up an 'elements text' that came from the Lima climate talks in 2014, which was a mixed bag of proposals by the countries as well as the former ADP Co-Chairs.

Since this text did not reflect the proposals of all the countries, the current Co-Chairs used the February session to get countries to input their proposals into the elements text to give a sense of ownership to them. By the end of the February session, the countries had a 90-page text, which came to be known as the Geneva Negotiations Text (GNT). It was agreed that the GNT would be the basis of negotiations in Paris and the only legal text on the table. Finally, some semblance of trust in the process began to emerge, with a Party-owned text.

In the June session however, the countries found the negotiations text unwieldy and the session was spent streamlining the 90-page document. It was unclear though how the streamlining would be done and streamlining rules evolved as the days progressed but there were no real negotiations at this session. Since some trust was restored in the process, the Parties decided to seek the help of the ADP Co-Chairs to come up with some kind of a tool to help facilitate negotiations. The LMDC provided detailed guidelines to the Co-Chairs to take into consideration.

The Co-Chairs came up with a 'tool' for the September session to help facilitate negotiations and divided this tool in three parts. The first part contained issues which they thought fit the core agreement, the second part contained issues which they thought merit inclusion in decisions and the third part included areas that they were not clear where to put.

Developing countries were unhappy with this 'tool' as it did not contain the proposals of key importance to the developing countries in the draft core agreement.

Many issues such as the principle of CBDR, linkage between action by developing country Parties and support by developed country Parties, institutions on adaptation, finance, technology transfer and capacity-building, loss and damage, response measures and scope of climate contributions were in Part three of the tool. This created the impression that there is a doubt over whether these issues should be included in the agreement or not, even though these issues had the overwhelming support of the G77 and China to be included, for a balanced outcome in Paris.

Another disturbing development at the September session was that the developed countries were in no mood to negotiate. With Paris three months away and with no clear negotiations text, the developed countries wanted to 'talk' about concepts such as differentiation between developed and developing countries, or why the issue of loss and damage should be included, if at all.

Developing countries set out the terms clearly that the text should be balanced and cover all the different elements and that none of their proposals should fall off the table. Developing countries had also clearly indicated that the Co-Chairs should not operate on the basis of consensus, a key demand of the US and the EU, but to be inclusive and not leave any proposals out. The session ended with yet another mandate given to the Co-Chairs with the hope that they would produce a balanced text for the October session. But that did not happen.

The beginning of the October session was marked with developing countries, led by the G77 and China, calling the Co-Chairs' non-paper containing the text for negotiations as being 'unacceptable', 'unbalanced' and 'lop-sided'. For starters, none of their key proposals was reflected in the document. The little trust that had emerged in the process in the Co-Chairs fast disappeared.

Thus, negotiations could not begin as planned. Developing countries had once again called for their proposals to be back in the text, and proceeded to provide their inputs.

That is how Parties arrived at the present negotiation text and they agreed that this would be the basis of negotiations in Paris.

There have also been occasions where negotiating sessions have started without the G77 and China's heads of delegations being present in the room. On one such occasion was during the last October session, where the G77 and China Chair, Ambassador Nozipho Mxakato-Diseko of South Africa, said to the Co-Chairs, 'The Group is deeply affronted by the lack of consideration and respect for 134 developing countries that comprise the Group. You cannot wish the Group away. We are not an inconvenience to be ignored in order for you to keep to your schedule. Just as climate change might be an inconvenient truth, the G77 and China will not be side-lined to a footnote in a text.'

Developing countries have often come under attack from several quarters for raising process issues, perceived at delaying negotiations. However, the fact that process determines substance cannot be overemphasised enough.

A very valuable lesson in all this is to ensure a truly Party-driven, transparent and inclusive process, that embraces the trust of all Parties in delivering an outcome belonging to all Parties.

TWN
Paris News Update 3

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No Surprises in Paris, Assures French Presidency

Paris, 30 November (TWN) – Incoming French President of the 21st meeting of the Conference of the Parties (COP 21) to the United Nations Framework Convention on Climate Change (UNFCCC), Laurent Fabius, assured Parties that the process of reaching an agreement in Paris would be transparent and any text would be a result of engaging with all stakeholders.

Fabius is the Foreign Minister of France who will preside over the Paris talks.

'There will be no surprises and I ask the same of you,' said Fabius, during the opening of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) on 29 November.

The ADP resumed the twelfth part of its second session on 29 November, a day ahead of the official opening of the COP and the Conference of Parties meeting as Parties to the Kyoto Protocol (CMP). The ADP will be in session until 5 December and the opening session was used to outline the mode of work for the week. The ADP opened a day ahead of the official opening of the COP given the limited negotiating days available for its work.

The ADP is co-chaired by Daniel Reifsnyder (USA) and Ahmed Djoghlaf (Algeria).

The opening of the COP/CMP on Monday will be marked by a high-level event where 150 heads of state and government are expected to attend. According to Fabius, the idea behind the heads of state meet is to provide a political impetus and have decisive negotiations to conclude, on 11 December, for an ambitious programme for the climate. 'The political language expressed will have to be translated into concrete mechanisms,' said Fabius.

Referring to the ADP mandate, Fabius said that Parties had decided to arrive at a legally binding agreement (that is to take effect post-2020) which meets the needs of climate change and sustainable development and the time to realise this had arrived.

He also said that over the two weeks, his priority would be to facilitate objectively the attainment of very ambitious agreement among all the countries. He also committed to a transparent process and said that within the rules of the COP, participation of civil society organisations can be ensured. While the first week would be devoted to preparing the agreement, the second week could deal with politically sensitive issues, he added. (There are many divergent issues between developed and developing countries over the Paris agreement that need resolution for a successful outcome.)

Fabius asked Parties to give him a text for the Paris agreement as far finalised as possible, with 'fewest' options. He said that based on the text agreed to in Bonn and consultations through the year, he was sure Parties would achieve a good result. He urged Parties to negotiate and compromise and keep their energy directed at finding solutions. He said that if they took the usual procedure for negotiations and wait for a miracle at the last hour it would not be possible. He also cautioned that the ministers and their representatives would have very little time to deal with all the issues.

'If we want a legally binding document and conclude on 11 December, the negotiations on the draft agreement will have to be finalised by midweek of the second week. We have specific deadlines. We want a universal agreement. We cannot imagine this will happen in a chaotic way,' said Fabius.

On the mode of work for the second week, Fabius said he would propose it end of this week, which would be a 'function of your recommendations'.

COP20 President (Peru) Manuel Pulgar Vidal stressed that Parties have to find solutions to the several sections of the text in very few days, both for the agreement and the main decision. 'We must find textual solutions for all of them, in an articulated

manner, under the guidance of the Co-Chairs and the COP Presidency, with the help of all, including the facilitators. To be effective, we need clear rules of engagement, in particular clear mandates for all consultations, which need to be text-specific, time-bound and solution-oriented, if we want to progress,' he stressed, underscoring the importance of trust.

He said that trust meant inclusiveness, transparency, sense of ownership, Party–driven processes and results. He added that the result should be a balanced, concise and strong draft agreement and decision by the end of the first week.

Outlining the mode of work for the first week, Reifsnyder said that he along with his Co-Chair Djoghlaf had on 28 November, convened an informal meeting of the ADP on the mode of work.

Reifsnyder said that the open-ended contact group was established as a central forum to harvest the results of Parties' collective work. He added that the forum must deliver coherence to their deliberations, in particular on the cross-cutting issues, which was a key demand of the Group of 77 and China (see highlights of the G77 statement below).

Reifsnyder also said that to make the best use of time, they would continue with spin-off groups. Any task to a spin-off would be specific, time-bound and with clear expectation of results and the open-ended contact group would ask the spin-off to get clean text as far as possible.

He added that the contact group would start on Tuesday (1 December) at 10 am. The spin-offs would convene on 30 November from 7 pm to 9 pm on 'technology development and transfer', 'implementation and compliance', and on Article 2 and Article 2bis (regarding the 'purpose' and general section of the post-2020 agreement) and workstream 2 (on pre-2020 actions).

The contact group would take up the elements relating to 'mitigation', 'adaptation and loss and damage', 'finance', 'transparency of action and support', and would hear reports from the spin-off groups. It would also consider the issue of 'global stocktake' and paragraphs in the decision not related to specific articles in the agreement.

He asked the Secretariat to prepare individual files with texts of articles based on the 10 November version of the negotiating text, and added that the finance section of the 23 October text would be the starting point for finance negotiations. (On 23 October 2015, the last day of the previous ADP session in Bonn, Parties had agreed on a text, which would serve as the basis of negotiations in Paris. This was edited and reissued on 10 November.)

On the format of the open-ended contact group, Reifsnyder said that the contact group would meet in a square table format as it is more conducive to an open dialogue, which would help Parties negotiate. It would also be broadcast on the CCTV for maximum participation, he added. Observers would be in an overflow room, he added.

On deadlines, Reifsnyder said that all the spin-off groups would need to complete work by 6 pm on Thursday (3 December) and the negotiations in the contact group would need to conclude at 9 pm on 3 December.

A consolidated, revised version of the draft agreement and decision would be made available to Parties on Friday (4 December) at 8 am. From 4-5 December, Parties would further develop the draft text in the contact group. The outcome of the work needs to be finalised by Saturday (5 December), and will be transmitted to the COP, he said, adding that the closing plenary of the ADP will be held on Saturday noon.

Responding to the Co-Chairs on the mode of work, Tuvalu noted the importance of transparency and expressed its disappointment that informal Party-led work had already commenced. 'We had very little information about this process … We want assurance that transparency is an important part of the process,' said Tuvalu.

Djoghlaf assured Tuvalu of transparency and said that there had been no surprises. He referred to the pre-sessional consultations with Parties and the Co-Chairs which had taken place on 28 November. He also added that an 'informal-informal' meeting had been organised among the facilitators to prepare for the Paris meeting.

The ADP plenary was then adjourned and Parties statements were not read out but have been posted on the UNFCCC website.

Highlights of G77 and China's statement

In its statement posted online by South Africa on behalf of the G77 and China, the Group recalled that when Parties met in Bonn in October, much time was lost because they started with a text that was very unbalanced. 'There is not much time left to conclude our work and we must therefore engage in substantive negotiations. We must be all very conscious of the fact that process will be crucially important for the success of the COP,' the Group said, calling for negotiations to be open and transparent, inclusive and Party-driven.

'To make progress, we suggest that cross-cutting and overarching issues, e.g. purpose, long-

term goal, differentiation, progression, ambition and the cross-cutting aspects of finance and the legal nature of different obligations across the text, be discussed in the contact group. As progress on these cross-cutting issues is essential to unlock the difficulties that are experienced in the facilitation groups dealing with mitigation, adaptation, finance, technology transfer, capacity building, and final clauses, these discussions will accelerate the work in the facilitation groups. Postponing these important discussions in the contact group will not be helpful. We hasten to say that we do not have time for more conceptual discussions and these discussions must be aimed at developing concrete proposals in the facilitation groups.' (The G77 was referring to the spin-offs as regards facilitation groups.)

The G77 and China also said that throughout the ADP process they have reiterated that not only do developing countries face threats to their achievement of sustainable development, but also the very existence and survival of countries, societies and the ecosystems of our Mother Earth.

'It is for this reason that developing countries have had no choice but to act against climate change, even in the absence of adequate finance, technology and capacity-building support by developed countries, as clearly demonstrated by the communication of INDCs (intended nationally determined contributions) by the majority of developing countries,' said South Africa.

The Group re-emphasised that the objective of the ADP is to enhance action and to promote the full and effective and sustained implementation of the Convention through the strengthening of the multilateral rules-based regime under the Convention. It is not within the ADP's mandate to replace, rewrite or reinterpret the Convention, its principles and provisions, in particular the principles of equity and common but differentiated responsibilities, the statement read. 'These principles and provisions of the Convention must be reflected in the elements of the agreement.' The Group also urged the developed countries to provide enhanced finance, technology development and transfer and capacity-building support to developing countries for ambitious mitigation and adaptation actions.

Calling for equal balance to be accorded to workstream 2, the G77 and China said that addressing the pre-2020 ambition gap is vitally important to a successful outcome of the Paris COP and will lay a solid foundation for enhanced mitigation and adaptation action post-2020. 'The fact is that commitments by developed countries related to the pre-2020 period still remain unrealised, including the delay in ratifying the Doha Amendment and increasing the emission reduction targets of developed countries to at least 25-40% by 2020.'

(The 'Doha amendment' refers to the Kyoto Protocol's second commitment period that required amendments to the Protocol's annex on the emission reduction targets.)

'There is also, as yet, no clarity on how the commitment of developed countries of providing the US$100 billion per year by 2020 to developing countries will be achieved, nor do we have any predictability on continuation of the provision of finance with clear targets for the post-2020 period,' the statement read.

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Hollande Calls for 'Universal, Differentiated and Binding' Agreement, Highlights Historical Responsibility

1 December, Paris (Hilary Chiew) – French President Francoise Hollande said the agreement from the Paris climate talks can be universal, differentiated and binding where developed countries must assume their historical responsibility as they are the ones that for years had emitted the most greenhouse gases, while emerging economies must accelerate their economic transition, and developing countries must be supported to adapt to the impacts of climate change.

Hollande also said that accordingly, finance needs to be freed up for technology transfer, stressing that in Copenhagen the objective of US$100 billion was set but now in Paris financial resources must be freed up with guarantees on their sources and availability (for developing countries).

Hollande had presided over the opening of the Leader's Event segment on the first day of the 21st meeting of the Conference of the Parties (COP21) to the United Nations Framework Convention on Climate Change (UNFCCC) that is taking place from 30 November to 11 December.

He also highlighted the links between the effects of climate change on the poorest countries that are least responsible for climate change, causing conflicts and mass migration.

Coming close on the heels of the 13 November Paris attacks and the migration crisis in European countries, Hollande said what is essentially at stake at the Paris climate talks is peace and urged countries to act in the name of climate justice.

'I am not choosing the fight between terrorism and the fight against global warming. These are two major challenges that we must overcome. We must leave our children a world free of terror but also a planet free of disasters … a viable and liveable planet,' he said.

'No countries or regions are spared the event of climate change but how can we accept that it is the poorest countries with the lowest greenhouse gas emission that are the most vulnerable and they are even further affected?' he asked.

'Therefore, it is in the name of climate justice that I am speaking before you and in that name we must act. We need to wake up to the severity of challenges brought to the world,' stressed Hollande.

He said climate change brings conflicts just like clouds bring storms, causing migration and refugees to take flight, alluding to the fact that States that are no longer able to meet basic needs of their population are faced with conflicts where people are clashing over increasingly scarce resources like food and water, resulting in many being forced to migrate.

Describing the day as historic where 150 Heads of State and Government and thousands of delegates had gathered for the COP, Hollande said it is a recognition that at stake is the future of the planet and lives.

He expressed gratitude on behalf of the French people for the show of support in the aftermath of the terrorist attacks, stressing that the tragic event 'forced us to focus on what is important' and that 'we do not have the right to disappoint as billions of human beings are watching us now'.

He set out three conditions for the success of the Paris COP.

First, the need to determine and sketch out a credible path allowing for limiting global warming to below 2°C or 1.5°C if possible. To be sure of being on the right path, Hollande said there is a need to provide for regular assessment of progress with a revision mechanism that corresponds to a five-year cycle.

Secondly, the response to that challenge requires solidarity of all States, and no State can abstain from its commitment even if there is a differentiation mechanism that takes into account the different levels of development. Stressing that no

territories should be left alone to combat climate change and he wanted to be the voice of the vulnerable countries, Hollande said the agreement can be universal, differentiated and binding.

With regard to finance for technology, Hollande said that Copenhagen had set the US$100 billion a year by 2020 objective, and now in Paris financial resources should be freed up with guarantees on their sources and availability (for developing countries).

Thirdly, all actors of society, State and non-State actors, who contribute to forming the global public mindset must understand that things have changed and they have to start moving.

Secretary-General of the United Nations, Ban Ki Moon, said Parties must take advantage of the political momentum presented by the presence of the 150 leaders and he urged the leaders to instruct their ministers and negotiators to choose the path of compromise, consensus and if necessary flexibilities.

He said Paris must mark a turning point and build a durable climate regime with clear rules that all countries can follow, noting that the national climate plans submitted so far (referring to the 183 Intended Nationally Determined Contributions) represent close to 90% of global emissions and it is a good start.

'But we need to go faster as the science has made plain that even with 2°C temperature rise, we will have serious consequences,' he added.

Ban said the agreement must be dynamic and able to adapt to changes posed by global economics and without the necessity to renegotiate the commitment continuously. It is desirable that many of the provisions of the agreement can be addressed in a different way without jeopardising collective efforts. He also said that the agreement must preserve the balance between the leading role of developed countries and the growing responsibilities of developing countries according to their resources and level of development.

Ban further said the current ambition level must be the floor and not the ceiling and a five-year cycle (of review) from 2020 is crucial and that all countries must move towards a quantified economy-wide reduction target over time, with flexibilities for developing countries with limited capacity.

'Developed countries must keep promises to mobilise US$100 billion per year by 2020 and the amount should serve as a floor for post-2020 finance commitment. The new agreement must include a single transparency framework for monitoring, reporting and verification of progress. Countries with low capacity must be supported to meet requirement for this new system.'

(According to several observers Ban appeared to mainly reflect the views of developed countries.)

Earlier, at the opening ceremony of the COP21 and the 11th session of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP11), invited royal guest Prince Charles of the United Kingdom said rarely in the human history had so many people placed their trust in the hands of so few.

'Your deliberations will decide the fate of not only those alive today but also generations yet unborn. I can only urge you to think of your grandchildren like I think of mine and those billions of people without voices … those for whom hope is the rarest of sensation, those for whom secured lives is a distant prospect.

'On an increasingly crowded planet, humanity face many threats but none greater than climate change which can magnify every hazard and threaten our ability to feed ourselves, to remain healthy and safe from extreme weather, to manage natural resources that support our economies and to avert humanitarian disaster and mass migration and increasing conflicts.

'In damaging the climate, we become the architect of our own destruction. While the planet can survive the scorching of the earth and rising water, the human race cannot. The absurd thing is that we know what can be done, we know we cannot adapt sufficiently to go on as we are nor can we build ourselves a new atmosphere,' he warned.

Prince Charles said drastic emission reduction can be done with the knowledge, tools and money where only 1.7% of global annual consumption can put us on the low-carbon pathway, noting that governments spent more than a trillion a year on subsidies for energy, agriculture and fisheries rather than using this vast sum to support sustainable energy rather than fossil fuel, deforestation and overexploitation of the sea.

He further lamented that when it comes to climate change, good science is ignored, adding that 'if the planet is a patient, you would have treated her long ago. You have the power to put her on life support. You must surely start the emergency procedure without further procrastination.'

'So today after far too long an interval, you are all here to set us on a road to a saner future. If at last the moment has arrived to take those long-awaited steps to rescue us from impending catastrophe let us pursue that vital goal in a spirit of enlightened and humane collaboration,' he concluded.

Newly-elected President of COP21, French Foreign Affairs Minister Laurent Fabius,

underscored that the Paris COP is a special one as at the end of it, it must fulfil the mandate of the Durban COP (2011) which is to adopt a new protocol, another legal instrument or an outcome with legal force applicable to all Parties of the United Nations Framework Convention on Climate Change (UNFCCC).

'To achieve this, we have just 11 short days before us … in fact, fewer, given the time necessary for some final legal verification and translation into the six UN languages. And we are obliged to succeed,' he said.

He emphasised that the role of the French Presidency and the success of the Paris COP lie on his ability to listen, ensure transparency of the process and Parties' vision for an ambitious agreement and willingness to compromise.

'I should be and will be open to everything you have to say. From the start, I will make sure all points of view are taken into account and all countries are independent countries. I will be impartial and respect all till the end,' Fabius assured.

On transparency of the process, he reiterated that France has no hidden agenda, no secret plan and 'no text in our pockets' and that his presidency will be inclusive and engender trust among Parties. 'I will make sure I am deserving of your trust and I ask you to be frank and tell me on a day-to-day basis where there are still points which need agreement.'

He said the stakes are far too high and the threats to climate change are far too great for a minimalist agreement and he would seek to meet the request for ambition.

Fabius also said there are many options in the draft agreement and the tasks of Parties are to deal with these options until the Co-Chairs of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) submit the draft to him. Following that, he said his objective is to concentrate with heads of state and ministers on the final political points that still need to be determined and work quickly with the support of the UNFCCC secretariat to facilitate convergence.

He noted that success is not yet assured but is within grasp and there are lots of work to do.

'Therefore, it is for us to meet our responsibilities head on so that in the evening of 11 December, we can say to the world that our mission is accomplished,' he concluded.

Executive Secretary of the UNFCCC Christiana Figueres said Paris is now more than ever a beacon of hope for the world. Living up to its title as the city of light, it is lighting the way for betterment of humanity.

"There is no doubt that the global climate agreement that we seek must be part of what Paris has become in the face of adversity and threat of many kinds. Paris must be where the world unite as one … determined to collectively commit ourselves for the common good for global safety and enduring well-being for all.

'The eyes of the world have been on Paris for weeks. Now the eyes of billions of people around the world are on you not just figuratively but literally. You have the opportunity, in fact, the responsibilities to finalise an agreement that will enable the achievement of national climate change goals that deliver the necessary support for the developing world and the catalysing continuous ambition and actions by all. The world is counting on you,' she added.

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Delegates under Pressure as Negotiations Reach Frenzy Mode

Paris, 2 December (Meena Raman and T Ajit) – Negotiations to reach a deal on the Paris agreement are in a frenzy mode, as delegates are under intense pressure to conclude their work by the evening of Thursday, 3 December, to arrive at a revised version of the draft negotiating text, which is to be considered by Parties on Friday, 4 December.

The negotiations are taking place under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) which is packed with several meetings under the contact group, spin-off groups and informal-informal sessions where Parties are engaged in serious negotiations, drafting texts, bridging proposals and narrowing down options that are contained in the current draft text.

Parties have started working till late into the night to arrive at a negotiating text with clearer options for their ministers to consider in the second week of the talks.

Developing country delegations raised concerns to the ADP Co-Chairs, Daniel Reifsnyder (USA) and Ahmed Djoghlaf (Algeria) on Tuesday and Wednesday at the meeting of the contact group about the difficulties they faced, especially by smaller delegations who are unable to cope with the various meetings.

Cuba, reflecting the sentiments of many developing countries at the meeting of the ADP contact group on Wednesday morning, said that its small delegation could not cope with multiple meetings and described the situation as 'chaotic'. It expressed doubts if any successful outcome can be achieved through a 'chaotic process'and called for 'corrective measures'.

Reifsnyder in response said that similar concerns had been expressed by a number of delegations but that Parties are at a difficult time where the work of the ADP must finish by Friday. He added that progress in the spin-offs and informals has been slow with Parties not reaching compromises.

South Africa, speaking for **the G77 and China**, had on Tuesday raised concerns about the scheduling of meetings and about the number of spin-offs being conducted. It wanted the sensitivities of Parties to be taken into account. It also called for cross-cutting issues to be dealt with in the contact group and for the spin-offs to be time-bound.

The ADP contact group will also meet on Wednesday evening (2 December), and Reifsnyder informed Parties that the President of the 21st meeting of the Conference of Parties (COP 21) to the UNFCCC, Laurent Fabius, will be present to assess where Parties are at this juncture of the negotiations.

The spin-offs and informal-informal sessions were closed to observers and convened till late into the night. On observer participation in the spin-off groups, **Malaysia** for the **Like Minded Developing Countries (LMDC)** raised the issue with the Co-Chairs during the contact group. 'There is no spill-over room for the NGOs for the spin-off groups. They play an invaluable role in terms of their timely support, especially to developing countries. We can have bigger rooms for spin-offs,' said Malaysia.

(The open-ended contact group has an overflow room from which observers follow televised proceedings. Even for Parties, only three secondary badges are given to each delegation to go into the contact group.)

Reifsnyder responded that there was no opportunity to televise the spin-off group discussions. 'We can look into the possibilities, but our intention is to have reports back here (in the contact group) so that everybody knows what is happening,' said Reifsnyder.

Various spin-off groups reported back to the contact group and the status of the work in progress is available on the UNFCCC website.

On substance, major differences remain between developed and developing countries on the

various elements of the agreement, especially on the issue of 'differentiation'.

According to sources, developed countries maintained their positions against differentiation between developed and developing countries as reflected under the Convention, and were working to sharpen their options so that this issue will be resolved at the ministerial level.

For example, one developing country delegate said that in the finance informal-informal session, a proposal by the Umbrella Group raised the hackles of developing countries. The proposal presented was as follows: '*As part of a shared mobilization effort, Parties should…enhance the scale and effectiveness of climate finance by mobilizing climate finance from a wide variety of instruments and channels, provide, when in a position to do so, support for developing countries in need of support…*'

'(Developing country negotiators view this proposal as a clear departure from the commitment of developed countries to provide climate finance to developing countries under the UNFCCC.)

'This (proposal) became a key bone of contention' and no advance was made in the negotiations, lamented a developing country negotiator.

Negotiations are expected to continue late into the night on Wednesday and whether more advance will be made in bridging divergent positions remains to be seen.

Meanwhile, in the contact group, the ADP Co-Chairs have, since Tuesday, been facilitating the consideration of the draft decision text which accompanies the draft agreement, relating to the adoption of the agreement and the INDCs. (Further details will follow.)

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Party-driven Process Must be Ensured, Say Developing Countries

Paris, 3 December (Chee Yoke Ling and Hilary Chiew) – The Group of 77 and China made a detailed proposal on moving forward the negotiations for the Paris agreement at a stocktake session of the Contact Group of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) on Wednesday evening (2 December).

South Africa's Ambassador Nozhipo Mxkato-Diseko, speaking on behalf of the Group, expressed concern over the slow and uneven progress of the negotiations, the proliferation of facilitation, informals and spin-off group meetings that take place concurrently on the same issues, as well as inconsistencies in the work approaches of the various groups. The Group's proposal sets out the next steps for a Party-driven process.

The President of the 21st session of the Conference of the Parties (COP21) of the United Nations Framework Convention on Climate Change (UNFCCC), French Foreign Minister Laurent Fabius, attended the stocktake in a packed room that was limited to three negotiators from each delegation. The meeting was televised in an overflow room where observers could join other Party delegates.

Parties agreed to the G77 and China proposal to have a collation text that captures the work done so far, by 8 am today (3 December). This document is now available: '*Draft agreement and draft decision on workstreams 1 and 2 of the Ad Hoc Working Group on the Durban Platform for Enhanced Action – Work of the ADP contact group*'.

Mxkato-Diseko said that this collation text could be considered by the Contact Group at 10 am where a very quick reading should take place. The Group suggested that spin-off groups then work further on the text by dealing with issues in a holistic manner to limit the number of spin-off groups that will work at the same time.

It was further suggested that a second collation of the text refined by spin-off groups be made available on Friday morning (4 December) for a next reading in the Contact Group and further work in spin-off groups.

The G77 and China reiterated its proposal that the Contact Group should address cross-cutting issues, such as differentiation and legal form, as soon as possible in order to unlock consensus in areas where these issues are encountered under the specific elements. The Contact Group also needs to address the many duplications on the same issue across different issues that can only be consistently addressed if we have a holistic view of the text, Mxkato-Diseko stressed.

She conveyed the Group's sense of urgency when she emphasised that the Group's proposal is made 'in the hope that it will assist you (Minister Fabius) in moving our process forward'.

Malaysia on behalf of the Like-Minded Developing Countries (LMDC) stressed that 'We appreciate the deadline but we cannot sacrifice the content of a durable agreement at the altar of expediency. This will affect developing countries deeply and for a long time. While de jure there is inclusiveness and transparency, but de facto there are countries within (the LMDC) that are beginning to feel left out.' Malaysia appealed to the COP21 President to resolve this issue 'so that no one leaves this process with a bad taste in their mouth'.

Following the exchange of Parties' views on the way forward, COP21 President Fabius outlined the Presidency's plan to begin consultations with all negotiating groups on the best way forward on 3 and 4 December. The consultations will be led by two French ambassadors, Philippe Lacoste and Francois Delattre, and former UNFCCC Executive Secretary Michael Zammit Cutajar of Malta, who is Special Adviser to the French Delegation.

Fabius said that the consultations will focus on format, issues, transparency and timeline. Based on those consultations and his assessment, he will then make a proposal on Saturday (5 December) on how to move forward.

(The ADP's spin-off groups are scheduled to complete their work to produce the Paris agreement by 6 pm on Thursday, 3 December followed by the conclusion of the negotiations in the Contact Group by 9 pm of the same day, with 5 December as the target for transmitting the text to the COP. The ADP Co-Chairs are Daniel Reifsnyder of the United States and Ahmed Djoghlaf of Algeria.)

In his opening remarks when the stocktake started, Fabius said that, 'I wanted to join you tonight because I think that it is useful to take stock of where we stand. We are three days after the opening and a bit less than three days before the Co-Chairs hand over the draft text (to the COP).

'Before I deal with the text, I have to fulfil a promise I gave to you … I said to you that we have to determine the mode of work once the ADP closes. I repeated recently that there are no surprises. If we want to be legitimate, this process has to be conducted in a transparent, inclusive and open manner,' he stressed.

He recalled that at the opening of the COP on Monday (30 November) 150 leaders carried clear messages that success is the only option (for the Paris COP). 'We must not lose the momentum,' he said, 'but we must build on that and be faithful to the messages and the moment has arrived for all to implement the political guidance.'

Fabius commended Parties for working hard and some progress been made on some issues, adding however, that, 'we heard repeated sentences from co-facilitators that progress is too slow'. (He was referring to the reports from the facilitators of the spin-off groups made to the Contact Group.)

'Therefore, we need to speed up … ADP has to hand over text with a limited number of issues. What struck me in the different reports is that it is difficult in some areas to fully engage in discussion,' he added.

Fabius stressed that sometimes there is a feeling that some groups are working without real consideration about time limit and expressed concern that new texts that were introduced might not be bridging proposals but ended up with longer text than the previous one, with more options.

In conclusion, he said he would leave it to the Co-Chairs on the working method to achieve the objective but reiterated that the progress was too slow and needed to be accelerated. He expressed confidence that Parties could fulfil the Durban mandate and 'adopt in a timely and orderly manner an ambitious and fair agreement'.

Below are highlights of the views expressed by Parties during the stocktake.

Expressing concern that there is no clarity on the outcome of work, **Mxakato-Diseko speaking for the G77 and China** welcomed the timely opportunity to make an assessment of where we are and to make the necessary changes to accelerate the progress. She registered the Group's concern with the management of the process and with the progress made so far that needed to be addressed.

'We believe that if these are addressed now, we will be in a better position to deliver a strong outcome under the ADP,' she said, adding that 'it is the Group's intention to resolve as many issues as we can, so that we do not create a situation where the ministers need to negotiate with each other. From our perspective, we need to provide texts with clear options to the ministers for them to make the political decisions. Giving them an unwieldy text would be a reflection of a process that would have failed them.'

Mxakato-Diseko said the G77 and China is very concerned with the slow and uneven progress, noting that in some areas, partners do not seem to be willing to engage fully on many issues, maintaining their 'no options' approach which is not conducive to making progress.

'We assume that this is a strategy to escalate as many of the issues to ministers. There seems to be a reluctance by our partners to engage on many of the issues of key concern to the developing countries,' she said.

On the management of the process, she said the proliferation of facilitation, informal and spin-off group meetings that take place concurrently on the same issues, and the multitude of spin-off groups on various aspects of the same subject matter created difficulties for small delegations. She appealed to the COP Presidency, Co-Chairs and the Secretariat to re-look at how meetings are scheduled. (See TWN Paris New Update No. 5: *Delegates under pressure as negotiations reach frenzy mode*.)

With regard to the facilitation and informal groups, she noted that there still appeared to be inconsistencies in approach. The Group, she added, is concerned that the work in some of the groups is not time-bound and too open-ended to ensure a result.

'Some facilitators are apparently allowing new text to be introduced and are referring to old submissions by Parties, whilst others are not. There is a risk that this could lead to a proliferation of new proposals and the text ballooning.

'The G77-China is showing constraint, we need the Presidency to appeal to Parties not to follow this path. We need to streamline the text and reduce options at this time,' Mxakato-Diseko emphasised.

She warned that the fragmentation and simultaneous convening of groups are putting pressure on the transparency and inclusiveness of the process. The limitation of seating in the Contact Group also raises this question (each delegation is allowed three members to be in the room).

Accordingly the Group made the proposal discussed above.

Malaysia speaking for the Like-Minded Developing Countries (LMDC) said as an integral part of the G77 and China, the LMDC supported completely the concerns and proposal by Ambassador Mxakato-Diseko on behalf of the Group.

It said the pace of the negotiations is punishing and hectic, giving the example that in that afternoon alone over the one issue of mitigation there were three meetings at the same time. Stressing that a durable agreement cannot be sacrificed at the altar of expediency, Malaysia appealed to the COP21 Presidency to ensure that no Party leaves the process with 'a bad taste in their mouth'.

Malaysia further reminded the Co-Chairs of the LMDC's earlier request to allow for observers in the spin-off groups where a lot of the work is taking place. It said that the Co-Chairs had promised to deal with a technical fix so that spin-off groups' work can be televised in an overflow room (as is the case with the Contact Group) and this promise should not be looked upon as an empty gesture.

To this, Co-Chair Ahmed Djoghlaf (Algeria) said he would never accept that the ADP will close with a bad taste.

He said further that the ADP should endeavour to finish on Saturday (5 December) and he shared the concern of proliferation of meetings.

'We take this opportunity to convey to all of you especially the small delegations our deep gratitude for your understanding. We heard the G77 and China's request for a compilation and we hope it is not burden for the Secretariat,' said Djoghlaf.

'On the legitimate concern about observers, we had looked at all possibilities but it is impossible. You would have seen that we made a point to hold a Contact Group (meeting) every morning and evening. I have never seen such transparency of negotiations of a legally binding document being televised … everything will continue to be transparent,' he added.

(Many observers familiar with other UN processes in the overflow room were very surprised at Djoghlaf's statement. Those who had participated in the negotiations of the Nagoya Protocol on access and benefit sharing under the Convention on Biological Diversity noted that in that process observers were present in informal meetings. In the case of the ADP, at issue is the transparency of the spin-off groups as the televised proceedings are those of the Contact Group.)

The European Union said prospects for an agreement are very good, alluding to the clear signal from the number of leaders and the more than180 Intended Nationally Determined Contributions (INDCs) as an unprecedented achievement.

Though political will is there, it feared that Parties are struggling to capture the complex agreement in text and that Parties are going into the second week with too many options. It said the very difficult task increases the risk of a short agreement with modest outcome on issues, stressing that the EU wants a strong agreement on all issues but it does not seem like we are on track for a text to be delivered to the President on Friday for political agreement.

Responding to Ambassador Mxakato-Diseko, the EU said, 'From our side, we feel we have engaged constructively. We certainly want a strong outcome on finance. We sometimes found that we have bridging proposals with other groups but we felt lack of engagement. It is incumbent on us to find compromises.'

The EU said it did not hear everything of the proposal of the G77 and China, but it sounded like a helpful step forward. It agreed that compilation text is useful, stressed the role of the co-facilitators, and said that the suggestion for cross-cutting issues to be addressed by the Contact Group was a good one.

Guatemala representing the Independence Alliance of Latin America and the Caribbean (AILAC) said it fully agreed with the production of a compilation text by Thursday morning but would like to go beyond that to ask co-facilitators to prepare bridging text for further work by Parties.

Switzerland in reacting to the G77 and China said sometimes when there is a problem in a partnership, before blaming others, we should look at ourselves in order to strengthen and enhance the partnership.

Each of us has to look at what we can do to speed up the mode of work.

It agreed that the G77 proposal would provide a new text that is clearer with options and that cross-cutting issues could be moved to the Contact Group.

Sudan representing the African Group, in supporting the G77 and China proposal, said it is very important to give more time to cope with the dynamism of the negotiations with multiple spin-off groups.

The Group said it is important to address cross-cutting issues such as differentiation and legal form, and that these are causing difficulties in the

proceedings of the spin-off groups, adding that addressing these will help us unlock consensus.

Norway said a compilation text is a good starting point and supported AILAC's proposal for co-facilitators to prepare bridging text, noting that co-facilitators could identify the landing zones.

'We have two Co-Chairs who know where our wishes are and they could reflect and send a note to the COP Presidency. That could be one way to capture the good sentiments that we cannot capture in the text,' said Norway.

On extending the ADP process beyond Saturday (5 December), Norway expressed caution over opaqueness, and said it is very critical to know who is in charge and when the Presidency will take over.

The Maldives speaking for the Alliance of Small Island States (AOSIS) fully associated with the G77 and China, saying that the Group's proposal is definitely a first step. AOSIS is equally worried about the pace of work and the proliferation of spin-off groups dealing with the same issues, making it difficult for them to engage. The Maldives urged the Co-Chairs and COP Presidency to look into this carefully.

Saudi Arabia speaking for the Arab Group also supported the G77 and China, and said Parties came here prepared to work with the text from October, had engaged and had restrained themselves from adding new insertions and brackets. It recalled that in the October ADP meeting, it was agreed that no new text or brackets should be added in Paris. Though it is the right of Parties to do so, the Group had hoped that this would not happen but 'we see other Parties put in more text and brackets, dividing the different views further and further. This is not healthy for the process, adding more pressure, psychologically and emotionally. We hope to see the intensity of the negotiations lowered and substantive progress in the remaining short period of time.'

The United States agreed that progress is mixed and that it makes sense to have a compilation text in the morning (of 3 December). It agreed to use the insights of the facilitators that were gained from their leadership, to produce bridging proposals and efforts to characterise the options so that over the course of next week these would help in the decisions and solutions to problems that we would like to solve.

In terms of approach, it said there is no time for process fights and we need to engage in substance.

(According to several negotiators, the lack of a credible process and good faith would undermine efforts for a fair agreement. The United States has been inserting considerable new text. Among the most contentious is the proposal of the Umbrella Group, which includes the US, that would turn around the UNFCCC financial commitments of developed countries: '*As part of a shared mobilization effort, Parties should…enhance the scale and effectiveness of climate finance by mobilizing climate finance from a wide variety of instruments and channels, provide, when in a position to do so, support for developing countries in need of support...*'

This would mean that developed countries' commitments are diluted to a 'mobilization effort' and provision of finance will be when they are 'in a position to do so'.)

Mexico expressed concerns about the pace of work especially in mitigation and finance, urging the co-facilitators to help.

In response to Norway's proposal to draw on the wisdom of the Co-Chairs for a reflection note, Ambassador Mxakato-Diseko said 'we don't think that at this stage that will be useful'.

On bridging proposals by co-facilitators, she suggested that they could be captured in a separate document as a tool to assist Parties.

In concluding the stocktake, Co-Chair Djoghlaf congratulated Parties for an intense engagement that was never seen before. He said Parties will have the compilation text at 8 am and the text will reflect the work status as of 9 pm (2 December), and the co-facilitators will assist where they can. The spin-off work will finish at 6 pm and the Contact Group will take stock from 7 pm.

Meanwhile, the COP President's consultations with negotiation groups have begun this morning.

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Developing Country Negotiators Set out Their Views on Paris Agreement

3 December, Paris (T Ajit) – Developing countries outlined their expectations of the Paris agreement at a side event organised by South Centre and Third World Network on 30 November during the ongoing twenty-first session of the Conference of Parties (COP21) to the United Nations Framework Convention on Climate Change in Paris.

The delegates who spoke at the meeting included Juan Hoffmaister, coordinator of adaptation and loss and damage for 134 countries under the Group of 77 and China (G77 and China), Su Wei (head of the Chinese delegation), Ravi Shankar Prasad (Indian delegation) and Gurdial Singh Nijar, spokesperson of the Like Minded Developing Countries (LMDC).

Hoffmaister presented the state of play on adaptation and loss and damage negotiations and also traced the history of how adaptation has been dealt with in the past. The other delegates stressed on the historical responsibility of the developed countries for having caused the problem of climate change and said that the principles and provisions of the Convention should be the bedrock of the Paris agreement. Another common message was that differentiation between developed and developing countries should be reflected in the Paris agreement and decisions.

According to **Su Wei**, it is very important for Paris to reaffirm the very strong message that climate change is an imminent threat to humanity. 'It is very important to recall the causes of this problem. It is because of the historic responsibility and accumulation of greenhouse gases by developed countries in 200 years of industrialisation, but the impact is on all the human beings of the planet.

'We need to make this effort for an international climate regime, for UNFCCC and its Kyoto Protocol and the process we have developed through Bali, Copenhagen, Durban, Lima and Paris. All these decisions have to be implemented effectively. The objective of Paris is to implement the UNFCCC. It has to be guided by the principles and provisions and common but differentiated responsibilities and implement the various commitments. That is the objective to enhance the implementation of the Convention,' he said.

Su Wei said further that Paris is a very critical juncture in the longer process to address the common challenge of climate change. There is a need to speed up efforts and do what we can to enhance actions that will be implemented after 2020.

'We also need to ensure that all the decisions should be implemented, in particular emphasizing the need, urgency for enhancing the pre-2020 implementation, for mitigation, adaptation and means of implementation. Paris needs to resolve the necessary financial support for technology innovation for developing countries,' he added.

On the finance commitment of developed countries, Su Wei said that the US$100 billion a year by 2020 is far from being implemented and that it needs to be done. 'The basic facts do not change. The problem has been caused by developed countries. They need to take their historical responsibility into account and take the lead in reducing greenhouse gases, while also honouring their commitments. Differentiation has to be reflected in both process and final outcome in Paris,' he stressed.

On the Heads of State and Government event, Su Wei said that the presence of 150 world leaders would give a political momentum to speed up and promote negotiations, 'although we recognise there are large differences in the text. After hearing the leaders, the pressure is high on negotiators to find necessary and ambitious solutions here in Paris.'

Responding to questions from the media on China's position on loss and damage and long-term

goal, Su Wei said that China stands with other developing countries on loss and damage and that it will continue to support those issues.

On long-term goal, he said that there is wide acceptance of the temperature target of well below 2°C to address the challenge of climate change. 'What is important for implementing that long-term goal is we need to reflect our determination and common understanding and real actions. What is important for Paris is to set the world on a more sustainable, climate-resilient, low-carbon development path,' he said.

Ravi Shankar Prasad said that India is looking at a just, equitable and ambitious Paris deal. 'We have been very consistent that any outcome must be based on the Convention and has to be based on the principles and provisions of the Convention. In this aspect, we are looking at all aspects of the Durban mandate (mitigation, adaptation, finance, technology, capacity building and transparency). Principles like common but differentiated responsibilities (CBDR) must inform these elements,' said Prasad.

Prasad also said that the developing countries' INDCs (intended nationally determined contributions) are ambitious. 'The level of ambition and kind of action that developing countries projected (through the INDCs) is for all of us to see and in many of the analyses we see from the NGOs they have remarked that the projected actions of developing countries are more ambitious and they are on the right track to combat climate change,' he said.

Prasad also said that while the INDCs are not enough to keep the world on a 2°C trajectory, developed countries must take the lead in these efforts. 'That is one of the starting points. A large number of developing countries have been taking action. The full incremental cost of climate change actions needs to be met by developed countries. And we have come down to figures like US$100 billion (a year),' he said.

Prasad also commented on a recent report by the OECD (Organisation of Economic Cooperation and Development) that claims that US$62 billion (in 2014) has been mobilised. 'We are not amused by the OECD report (claims) ... It is for anyone to see that these are not new, nor additional. These are not over and above ODA (official development assistance) and there is complete lack of clarity about sources and uses of funds.'

Stressing on the importance of pre-2020 action, Prasad said, 'We are very consistent and we want that pre-2020 action must form part of the Paris agreement. We must not let these five years slip by. This must be embedded in Paris. There has to be a revisit mechanism and there has to be amplification of the Kyoto targets. On the means of implementation, the kind of finance, technology and other support that was to be provided needs to be delivered,' he said.

(The second commitment period of the Kyoto Protocol for emissions reduction by developed countries in Annex I of the UNFCCC has yet to enter into force due to failure of major developed countries to ratify the amendment to the Protocol for that purpose.)

Prasad also said that India supports the concept of aggregate global stocktake and how best any gap resulting thereof can be approached.

On the mechanics of what will lead to an agreement in Paris, Prasad said, 'The French (COP) President has said that the agreement must be based on climate justice and we must take into account the historical responsibility of the developed countries. He also said that there has to be a financial mechanism for developing countries from developed countries. If this approach is followed, we should have an agreement.'

Responding to questions, Prasad said that India is very much supportive of loss and damage in the Paris agreement. 'India has a large coastline and we have a large number of inhabited islands. We face similar problems, which the AOSIS (Alliance of Small Island States) also face. We need to properly anchor loss and damage in the agreement,' he said.

On the long-term goal, Prasad said that Parties are aware of what was agreed in Cancun (COP16 in 2010). 'What paths countries choose will be articulated through their INDCs. These INDCs will give a roadmap in terms of the long-term trajectory for the future. We see the panning out of these paths. We are not supportive of any prescriptions of what these growth paths should be because these are nationally determined.'

Prasad further reiterated that historical responsibility is taking into account the entire spectrum. 'It starts from 1850. We are not singling countries here. What individual countries do will be decided by them but the fact that those historically responsible have caused this problem, is indisputable,' said Prasad.

Continuing the conversation further at the side event, **Gurdial Singh Nijar** said that Parties are here to implement the Convention, but there is an attempt to dismantle the fundamental precepts upon which the Convention is based. 'There is an attempt to say that CBDR is something of the past. It does not exist. There are signs that economy-wide targets must be

shifted over to developing countries. This is disturbing and the consequences are serious. There is a debt that is owed,' he stressed.

Explaining attempts to erode differentiation, Nijar said, 'If you look at the provisions, when you look at peaking, developed countries have already peaked. What does that imply? Now it is for developing countries to peak. The atmospheric space has been taken up and now developing countries have to reduce. This means serious consequences for developing countries. If we have to reduce in a drastic way our emissions, we have to cut back in a drastic way the handling of our communities and issues such as food security. Article 2 of the Convention makes it very clear. You are undermining the construct upon which the Convention is based,' he said.

(Article 2 reads: 'The ultimate objective of this Convention and any related legal instruments that the Conference of the Parties may adopt is to achieve, in accordance with the relevant provisions of the Convention, stabilization of greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system. Such a level should be achieved within a time frame sufficient to allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.')

On the importance of means of implementation, Nijar said, 'We have to attend to adaptation. There are extreme weather events. That is why we say there has to be means of implementation, which is diluted in the draft Paris agreement. When there is a catastrophe that results in phenomenal deaths and damage, money has to be diverted for that purpose.'

On technology he said that it is in the hands of the developed countries. 'Under the CBD (Convention on Biological Diversity), there are provisions that IPR (Intellectual Property Rights) must be protected but provided for preferentially or there exist concessional provisions of accessing the IPR, and where necessary the financial mechanism has to fund. Here we have Article 4 of the Convention. Despite that, developing countries have taken on the task of submitting INDCs. Some of them have gone further and have given absolute economy-wide targets,' he said.

(Article 4 operationalises CBDR by setting out the differentiated commitments and obligations of Parties, including the promotion, facilitation and financing of the transfer of, and access to, technology and know-how by developed countries to developing countries.)

Nijar also said that there was no use telling developing countries that the agreement will be durable and let's be on a journey together, when the starting points for developed and developing countries are different. 'This reality has to be embedded,' he stressed, also warning against dividing developing countries with the promise of money. 'We heard money will be given to the LDCs (Least Developed Countries). What is the signal that is being sent, that you will carve out a special group among the developing countries? It is not helpful to draft concepts that are alien to the Convention,' he said.

Hoffmaister commented on the treatment meted out to adaptation, pointing out that adaptation has been the forgotten child of the Convention for a very long time. 'There has been general animosity towards wanting to talk about adaptation and it has often meant that when you talk about adaptation, it means no mitigation. The Convention has been trying to catch up. On paper, we have made great advances, but getting to implement those has been a challenge,' he said.

Planning is an imperative for adaptation, but we cannot stop there, Hoffmaister said, adding that resources and general support for adaptation have been lagging behind. Referring to the Copenhagen Conference of Parties, he said that once a COP session closed without the adaptation group being present there. It is not an issue of whether it is more important than mitigation. We have to do both. We need to start paying a lot of attention to adaptation.

'People being affected are very far away from these tables. They have very few resources to do much. The key thing is we want to know where we are going. To just simply say, enhance your resilience is not enough. We need to know what temperature we are adapting to,' he said.

On what is key for adaptation in the Paris agreement, Hoffmaister stressed on the importance of the Cancun Adaptation Framework and the need to anchor existing institutions in the agreement.

'Given the fact that we have moved so little in this process, we want to make sure we don't erode some of the things we have achieved in the Cancun Adaptation Framework. It contains some remarkable elements. It is helpful to orient global action to adaptation. We are trying to build on so that this agreement will be a plus version of that framework,' he said.

Hoffmaister also said that there is a need to go beyond cooperation. There is no choice but to adapt. For adaptation to be left under the multilateral process as a matter of cooperation is simply

unacceptable. 'We are doing a lot despite limited resources. We have seen this through the INDCs. An incredible number of countries have presented information on adaptation; that should tell us something.

'With the recognition that we need to have assurances that we will communicate that information, that we will be part of the regime, that we won't be forced to deal with a whole new framework. Countries should have the flexibility to have an adaptation component in INDCs or NAPS (national adaptation plans) or whether they want to communicate what they do,' he said.

Hoffmaister also commented on the meagre support given to adaptation. 'Support for adaptation has been lagging behind. Of the current climate flows, 11-18% flows to adaptation. It is quite an issue. We are seeing a lot of reluctance to take more concrete steps to ensure the 50-50 balance between allocation to mitigation and adaptation becomes reality,' he said.

'On institutions, we want them to continue,' said Hoffmaister. 'We want assurances of that in the agreement. The LDC Expert group for instance has played a vital role. It finds itself in a humiliating position of justifying its existence every three years. We are tired of that. We want to give leadership to the Adaptation Committee and recognise its role. The role of the Green Climate Fund will help us stay true to the agreement,' he said.

On loss and damage, Hoffmaister said that the G77 and China is truly committed and is speaking with one voice. 'Not recognising loss and damage in this agreement is the equivalent of following the path of climate denial. We want to see a mechanism that will evolve, a mechanism that addresses some of the issues that are in the frontlines such as permanent and irreversible losses,' he said.

'There are certain things you cannot adapt to. When your island is under water, when aquifers suffer from saline intrusion, there is nothing you can do. There are slow-onset events. We need something to help us address permanent and irreversible losses,' he stressed. Hoffmaister also said that the world would have to deal with the new notion of environmental refugees as a consequence. 'We are not prepared to cope with internal displacement. We are not willing to cope with social destabilisation,' he said.

Also present at the side-event as speaker was Mariama Williams of South Centre, an intergovernmental organisation based in Geneva, who presented her analysis of the OECD report. She pointed to problems such as developed countries not wanting to have a proper definition of climate finance and that they should not be diverting ODA as climate finance. 'How do you count loans as climate finance?' she asked.

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Adaptation Fund 'in Danger'; Kyoto Protocol in Bleak State

Paris, 4 December (Marjorie Williams) – While attention at the ongoing climate talks is focused on a 'new Paris agreement', the state of the Kyoto Protocol of the United Nations Framework Convention on Climate Change (UNFCCC) and its implemention entities is bleak.

Parties at the ongoing eleventh session of the UNFCCC Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol (CMP11) were informed of the perilous state of the Adaptation Fund, which is facing serious challenges of sustainability, adequacy and predictability of funding due to challenges in the carbon market and the voluntary contributions by developed countries. The Fund is 'in danger', according to the CMP11 Vice-President.

The systemic failure of the carbon market also posed serious challenges to the Clean Development Mechanism (CDM), which has had to reduce its operations by one-third and lay off 15 staff members.

Parties were also apprised of the dismal status of the ratification of the Doha Amendment to the Kyoto Protocol: as of 30 November only 55 acceptance instruments were deposited with the depository leaving 89 instruments of acceptance outstanding for the coming into force of the second commitment period of emissions reduction under the Protocol.

All these emerged at the CMP11 meeting on 2 December.

Consequences of carbon market failure

Adaptation Fund in danger: The Adaptation Fund, according to the report presented to the CMP by the Adaptation Fund Board President, allocated US$321 million which benefitted over three million women, men and children in developing countries but is now, in the words of the CMP Vice-President 'in danger and must be saved'.

This remark was in response to the presentation of the report of the Adaptation Fund Board under agenda item 7 of the CMP11. The Fund faces the challenge of sustainability due to the collapse in the carbon market and lack of funding by developed countries. The Fund, which is in high demand, particularly for its readiness funding, was recently independently evaluated and lauded for its pioneering work on direct access.

The independent evaluation praised the Fund for delivering on its work and making an essential contribution to adaptation activities. The Fund was also cited as a learning institution, whose approach is in line with the latest thinking and which has made major advances in climate finance and works coherently with UNFCCC guidelines and national adaptation plans.

The Fund's Board has set a goal of mobilising US$160 million for the period 1 January 2014-31 December 2015, but remains US$78 million short of target. It has been determined that the Fund requires about US$8 million per year to ensure sustainability.

Recently, Luxembourg and Sweden made pledges but this is not sufficient for sustainability. Thus the Adaptation Fund Board is seeking a COP decision/mandate for formal linkages with the Green Climate Fund (GCF) possibly linked to paragraphs 3334 of the Governing Instrument of the GCF.

A draft decision presented in Annex 1 of the report of the Adaptation Fund focused attention of the COP and Annex I Parties on measures for the diversification of revenue stream of the Fund.

In concluding the agenda item on the report, the Vice-President established a Contact Group co-chaired by Richard Mungi of Tanzania and Herman Sips of the Netherlands to work on the request to explore operational linkages between the Adaptation Fund and the GCF. The Contact Group will work until 9 December.

Staff lay-off at the CDM: Item 4 of the CMP11 agenda dealt with the CDM that is now in its 14th year of operation.

In the discussion of the *Annual report of the Executive Board of the clean development mechanism to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol*, it was noted that the CDM is in a bad state of affairs with the Executive Body of the entity forced to reduce its programme by one-third including the laying-off of 15 staffers, due to the continuing disastrous state of the carbon market.

The deteriorating status of the carbon market and low level of use by Parties have led to low demand and low prices for the certified emission reductions (CERs) produced by CDM-registered project activities and programmes of activities. As a result, the Executive Board has tried to increase demand with measures such as the launch of an online platform for the voluntary cancellation of CERs.

[In Doha at COP18, the European Union announced that it would prioritise CDM projects for Least Developed Countries (LDCs) and Small Island Developing States (SIDS) due to the geographic imbalance in the distribution of CDM projects. CDM projects naturally are drawn to locations with high mitigation activities, which is not the case for LDCs, SIDS and most African countries. Observers have remarked that the EU's announcement may have turned out to be gratuitous, as SIDS, LDCs and African states will not benefit from a declining carbon market.

Many civil society organisations have also remarked that reliance on the carbon market is fraught with challenges and thus there should be more caution with over-expectations of carbon markets as a solution to financing activities to address the climate challenge.]

Challenges to increasing Annex I mitigation ambition in pre-2020 period

Under agenda item 2(e) on *Status of ratification of the Doha Amendment to the Kyoto Protocol* of the CMP11 agenda, it was noted that there are 192 members to the Protocol and 144 are needed for the official implementation of the Doha Amendment. But with less than 50% of Parties having ratified the Doha Amendment, things are looking extremely dismal for mitigation ambition in the pre-2020 period. This state of affairs led to the call by the Vice-President of CMP11 for the ratification as soon as possible.

In a related agenda item 8 on *Report on High Level Ministerial Roundtable on increased ambition of Kyoto Protocol Commitments*, China battled alone for the formation of a Contact Group to work further on the issue and to have concrete results that would raise the ambition of the pre-2020 pledges/targets of Annex I Parties (developed countries and countries with economies in transition). Arguing that the Kyoto Protocol is an important part of the Durban Package, China fought to overcome the objection of the European Union (supported by Australia and Norway) to the Contact Group.

(Under the Durban Package, the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) comprises two workstreams: workstream 1 on 'a protocol, another legal instrument or an agreed outcome with legal force' that will enter into force for the post-2020 period, and workstream 2 on a decision for pre-2020 climate actions.)

Though the CMP11 Vice-President initially ruled in favour of the Contact Group, the EU subsequently raised objection to its establishment, arguing that the process has ended and that the CMP plenary should simply take note of the report without further consideration.

After China's strong insistence, the Vice-President proposed that Paul Watkins of France lead an informal consultation to find a way forward.

Many observers in the room commented on the lack of responsiveness to the issue of the Kyoto Protocol and increasing the pre-2020 ambition by the numerous African and SIDS delegates in the room, though the Protocol had been such a strong rallying cry for the Africa Group, the LDCs and AOSIS in previous years.

(Edited by Chee Yoke Ling)

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G77 Frustrated at Refusal of Developed Countries to Negotiate Key Issues

Paris, 4 December (Chee Yoke Ling and Meena Raman) – The Group of 77 and China are deeply frustrated over the refusal of some developed countries to engage in negotiations of the Paris agreement on the issues of importance for developing countries. They also complained that negotiations on several key issues were being conducted in bad faith.

These concerns were expressed at a press conference in the afternoon of Thursday (3 December) convened by the Group and at the contact group meeting of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) held in the evening of the same day.

At the press conference, Ambassador Nozipho Mxakato-Diseko of South Africa, speaking as Chairperson of the Group, provided her impressions on the status of ongoing negotiations of a legal agreement and key decisions in Paris.

'It is impossible for our Group to understand why certain countries are refusing to engage in the negotiations on some of the most important issues that would empower developing countries to cope with climate change and to put forward their best effort to contribute to the global response.'

She pointed to the fact that the text that is currently being discussed is littered with 'no text options' on precisely the areas that are most relevant to empowering action by developing countries, namely means of implementation support for developing countries (financial resources, technology transfer and capacity building), adaptation, loss and damage and response measures.

She informed the media gathering that the G77 and China has therefore decided 'to convene urgent bilateral meetings with the Parties concerned to convey our concerns and to impress upon them the need to enter the negotiations on these issues and to remove all their "no text" proposals'.

Meanwhile, at the Thursday evening ADP contact group stocktake session, the continued refusal of some developed countries to engage on crucial issues of vital importance to developing countries was brought to the open, creating a crisis in the negotiations as regards adaptation.

Juan Hoffmaister (Bolivia), who is the G77 and China coordinator for adaptation and loss and damage, expressed profound disappointment over what he saw as 'bad faith negotiating'. He explained that in the spin-off group, despite working very hard to bridge proposals between developed and developing countries, the G77 and China 'was misled'. 'Every paragraph of our proposals was rejected and in some instances, old text from the ADP session in June were being reinserted.'

On adaptation finance and support, Hoffmaister lamented that texts were put in brackets and the G77 was told that the issue will be dealt with elsewhere. When Parties were negotiating the section on adaptation finance, the option of having 'no text' on the issue was inserted by a developed country.

(According to several sources, the United States and Australia were responsible for bracketing 'support' in the draft article on adaptation.)

Hoffmaister expressed frustration that this stance was most 'discouraging' and made conditions hard for engagement and amounted to 'bad faith'. He said it appeared that there was little desire for developed countries to address the concerns of the poorest and most vulnerable in the process and that this was not right.

Tuvalu, speaking for **the Least Developed Countries** at the ADP session, said that Parties had yet to discuss the issue of loss and damage and expressed fear that what was happening in the negotiations on adaptation showed that adaptation was being held 'hostage' to the issue of loss and damage.

Malaysia, for **the Like-Minded Developing Countries (LMDC)**, echoed the concerns raised and said that on all issues of importance to developing countries, there are options by developed countries for no texts. On issues of importance to developed countries such as in mitigation, there has been engagement. The LMDC said that 'we will not allow the early harvesting of matters' and urged the ADP Co-Chairs and the COP Presidency to ensure 'parity in the pace of negotiations and for a stepwise approach'.

The European Union, in response to concerns raised by developing countries at the ADP contact group, said that it had shown flexibility and had made a large number of bridging proposals which represented compromises. It also expressed concerns that developing countries had also presented 'no text' options on issues of importance to the EU and there was no issue about early harvests. It urged Parties not to get into 'tit-for tat' negotiations.

(An examination of the text shows that the 'no text' options of developing countries have been on the table from the beginning, and it is several developed countries that are at this late stage inserting their 'no text' option.)

At the conclusion of the ADP contact group meeting, the ADP Co-Chairs proposed that the compilation and streamlined text (of the work by Parties which were agreed to in the spin-offs) will be provided to Parties in the morning of Friday, 4 December and the co-facilitators will also present proposals for clear options that will be reflected in a separate document.

G77 and China press conference

At the press conference earlier in the day, Ambassador Nozipho Mxakato-Diseko sounded the alarm that some developed countries are attacking the core principles of the United Nations Framework Convention on Climate Change (UNFCCC), such as equity, historical responsibility and differentiation of action and support.

Stressing that failure in Paris is not an option for the members of the Group, she expressed strong concerns that the Durban mandate for the negotiations 'is not being respected by all Parties and we are witnessing repeated attempts by some developed countries to rewrite or reinterpret the Convention'.

Mxakato-Diseko said that 'We have now entered the last few days of a four-year long negotiation process that began at the Durban COP in 2011,' stressing that 'The purpose of this negotiation process … is to enhance action under the existing Convention.'

She expressed confidence in achieving this objective, underscoring that, 'This confidence in a successful outcome to the Paris Climate Change conference is based on the reality that failure is not an option for our members for whom climate change is an issue of vital importance, or in the case of our low-lying islands a matter of national survival. It is also firmly based on the encouraging and inspiring messages we heard from the unprecedented gathering of world leaders on the opening day of this meeting.'

'However,' said Mxakato-Diseko, 'I also need to convey to you that members of the Group of 77 and China are well aware of the challenges we face and that there are concerns over both the process and the substance in these negotiations. We have intervened as a Group on many occasions this year and at this conference to try to adjust the process and to speed up the negotiations. We have taken a leadership role in the hopes of securing the shared objectives of all Parties.'

She went on to explain that the basis of the concern of the G77 and China is that 'the Durban mandate is not being respected by all Parties and we are witnessing repeated attempts by some developed countries to rewrite or reinterpret the Convention. They are attacking the Convention's core principles, such as equity, historical responsibility and differentiation of action and support.'

Mxakato-Diseko said further that, 'The climate change regime is based on the need for developed countries to lead and all developing countries to undertake actions with empowering support. This basic tenant is as relevant today as it was when the Convention was adopted in 1992. This is because even after all these years all our members face pressing socio-economic challenges and acute vulnerability to climate change.

'Despite the considerable development gains we have made in the short time since decolonisation, none of us can truly say that we have achieved the status of being fully developed – a privilege our negotiating partners have enjoyed for a considerable period of time.'

She emphasised that 'It was in recognition of this unchanged reality, as well as the equally important need to unlock the mitigation potential of developing countries, that the Durban agreement was premised on three equally important and mutually dependent pillars, namely: 1) developed countries should honour their existing commitments under the Convention; 2) a second commitment period to the Kyoto Protocol should enter into force; and 3) a new

legal instrument would be adopted under the Convention that is applicable to all Parties.'

According to Mxakato-Diseko, 'The Durban agreement was historic because it unblocked an impasse that had hampered action on climate change for many years. It offered a consensus on the way forward that would balance the interests of developed and developing countries and achieve the objective of the Convention to stabilise greenhouse gas concentrations in order to limit dangerous climate change within a timeframe to allow ecosystems to adapt.'

Moving on to the context of the current negotiations as these reach their final stage, she said that 'with only a few exceptions, developed countries have neither honoured their existing commitments, nor even provided a clear roadmap on how they intend to do so in the remaining years before 2020. They are silent on the support they will provide post-2020.'

(The ADP has two workstreams: workstream 1 is tasked to produce 'a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties' to apply post-2020; while workstream 2 is tasked to produce decisions to enhance pre-2020 actions, especially raising the level of ambition of developed countries.)

'The leadership we were all counting on has not been translated into action on the ground and the second commitment period of the Kyoto Protocol has also not yet entered into force,' said Mxakato-Diseko.

She further stressed that, 'This is not a mere political statement, it is a reflection of a harsh reality that many developing countries have not received the support they require and are entitled to receive under a legal agreement (the UNFCCC) to help them cope with the calamities caused by a rapidly changing climate that are occurring with increased frequency and severity. All too often we have had to respond to crises without the assistance of developed countries by using our own scarce domestic resources or with voluntary help from fellow developing countries through South-South solidarity.'

Mxakato-Diseko also said, 'There are direct implications of non-compliance with climate change commitments for basic human rights and environmental integrity. Climate finance and other means of implementation are therefore not regarded by the international community as voluntary charity or ODA (overseas development assistance), but as a legal requirement as they are vital tools for climate action and survival.'

'For its part,' Mxakato-Diseko said, 'the G77 and China remains fully committed to addressing climate change under the UNFCCC. The impressive number of ambitious Intended Nationally Determined Contributions (INDCs) that have been submitted by developing countries to date further testifies to the commitment of developing countries to contribute their fair share. Most of our members have submitted INDCs that include both mitigation and adaptation components and have announced very ambitious pledges, even though no guarantees of support have been forthcoming.'

She concluded by saying that, 'The Group has demonstrated unprecedented unity and has shown leadership in these negotiations, both on process and on substance, as the generator of most of the proposals and negotiating text that are currently under consideration for the Paris Agreement and supporting COP decisions. We intend to continue this constructive role until we secure our shared objectives.'

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Differentiation between Developed and Developing Countries Still Relevant, Say Developing Countries

Paris, 4 December (T Ajit) – The world has not changed since 1992 and differentiation between developed and developing countries continues to be relevant through common but differentiated responsibilities, the bedrock of the United Nations Framework Convention on Climate Change (UNFCCC).

This was the resounding message from several developing countries in a rich exchange on differentiation on 3 December at the contact group of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP).

The contact group saw deep division in views over differentiation and how the Paris agreement should reflect differentiation in each of its elements (mitigation, adaptation, finance, technology, capacity building, transparency).

Developing countries underscored the importance of historical responsibility of the developed countries in causing climate change and called for the agreement to be based on equity and common but differentiated responsibilities (CBDR). Developed countries also said that they are for differentiation, except that it must be reflected in a 'dynamic' manner since the world has changed.

Developing countries gave a strong counter to the argument that the world has changed since 1992 (when the UNFCCC came into existence).

Speaking for the **Like-Minded Developing Countries (LMDC), Malaysia** said some things have not changed. 'Historical responsibility and historical debt has not changed,' it said. Referring to the developed countries, Malaysia said, 'You grew to this level of prosperity because you burnt fossil fuel at an unabated rate. You created that situation which has created this problem for us. You created the problem and now you say that we want you to share – on an equal basis – the responsibility.'

'The division of the world in terms of poor and rich has not changed. We represent half the world. We (the LMDC) have two-thirds of the poor in our part of the world. That has not changed. If this has not changed, we have to look at the Convention, which looks into these realities,' stressed Malaysia.

Continuing with its powerful intervention, Malaysia added, 'You are trying to freeze the development pace of developing countries. This is the message we want to give you. We don't want to persuade you. You won't be persuaded. You talk of countries like India, China. Do people stop industrialisation that meets the needs of the country? Do people stop eating? These are the hard truths. There has been no change in the world.'

Malaysia also said that developed countries were resiling from their commitments. 'You signed on these agreements. You signed on the Convention. It was in 1992. You acknowledged historical responsibility. You acknowledged differentiation. You acknowledged a way out of the situation, but now you are resiling from your obligations. You assumed legally binding obligations, which you have not fulfilled. You took on obligations under the first commitment period of the Kyoto Protocol, but you did not fulfil them. You refused to commit to the second commitment period of the Kyoto Protocol. You committed to the US$100 billion (a year by 2020), but where has the commitment been realised? It has not been realised. When you took on these obligations, the world had not changed, but you say the world has changed now when we want to do the Paris agreement. Is this to deflect the responsibility you took upon yourself?' asked Malaysia.

'You have taken up all that space and asking us as developing countries to reduce emissions to fulfil the remaining space. There are serious consequences; we have to continue with our growth and if we want to do that we have to cut back on industrialisation. We are prepared and committed to do that, but it is conditional upon support. That is differentiation too, especially since there is an

obligation upon the developed countries to provide funds. That is Article 4.7 of the Convention. It has not been fulfilled.'

In response to developed countries' claims that they are pro-differentiation, Malaysia said, 'You are not prepared to take on the obligations. Everywhere, where there is differentiation and means of implementation (in the negotiations text), you have introduced brackets. We see obstructions everywhere. You say developed countries must take the lead, but developed countries bracket this in the text. Means of implementation is always bracketed. Where is the sincerity?'

Malaysia then referred to a recent review of INDCs (Intended Nationally Determined Contributions) by a group of civil society organisations and said, 'CSOs have done a review. It shows that developing countries are doing their fair share, while developed countries are far away from the fair shares from the historical responsibility and equity perspective. You are not even meeting your obligations now. So, we have this situation where we have to meet the obligations.' It called for having the obligations very clear, that there are obligations of different nature and of a different order for developing countries. 'Yes, you determine yourself, but what is the nature of your obligation? This obligation we are going to craft has to be based on equity and historical responsibility,' it emphasised.

Malaysia also raised the issue of observer participation in negotiations that the LMDC has been persisting on since the October Bonn session of the ADP when observers were excluded from spin-off groups. 'That is why we want them (CSOs) to be inside, because they are an invaluable source of assistance, especially to developing countries. But you have for one reason or the other not included them,' said Malaysia to the ADP Co-Chairs.

Malaysia's intervention drew a huge round of applause in an overflow room where the contact group was being televised to observers and government delegates.

Venezuela said it is annoying to hear that the world is not the same and presented arguments to support its statement. 'It is the same world in that it still does not agree on historical responsibility. It is the same world where developing countries lack support on finance from the developed countries. It is the same world where the will to get away from the Convention has not changed. Besides, the needs of developing countries for development have also not changed,' it said.

There is a lack of understanding on the part of the developed countries of developing countries' needs that got the world where it is, said Venezuela adding that the developed countries' lack of engagement had not changed. 'The INDCs show that we will head to 4°C, which does not serve the purpose of the agreement. The purpose is to contain the temperature (rise). We have 17% of the population consuming 80% of the energy. Differentiation is at the core of our right to carbon space to fight poverty and to develop. Equity is about the distribution of the carbon space to develop. The few that ruled the world have consumed what was supposed to be consumed by everyone,' said Venezuela.

Strengthening its case for differentiation, Venezuela said further that this is not an approach for just cooperation. 'This is a binding approach. You are being forced by law to provide support to developing countries for this purpose. This is not about countries in a position to do so,' it said.

(In the negotiations text, the finance section is peppered with terms such as 'countries in a position to do so'. According to some developing countries this dilutes differentiation since the developed countries have a legal commitment to provide means of implementation to developing countries.)

India said that Parties should be cautious with phrases such as 'willing to do so or in a position to do so' because it is difficult to identify with these. 'Plus, in the articulation of annexes, historical responsibility cannot be negated,' it said.

China added that they did not want new ideas such as 'Parties in a position to do so' or 'willing to do so'. 'If you look at the Convention, developed countries are the ones in a position to do so, but they are not willing to do so,' it said.

Developed and developing countries were also divided over how differentiation should be reflected in each of the different elements (mitigation, adaptation, finance, technology, capacity building, transparency) of the agreement.

Developed countries were of the view that for mitigation, there was no need to reflect differentiation as the INDCs had established self-differentiation and countries would take action as per their national circumstances. **The United States** for instance said that in mitigation, the context was nationally determined and no one was telling the other what to do. **New Zealand** added that it did not see the need for differentiation in adaptation, since it is a national issue.

According to the **European Union (EU)**, for mitigation, the agreed concept was self-differentiation, which was implied in the INDCs. It said that the agreement must give a top-down component to the bottom-up approach and countries move towards an economy-wide target over time.

On finance, those in a position should do more than what they are required to do under the Convention, it said. On transparency, the regime had to reflect the different capability of countries, which was why they were in favour of a common system 'with flexibility around the kind of methodologies'. 'It was a common system that reflects different national circumstances,' the EU added.

China counter-responded by saying that the Convention itself contains the principle of CBDR and also reflects the provision through annexes. 'The only way we can reflect the CBDR principle is to implement the Convention by our enhanced actions,' it said, stressing that to anchor and reflect CBDR in the text, we need to reflect CBDR at the very beginning. 'We have to ensure that the purpose of the agreement is to enhance the implementation of the Convention. That's why the LMDC made a very good proposal for the general part, the very famous 2*bis* provision, where we highlight the very important provision of Article 4.7 (of the Convention). We need to reflect Article 4.7 throughout this agreement. We agree differentiation should be treated differently in the different elements of the agreement. That is because in the Convention, we have different provisions for mitigation, adaptation and means of implementation.'

China elaborated that for mitigation, although Parties are doing their INDCs, which are comprehensive, it should be reflected as developed countries and developing countries in different types of commitments. For adaptation, support should come from developed to developing countries. For finance, technology and capacity building, it is important that developed countries commit to provide means of implementation support to the developing countries. 'We cannot accept new phrases such as "Parties willing or able to do so",' said China.

'For transparency, we don't see a common or unified transparency system. Differentiation between developed and developing countries should continue to be there. Flexibility should be with developing countries, not to all Parties. There should be no common principle of general guidance on accounting. On compliance we should have a differentiated compliance regime. The legally binding should not be mitigation centric and it should be legally binding for all the elements. For pre-2020 action, we expect developed countries to take the lead, in particular under the Doha Amendment (on the Kyoto Protocol's second commitment period of emissions reduction) and Bali Action Plan,' China added.

Sudan for the African Group clarified that national circumstances and self-differentiation do not mean the same. 'National circumstance means a Party does what is nationally determined. That should not equate to self-differentiation,' said Sudan.

Highlights of the exchange

Speaking for **the African Group, Sudan** proposed a structure for paragraphs pertaining to obligations by Parties, where articles on mitigation and finance define the level of precision and legal rigour appropriate for developed countries, framed as 'all'. In the same paragraph, provide for the flexibility (in a position/willing/national circumstance) for developing countries. There needs to be further flexibility for Africa, LDCs and SIDS. This is in the context of no backsliding and progression.

It also said that the Group does not find it useful to engage in a toxic discussion on the annexes (of the UNFCCC). 'Let's leave them as they are. The solution we are looking for is not doing away with the annexes, but in implementing the annexes. Since the agreement is under the Convention, its principles and provisions apply. A world with no classification will not keep the world safe,' it stressed.

Sudan also said that national circumstances and self-differentiation do not mean the same. National circumstance means a Party does what is nationally determined. That should not equate to self-differentiation.

Speaking for the Least Developed Countries (LDCs), Tuvalu said words such as 'those in a position to do so' would allow evolution in the thinking. It called for dividing the world into developed countries and those willing to do so, while recognising the special circumstances of LDCs. It said it had problems with self-differentiation in mitigation and called for higher standards for the developed countries. It also said that a unified system in transparency would put significant burden on developing countries and that it sees the need for differentiation in finance.

Speaking for the Independent Alliance of Latin American and Caribbean countries (AILAC), Colombia said that since the world will continue to change, there was a need for dynamic differentiation. The agreement should be collective and reflect differentiation in different articles. It said that the preamble should have the language CBDR and respective capabilities, in light of different national circumstances. In mitigation, there is no need for differentiation as it is self-differentiation through INDCs. Adaptation is inherently self-defined. For means of implementation, the agreement could reflect CBDR along with those willing to do so, which could be defined. For transparency, there

was a need for a common but flexible framework for those with capacity needs. It also said that there was no need for differentiation in the global stocktake and called for a common facilitative mechanism.

India said the Convention recognises that developing countries are still growing and their emissions would grow to meet the sustainable development requirements and growth requirements. 'Safeguards are there in the Convention, so when we talk about differentiation, we look at how the Convention has articulated it and whether we can start from there. The first starting point is whatever the Convention has provided for should continue and how it can be enhanced in the Paris agreement,' it said.

Most developing countries have submitted ambitious INDCs and that is a clear reflection of how developing countries are willing to assume a greater responsibility as they evolve in the timeframe, said India. There is no denying the fact that countries are taking more responsibilities, but that does not negate the leadership role of developed countries. Differentiation must apply to all pillars of the ADP. They have been reflected now but the question is our willingness to engage and see how differentiation will apply, it stressed.

The way forward is that Parties start with what is provided for in the Convention and how countries see their responsibilities, India said, adding that, 'We find that the INDCs is the first starting point of how developing countries see their role that they can address combating climate change.' India hoped 'the global stocktake and various mechanisms will help us in ensuring that enhancement of action within the system is possible and it will ensure we are on a better trajectory to tackle climate change'.

China said there is very little money under the (UNFCCC) financial mechanism for developing countries, and that is why we have to do South-South cooperation. 'As the analyses of many of the NGOs point out, our INDCs are much more ambitious than that of developed countries,' it said. 'At this point of time, we don't want new ideas such as "Parties in a position to do so or willing to do so". If you look at the Convention, developed countries are the ones in a position to do so, but they are not willing to do so. What do we do? Put them through a compliance committee? No, the Convention does not talk of a compliance committee. Some Parties are not members of the Kyoto Protocol, which has a compliance committee,' it said.

Saudi Arabia said there is an attempt to change the established fundamental precepts of the Convention. 'CBDR is linked to equity. When we talk of capacity, the measure is not the volume or size. The measure is the pinch, the pain and the price to deliver. How much of the pain you have to go through to adapt to climate change. Developing countries are in dire need to secure sustainable development and eradicate poverty. We need to look at these,' it said.

'Our INDC showed with good faith what we can do. The argument does not hold when you talk about countries in a position to do so. It is as if you are saying that, "We don't trust you. We don't believe your INDCs. You are willing to do more but you did not do more." What kind of argument is that? There are a lot of developing countries that can do something as per their national capacity, and what they can do with support. Provisions for vulnerable countries and the LDCs are well articulated in the Convention. Look at Articles 4.8, 4.9 and 4.10. All these speak to the vulnerability level.'

Referring to the European Union's statement (see below), Saudi Arabia added, 'We have been hearing a lot about decoupling. It has a price. It needs know-how. How can you decouple without support? You want us to go buy from the private sector at the market price so that we pay for the responsibility that you should bear?' it asked.

On finances, Saudi Arabia said, 'Where is support on the table? We have created institutions such as the Standing Committee on Finance and the Green Climate Fund (GCF). What do we have in the GCF? I can tell you exactly where it is headed. The CTCN (Climate Technology Centre Network) is a marketing arm for technologies coming from developed countries. We need to disseminate technologies.'

'We are ready to engage. If you want to operationalise differentiation, let's take INDCs as it is. Do not count on us to fill the gap. It is your responsibility. As far as MRV (measurement, reporting and verification) and transparency is concerned, you have the capacity to do that. Developing countries don't. We cannot live with anything that is intrusive or prescriptive,' said Saudi Arabia.

Algeria said that Parties are guided by the fundamental principles and provisions of the Convention, in particular CBDR and the historical responsibilities of Annex I Parties. Any modification would mean Parties would have to review and adjust previously adopted decisions. 'If we agree on any change, we will need to forget the Convention.'

On progression, Algeria said that in submitting INDCs, non-Annex I Parties have shown their willingness and their shared efforts to combat and respond to climate change. How can we commit to a progression concept when it will be the first time for

our countries to engage in mitigation? How do we know what our economic development and trends will be in 2025? It is risky to put the concept of progression in the agreement. Progression needs to be affirmed for developed countries since they have the experience. For developing countries we need an assessment of how we implement our contributions.

On legal form, Algeria said that it is of the view that they need a legally binding agreement but they would not be comfortable to have a legally binding agreement that contains some issues that are legally binding and some that are not.

On transparency, it said that a very good system of International Assessment and Review for developed countries and International Consultation and Analysis for developing countries had been decided upon and that the process must be given a chance. It is not wise to have a uniform system. The INDCs of many countries are conditioned on receiving finance and technology. Without this it will be very difficult to comply with the INDCs.

Pakistan sought explanation for the number of brackets in the text around the Convention. It is important to address differentiation but let's not do it in a way that changes the meaning and brings in new interpretations (of the Convention).

Brazil said Parties should refrain from repeating CBDR-RC in every paragraph, but that colleagues should not also bracket CBDR-RC in places where it really belongs. Differentiation should not be seen as an ideological issue. It's the type of global problem we face. It's not abstract. There is no incentive for developing countries to increase their ambition. It's not enough to just state the principle of CBDR. It will be worse if the principle is stated and the provisions of the agreement do not reflect that, said Brazil, adding that the agreement should not allow new obligations for developing countries while giving more flexibility to developed countries. We need developed countries to state that they are willing to take the lead but this is bluntly refused each time it is mentioned, it said. This creates insecurity among the developing countries. We are entering a regime where more is expected of us. This is not fair.

Nigeria stressed on differentiation and said countries had different national circumstances. Language such as 'in a position to do so' meant additional obligation on developing countries. We are saying that we are willing to do so if we have the capability to do so.

Kiribati stressed on urgency and said Paris should incorporate justice, equity and urgency and that was the kind of differentiation it was looking at in the agreement.

Mexico said that Parties were building a durable agreement that is different from 1992 and which would be different for decades to come. It said that for finance and provision of support, developed countries should take the lead but that it is fundamental to invite others too. It is important to ensure that all developing countries receive support, and recognise that there are special circumstances for LDCs and SIDS.

The EU said that a lot of countries have decoupled and that establishes that one could develop significantly without adding emissions. It said that the world was highly differentiated and with very different national circumstances. The world has to reflect this difference in the agreement.

The US said it supports an agreement that reflects differentiation and that addressing the issue in an 'intelligent' way would allow Parties to craft an agreement in a durable way. In terms of language, it said it supports CBDR-RC, in light of different national circumstances. The US added that this is intended to say that countries have different contexts and they should be acting with the different contexts in mind. 'We don't intend to backslide or retreat from what we intended to do. We will live up to our obligations and play a leadership role going up to 2020,' it said.

The US also said that bifurcation does not address countries' various circumstances, but it does not require they do more than they can. It said that in mitigation, the context was nationally determined and no one was telling the other what to do. In mitigation, developing countries would be eligible for support for implementing their contributions, it said. There are questions on specific formulation, but that is clear. The LDCs can provide contributions when they can and that is clear.

In transparency, there is provision for flexibility for countries to take into account their capabilities and we will come forward with capacity to help countries.

On finance, it said that it would provide 'robust finance', developing countries would be the recipients and that it was not seeking to change the paradigm. However, it also said that countries 'in a position to do so' did not mean legally binding arrangements for countries to provide finance.

Instead it should be seen as an encouragement and an invitation at best.

New Zealand said the idea of the agreement is to meet the ultimate objective of the Convention and one that is defined by rules and flexibility. It

said there is no need to specify differentiation in mitigation, as the mitigation contributions are nationally determined. It said that it is willing to explore provisions on no backsliding. It also said that the agreement must build in provisions for progression to economy-wide targets. For transparency, all Parties to the agreement would need to report and be reviewed on progress they are making, which had an implicit idea of no backsliding.

It said that while developed countries were not resiling from their obligations and the leadership role they have, 'such support also needs to come from those able and willing to do so'.

Japan said that Annex I alone could not address the challenge of climate change and the system of annexes did not reflect the reality of the present times. It also called for expanding the donor base with respect to finance.

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Smooth Transmission of Text for Agreement – But Far from Consensus

Paris, 7 December (Hilary Chiew and Meena Raman) – Negotiations of the Paris agreement under the United Nations Framework Convention on Climate Change (UNFCCC) have moved to a process under the Presidency of the Conference of Parties.

Four years of work by the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) was formally ended on Saturday, 5 December. The ADP was tasked with producing 'a protocol, another legal instrument or outcome with legal force' under the Convention. However divergences among Parties remain deep so the draft agreement text is far from a consensus stage.

On 5 December the ADP transmitted the text titled 'Draft agreement and draft decision on workstreams 1 and 2 … contained in Annex I' to the Conference of Parties (COP). It also transmitted the text contained in Annex II, the reflections note of the ADP Co-Chairs that reflects the textual suggestions made during the contact group meeting on 4 December. The draft agreement is 21 pages while the accompanying draft decision is 20 pages.

(Workstream 1 worked on the draft agreement for the post-2020 period and an accompanying decision, and workstream 2 worked on pre-2020 action.)

At the COP plenary on Saturday evening, French foreign minister Laurent Fabius, who is the COP21 President, set out the process for the next phase of work, starting on Sunday, 6 December. He proposed to Parties that it will be one single open-ended body to carry out the consultations to make progress of the text of the agreement and to facilitate compromise; the body will come out with a document which will go to the COP for adoption on 11 December respecting strictly all the procedures.

He will preside over this group which is called the Comité de Paris (Paris Committee).

Fabius said that he will convene this committee at least once a day, if necessary more often than that. Ambassador Laurence Tubiana could represent him as necessary and each delegation can be represented there at whatever level they wish.

He said that the draft agreement would be the basis on which Parties will begin work in the COP. He also stressed on inclusion and transparency, saying that the Comité de Paris proceedings will be transmitted to the screen of the conference site so everyone can follow unless the committee will decide to do otherwise.

(Developing countries have been persistently calling for civil society observers to be present in informal meetings or be able to view these on screen. In the COP process proposed by Fabius, only the Comité de Paris will be open for viewing.)

There is considerable work to be done in the next few days but Parties were comfortable with the transmission from the ADP. The controversial Copenhagen COP session in 2009 that did not respect United Nations procedures continues to haunt Parties, and there have been previous COP experiences whereby the Chairs of some working groups had transmitted text 'under their own responsibility' that were not Party-driven text despite protest from Parties. This time in Paris, Parties were assured that what they view as a Party-driven text which is owned by all, with all the positions in place, was transmitted to the COP for further work.

The following Minister-led informal consultations under the Comité de Paris took place from Sunday afternoon (6 December):

- Support: means of implementation (finance, technology, capacity building)
- Ambition, including long-term goals and periodic review

- Differentiation, in particular with regard to litigation, finance and transparency
- Acceleration of pre-2020 action (workstream 2, excluding pre-2020 finance).

According to sources, it was unclear how the process will bridge differences and ensure a Party-driven process. Many in the corridors were wondering who is actually drafting the new text that is supposed to be made available to ministers on Wednesday, 9 December.

Minister-led informal consultations will continue on the support cluster all day today (7 December). Listed in the daily programme are also meetings titled 'Facilitators conducting bilaterals' on all four clusters.

The Comité de Paris will meet in the evening at 7 pm and is expected to shed more light on the clarity of the process. With just a few more days left, there is great anxiety as to whether the outcome will be balanced and acceptable to all.

The COP21 session is meeting from 30 November to 11 December.

Highlights from COP plenary (5 December)

At the COP plenary on Saturday evening, COP21 President Fabius proposed a process for the next phase of work under the Comité de Paris which was accepted by Parties.

In his opening remarks he said that during the short week that began on Sunday (29 November) all Parties had worked enormously to come up with more concise wording to reduce a number of options and as a result there is a new negotiation basis accepted by everyone and which contains many compromise solutions. This draft represents progress but everyone will acknowledge we still need to go into depth and need to make things concrete by Thursday (10 December).

He said we must find the political agreement that we can build on the formula that we all use which is 'ambitious and balanced agreement'.

Fabius said that the Comité de Paris will respect three principles: (1) Nothing will be agreed until everything is agreed; (2) Inclusion of all Parties; (3) The rule that he believes will be 'unprecedented', where proceedings will be transmitted to the screen of the conference site so everyone can follow unless the committee will decide to do otherwise.

He said further that the committee will determine when the text can be transmitted to a review group that will revise the legal points and language, adding that it is essential to have this review carried out so that that text can be finalised within the deadline.

In order to go forward to make headway, Fabius proposed four informal working groups to be set up on the cross-cutting issues from which the results are very important for obtaining agreement. To make swift progress, he said, a number of ministers have been asked on behalf of the Presidency to lead on those topics.

On Monday (7 December) he will open the first meeting of the Comité de Paris and the first facilitators will be able to put forward their first conclusions and after that exercise the political agreement will be translated into concrete text proposal. The committee will ask the facilitators to prepare text that they are responsible for.

To ensure transparency of the entire process, Fabius said, he will have regular check-up on where things stand, there will be opportunity to see where we stand, what progress has been achieved, and can be pragmatic and adapt and have regular stocktaking.

On the group for legal and language, he proposed a main team of 11 representatives, two from each regional group of the UN and one to represent small island developing states, with two Co-Chairs. This group will recommend text to the committee; their deadline will be Thursday; and if accepted their changes will be incorporated into the text which will be submitted to the COP on Friday. Parties were invited to put forward their nominations for this group before Sunday, 5 December.

Fabius stressed in closing that this agreement is something that we simply cannot postpone; there is exceptional momentum for many reasons that we manage to secure here in Paris; while we talk, greenhouse gases are still being emitted so we must succeed and succeed here. He added that it is not a question of the (COP) President on one side and Parties on the other side; we must move in one direction and pull all our efforts in order to succeed.

Parties were then invited to make their statements.

Speaking for the Group of 77 and China (G77China), South African Ambassador Nozhipo Mxakato-Diseko, while acknowledging that the ADP has now concluded its work with a text that is Party-owned and that is now the basis of further negotiations, pointed out that submissions made by members of the Group on missing elements of the draft Paris Outcome were not reflected in the revised document (FCCC/ADP/2015/L6/Rev.1/Add.1).

'We would therefore appreciate it if these proposals could be included in the reflections note and released as a Rev.2 text (of the Paris Outcome)

with those comments and proposals included,' she requested.

She said Parties now enter the next and final phase of work under the guidance of the COP Presidency and the Group is ready to engage, stressing the importance of clarity and predictability of the process.

Acknowledging Minister Fabius' proposal on the way to move forward for the new phase of negotiation, Ambassador Mxakato-Diseko noted that the process, therefore, should be clear and transparent, inclusive and Party-driven.

'The format you suggested is similar to the one followed in Durban, which proved to be a useful format that will enable us to have the much needed and urgent discussion on cross-cutting issues that we have been calling for. These cross-cutting and highly political issues will need Ministerial discussion. We also need a central place where there can be an overview of progress made across all areas.

'We remain open to the Presidency's suggestions how we can use different modalities for different issues. However, we note that the utilisation of facilitation, spin-off and informal, informal groups, although with varying degrees of effectiveness, proved to be useful tools for the development of text and we should use such tools,' she added.

Ministers, she said, must engage on political issues and make the necessary policy decisions. On the basis of these discussions, they should instruct their negotiators to develop text reflecting their instructions.

'As Ministers start working, we must ensure that there are no parallel processes. There cannot be a situation where negotiators and Ministers are working on the same issues at the same time in parallel,' she cautioned.

Underscoring that at this historic moment all Parties will take a significant step forward in the fight against climate change, she said Parties must remain focused on what they agreed in Durban.

'The G77-China wishes to re-emphasise its position that the Paris outcome must be under the Convention and in full accordance with its principles and provisions, in particular the principles of equity and common but differentiated responsibilities and respective capabilities.

'The purpose of the Paris Outcome is to enhance the implementation of the Convention and must not replace, rewrite or reinterpret the Convention and it must also be fully in accordance with the Durban mandate,' she added.

She also said the core elements mandated by the Durban decision (mitigation, adaptation, finance, technology development and transfer, capacity-building and transparency of action and support), as well as loss and damage and response measures must be addressed in a comprehensive and balanced manner, both in the agreement and in the COP decisions.

She further said adaptation and mitigation must receive the same priority. These must be supported by finance, technology development and transfer and capacity-building by developed country Parties on a scale that matches the level of action required to achieve the objective of the Convention as set out in Article 2 of the Convention.

In this regard, Ambassador Mxakato-Diseko said, 'We urge developed country Parties to take the lead through undertaking ambitious emission reduction commitments and providing enhanced finance, technology development and transfer and capacity-building support to developing country Parties for their ambitious mitigation and adaptation actions.'

'We also wish to reiterate our position that a fair and ambitious outcome of our work here in Paris must address both pre-2020 ambition of actions and support, as well as the post-2020 agreement,' she said, adding that the Group is ready to negotiate and work as fast as possible on the basis of the text produced by the ADP.

Malaysia representing the Like-minded Developing Countries (LMDC) responded to the refrain of the Umbrella Group that 'the world has changed' (see Umbrella Group's intervention below) and cautioned that this could jeopardise the success of the Paris COP.

Expressing deep disappointment with the repeat of the refrain in the open plenary, the LMDC spokesperson Professor Gurdial Singh Nijar said the Group looked upon its (negotiating) partners to engage in a spirit of mutual respect for developing countries' concerns.

'Our concerns are real. For that reason, Mr President, we will be placing a great deal of confidence in you to ensure that this refrain that the world has changed … this refrain must be changed because this is very critical to the success of a Paris Accord, Paris Agreement, Paris Protocol and what have you,' he appealed.

Referring to his intervention at the ADP closing plenary in the morning in which he had laid out clear statistics that showed that developing countries are racked by extreme poverty, he said the refrain of 'the world has changed' is intended to change the basis upon which the Convention has been founded, i.e. equity and historical responsibilities.

'I think we are being set upon to change our economic pathway and the way we deal with our poverty eradication. We have extreme poverty. For example, China and India's per capita income is very low. For them not to proceed on the pathway of progress and industrialisation means the per capita income has to be reduced even further.

'We cannot accept starvation as a price for the success of this agreement. I think our partners have to begin to understand that and we had laid forth the statistics and I can provide more and current statistics … we asked that as much as we agree to abide by best-available science in understanding the long-term global goal and individual efforts to deal with climate change, we ask our partners to listen to our concern,' he added.

The LMDC's spokesperson said developing countries have extended their hands and laid out their cards. 'Our pathway will be affected … don't you hear? Don't you read and internalise those statistics? So we appeal once again and hope this has been significantly shown through our conduct in this week, that we are genuine in addressing climate change but at the same time, it has to be done in the context in which the Convention itself is framed.'

He said developing countries have submitted Intended Nationally Determined Contributions (INDCs) and shown that they are prepared to do emission reduction, noting that some have a huge unconditional component and there are conditional components that would require support on the basis of common but differentiated responsibilities.

'My comment is taunted by the fact that some of our partners see it fit in this public fora to say again that the world has changed … yes, the world has changed but not in the way you intended to use it perhaps as a subterfuge to undermine the basic precept of the Convention,' he said, 'We cannot accept that because to accept that is to destroy our society. And that we cannot do.'

He said the Group which represented at least 50% of the world's population is happy to see the COP Presidency take charge, noting that in the short interactions, Minister Fabius has shown himself to be extremely amiable.

'You listen to us and you respond to us. Even in the short accidental meeting that we had in the corridor, you showed yourself to be open and amiable in a fashion that inspires confidence in our group that you will lead us to success,' said Prof. Gurdial.

On the mode of work prescribed by the COP Presidency, he sought clarification if Parties will be making text changes, debate and finalise text up to a point in the informal groups before the text gets to the main group which has been referred as the Paris Committee, the Paris Group and the Central Group at different times (of Minister Fabius' statement) and if these nomenclature or technical terms refer to the same thing.

He asked if there will be further discussion and negotiation of the text when it goes to the Paris Group (Comité de Paris), noting that this is a small but significant matter that requires some reflection and the COP President can clarify it before the start of the process on Sunday (6 December).

He also assured that the LMDC will cooperate entirely as it has done in the past four years and generate as much goodwill as possible.

He recalled that not long ago, there was a great deal of publicity in the press that the Group was not willing to move, adding that the press is controlled by press barons that do not come from the developing countries.

However, he hoped that the COP Presidency has been appraised of the fact that actions speak louder than words, adding that the Group has always tried to engender a spirit of goodwill and participated in actions that urged for the text to be provided and negotiations can begin.

(At the closing plenary of the ADP earlier in the day, Prof. Gurdial urged Parties to look at the best-available social science evidence on whether the world has or has not changed. Citing a UN report, he said inequality among countries has persisted and in some cases amplified. He said that countries and peoples are being left behind … participating at the margin of the global economy. Many developing countries are confined to be trapped in low- or middle-income level.

'In 2010, high-income countries accounted for 16% of the global population that enjoyed 55% of global income. Low-income countries accounting for 1% of global income contained 72% of the global population,' he pointed out.

On absolute per capita income, he said the gap is quite incredible in that the per capita income gap between high-income and low-income countries increased from US$18,000 in 1980 to close to US$32,000 in 2014.

He further said over one billion people continue to live in poverty. Even the foremost developed among the developing countries like Brazil, South Africa and China accounted for 39% of the one billion extreme poor.

Looking at climate change figures, Prof. Gurdial said the carbon space and vulnerability space depict the same figure where countries that are least responsible are the most affected and bear the brunt today like flooding, storm and drought.

He said according to a rating agency analysis of climate vulnerability of nations, North America and Western Europe are least vulnerable but most of South Asia and South-East Asia are highly vulnerable.

'The modern day reality has not changed and yet you urge upon us to bear equal responsibilities in terms of finance and response to climate change.'

Therefore, he said the LMDC suggested that Parties navigate away from this dangerous zone where Parties tried to fit the so-called modern day reality through nice-sounding words like 'Parties in a position to do so' that sound acceptable but have to be in the context of historical responsibilities and equity so Parties can really move ahead to meet this global response in a responsible manner.

'While we speak about the age of unprecedented prosperity, we also speak of unspeakable deprivation around the world and the principle of CBDR as a collective enterprise must remain a bedrock that is the fulcrum upon which the Paris agreement must be based,' he stressed.)

Representing the Alliance of Small Island States, the Maldives is pleased with the ADP text but noted that there is considerable work ahead.

"It has been proven many times in this process that maintaining transparency in the final week is essential. At every point, every Party must feel ownership of the text if we are to succeed.

'Now that we are embarking in political discussion, Ministers must be afforded opportunities to engage with each other as much as possible and ensure that parallel process does not interfere with their engagement,' it cautioned.

It recalled that Parties have the historic opportunity before us but mindful that a chance like this has slipped away before and stressed that effectiveness and fairness must not be sacrificed for the sake of political expediency.

The Paris agreement must be a balanced package that includes a meaningful outcome of workstream 2 and all the six elements of the Durban mandate and that loss and damage is a separate and distinct issue.

It sought clarification on where the orphan issue of adaptation and loss and damage will be addressed. It also wanted to ensure that there is space to discuss the outcome of the 2013-2015 Review which it deemed is appropriate in the context of the ambition discussion, in particular a space to anchor the below 1.5°C goal that many hold so dear.

Sudan speaking for the African Group welcomed the successful conclusion of the ADP which produced a text that is acceptable to all Parties but noted that it is understood that the draft Paris Outcome is not the best text that Parties had hoped for.

However, it is sure that all Parties could appreciate the sensitivity and complexity of the issues involved in this particular text, noting that the Group has some important issues that have been left out but hoped that in the course of negotiation in week two, it will be able to address them.

However, Sudan stressed the need for the process since Durban (COP 2011) to continue to be inclusive, open and transparent and encouraged the COP Presidency to provide further clarification and consult with Parties on the possibility to make further improvement, adding that the Group would remain open and constructive to assist the process for a successful outcome.

'We would like to stress the need for ministers to engage in political issues and provide negotiators to reflect on the agreement and understanding that is reached on the text in an efficient interface between ministers that are considering political issues and negotiators that are addressing the drafting issue while avoiding parallel processes.

'We would also like to reiterate that the Paris Outcome is under the Convention and is to enhance the implementation of the Convention in particular mitigation, adaptation and finance that is key to success in Paris in addition to technology development and transfer, capacity-building and transparency of action and support,' it emphasised.

Saudi Arabia speaking for the Arab Group said Parties are working in a delicate process and the Group endorsed the COP Presidency's vision and seeks his support to maintain balance and parity in the progress of different issues.

'We look forward to your guidance of an inclusive process that all groups of countries count and consultation must include all groups of countries. We need to hear and listen to all Parties,' it said, adding that it hopes that Parties can restrain themselves and refrain from inserting additional text and introduce new concepts.

Guatemala speaking for the Independent Alliance of Latin America and the Caribbean said the draft Paris Outcome contained the positions of all Parties and can be used as a basis to finalise the negotiation for a Paris agreement that is a legally binding instrument and applicable to all.

It also said the next few days are critical and at the same time could be productive of this lengthy process if Parties maintain focus on an ambitious agreement to address the challenges of climate change.

'We would like to appeal to all to work according to the principle of transparency and trust which was reaffirmed by both the Presidencies of Peru (for COP20) and France.

'This is our text and it should be our ability to listen and articulate our needs and national capacities based on a global objective which makes it possible to reach an ambitious, sustainable and legally binding agreement,' it added.

It is pleased with the modality of work outlined by the French Presidency which allows for dealing with the cross-cutting issues throughout the elements of the agreement such as differentiation and financing.

It said a legally binding agreement that points towards achievement of a long-term goal with temperature rise below 2°C are the two key concepts to a climate change regime that is lasting and ambitious to ensure global development that is low in emission and ensures climate resilience.

Representing the Least Developed Countries, Angola regretted that the composition of the open-ended legal and language committee (proposed by the COP Presidency) was decided based on the rule that decided the composition of the bureau of the COP.

It pointed out that it is common practice to include an LDC representativein the committee. (Angola was referring to the 11 representations in the committee which are allocated according to the five UN regions with one representation each from the Annex 1 and non-Annex 1 countries and one representation from small island developing states.)

Nevertheless, it welcomed the proposal on the way forward and the mode of work outlined by the COP Presidency.

China in supporting the statements of both the G77 and China and the LMDC, also supported the statement of LDCs.

It welcomed the ADP Co-Chairs' work in producing a draft Paris Outcome which will be the basis for further negotiation under the COP next week and reiterated its unreserved commitment to work with the COP Presidency and all Parties to reach an equitable, ambitious, comprehensive and balanced agreement under the Convention.

'An ambitious Paris Outcome should not focus solely on mitigation. It should not be a mitigation Paris Agreement but should also address the other important elements in a balanced and comprehensive manner in particular to address the balance between mitigation and adaptation and key issues particularly for developing countries to access the necessary finance, technologies and capacity-building support.

'We support the mode of work suggested by the COP Presidency and believe the work in the following week is crucial for success and that it is fundamental that the negotiation process should be open, transparent, inclusive and Party-driven.

'We emphasise that the Paris Outcome must be under the Convention and be in full accordance with all its principles and provisions in particular the equity and common but differentiated responsibilities and respective capabilities. The purpose of the Paris Outcome is to enhance the full, effective and sustained implementation of the Convention and not to rewrite, renegotiate or reinterpret the Convention,' it added.

China urged developed countries to take the lead in implementing economy-wide quantified emission reduction targets and provide finance, technology development and transfer and capacity-building support to developing countries under the agreement while developing countries will enhance their diversified type of mitigation efforts and adaptation actions.

It also believed that ambition and effectiveness will be achieved with maintaining the difference between developed and developing countries in each element and the Paris Agreement should provide for Parties to regularly prepare, communicate and implement their enhanced commitments and actions according to Article 4 of the Convention.

It further highlighted the need for increasing the pre-2020 ambition by developed countries to build trust for all Parties and called for a strong, comprehensive and meaningful agreement with a view to laying a solid foundation for post-2020 enhanced actions.

The Marshall Islands said it came on a mission to safeguard its future and it wants an ambitious, science-based agreement that gives every country a pathway to survival. To do that, it said the Paris Agreement must deliver five key things.

It must respond to the existential threat facing the most vulnerable by anchoring the 1.5°C temperature goal, noting that the recent review of the long-term goal found that 1.5°C is much safer and still feasible to achieve.

It said a strong, long-term decarbonisation goal towards phasing out fossil fuel and carbon pollution by mid-century is needed. The agreement must have a regular five-year political moment for countries to come forward and ratchet up their ambition in which by 2020, world leaders need to be back at the table to revisit their targets or risk putting the temperature goal out of reach.

It also wants to see a serious reckoning with longer-term and irreversible effect of climate change

in the form of ocean acidification, loss of coral reefs and loss of territories. And finally, we need to see some strong commitment and political assurances on long-term climate finance.

'As powerful as it was at that time, the US$100 billion promised in Copenhagen is now tainted for what some feel as creative accounting and failure to prioritise assistance for the most vulnerable. This has continued to scratch away at the bone of trust so our partners need to quickly put their finance card on the table,' it added.

It called for necessary global action and not to see the negotiation as competition against short-term national interests as Paris is much bigger than that.

It also said while the Durban mandate is to develop a new legal agreement and not to unravel the principle and provision of the Convention, at the same time we are not here to point fingers, lay blame, categorise and divide.

Australia speaking for the Umbrella Group said it stands ready to work with all Parties and offered its full support to the French Presidency to deliver a strong outcome.

It wanted a new agreement that is ambitious and credible with an established strategy to keep global temperature rise below 2°C.

'Let us be clear that we stand by our obligation under the Convention but the world has changed since 1992 and our common approach to address the common challenge of climate change must evolve accordingly.

'As developed countries, we will continue to lead but to address the challenge of climate change we must see all Parties act in consistence with their different national capacity. The Paris Agreement must reflect this … setting a course for all countries to progress in the same direction over time,' it added.

It said the Group recognises many partners' continued needs for climate finance, capacity-building and technology transfer support.

'Our commitment to ensure this support continues to flow is demonstrated by pledges made in recent weeks. We want to underscore the role that sub-national governmens, civil society organisations and businesses play as part of international climate change response,' it further said.

(Concerns are high among many developing countries and observers that developed countries are regressing from their legal commitments under the UNFCCC to provide financial resources and instead are embracing voluntary and unaccountable 'partnerships' with a strong focus on the corporate sector.)

On workstream 2, the Group is hopeful of an outcome to strengthen the link between Parties' activities under the Convention and the actions taking place on the ground.

It is pleased with the ADP in delivering a text that is Party-driven and Party-owned and said that we have before us major political options for ministers to be resolved in week two and assured that it will work with all Parties to find compromises that will secure an ambitious outcome.

It is also hopeful of reaching a positive outcome of negotiation carried over from the subsidiary bodies including on capacity-building, the 2013-2015 Review and Response Measures.

(Edited by Chee Yoke Ling)

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COP21: Great Start, But How Will It End?

As the climate conference in Paris enters its second and final week, can it reach an agreement when so many tough issues remain to be solved?

Paris, 7 December (Martin Khor) – The climate change conference in Paris had a grand start last week, with high-profile speeches from host French President Francois Hollande, US President Barrack Obama, Prince Charles and many other leaders.

Immediately after the opening, the negotiators got down to work and they have not stopped. They realised that their task, to produce the Paris agreement on climate action after 2020, is all important, whatever good rhetoric the political leaders may come up with.

At this half-way mark of the two-week conference, there is no certainty that a final deal can be reached. The conference, known as COP21 (21st Conference of the Parties of the UN Framework Convention on Climate Change), is scheduled to end this Friday but could stretch till Saturday or even Sunday.

The consequences of not reaching an agreement, after all the expectations and the prompting from over 130 heads of government and state in the first two days, would be catastrophic, politically and psychologically.

Paris is touted as the 'last chance' to save the world. Climate change is the biggest threat to humanity's survival. Most leaders gathered at the COP have come to believe this, and certainly the scientists and NGOs who have been pushing the climate agenda for decades.

So the odds are that by hook or by crook a deal will be struck and COP21 will have to produce a Paris Agreement (the core outcome) plus an accompanying Decision to adopt it and other Decisions on a range of issues that do not make it into the Agreement.

And yet the final solutions appear so far away as the nearly 200 official delegations struggle to get their views referred to and their 'red lines' (points that cannot be compromised) respected.

In this second week, the French Foreign Minister Laurent Fabius in his capacity as President of the COP will be taking over the process of running the conference – bridging the remaining differences and finding the final language that everyone can live with.

As usual the United States has set the tone on some of the contentious issues. One of the most complex issues is whether the agreement will be legally binding.

The US team quietly made known that it cannot have a treaty that internationally binds its emissions reduction pledge, otherwise that will have to go to Congress for approval, and it will not approve.

A solution will thus be found that the Paris agreement will be binding as a framework and in procedural matters (including that countries submit pledges that are subject to review), but the actual numbers will be placed in another document and not be subject to being legally binding.

That may be a neat hybrid solution, but it would not fool the world that this is a really legally binding agreement, as the 'nationally determined contributions' of the countries would really be voluntary in nature.

But if the US is to come on board, this is what its domestic politics demands, and in the end everyone will bow to the inevitable.

Another big issue is the finance and technology that the developing countries demand to enable them to switch to a low-carbon economic pathway.

The Chair of the G77 and China, South Africa's Ambassador Nozipho Mxakato-Diseko, said at the opening that 'Nothing under this Convention will be achieved without the provision finance and the

transfer of technology which are crucial elements of the Paris outcome.'

The Group wants a substantial scaling up of finance from the 2020 base level of US$100 billion with a revision upwards every five years, while ensuring that the finance is new and additional, with an equal allocation between adaptation and mitigation.

While French President Francois Hollande in his opening speech had indicated empathy for the developing countries' insistence on finance, other developed countries especially the US do not want anything specific on finance in the core agreement, and especially that developed countries are to be legally bound in providing support.

Being a super sensitive issue, finance is likely to be a make-or-break issue in the final days.

Even more complex and systemic is the contentious matter of 'differentiation'. Both the Chinese President Xi Jinping and Indian Prime Minister Narendra Modi highlighted 'common but differentiated responsibilities' (CBDR) as did many other leaders, but this term is really taboo for the US.

It wants countries to take on similar, not differentiated responsibilities. If the Paris agreement gives up on differentiation, it would really go counter to the Convention and imperil the developing countries.

The foundation for differentiation is that the developed countries have to do more in mitigation as they contributed most of the stock of greenhouse gases in the atmosphere that cause climate change, and they also have to provide funds and technology to the poorer countries.

This has long been accepted, and is structured into various parts of the Convention, and should be so in the Paris agreement. But in recent years the US and its allies have challenged the principle and want the Paris agreement to be different.

This conflict on differentiation was again evident in the first week's negotiations in Paris, especially in mitigation, transparency of actions and even finance.

The need to combine environment and development concerns was explicitly clarified by India. Mr Modi said 300 million had no access to electricity in India which should not be deprived of the right to use its coal, which India has in abundance. Coal is the cheapest energy source.

At the same time India will strive to have 40% renewable energy in its energy mix by 2030, and Modi together with Hollande launched a global alliance of 120 countries to promote solar energy.

Another issue that will go to the wire is 'loss and damage', a concept now recognised but not yet operationalised in the Convention. Developing countries want the Paris agreement to recognise that it is legitimate to support developing countries with funds for rescue and rehabilitation neccessitated by climate-change-related events such as typhoons, heavy rainfall and drought.

This is an emotional issue especially for vulnerable countries. But developed countries do not want to fund 'compensation' for this loss and damage.

These are some of the 'sticky issues' that remain to be solved. The French are in charge this week to find the magic landing zones for these issues. Keep your fingers crossed that in the end a good and fair agreement will be reached. Whether it is adequate to win the fight against climate change is another huge issue, which will no doubt keep the debate going after Paris.

* Martin Khor is the Executive Director of the South Centre.

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Call for Party-driven, Text-based Negotiations for Paris Agreement

Paris, 8 December (T Ajit) – Many developing countries called for Party-driven, text-based negotiations in an open setting during the first meeting of the 'Paris Committee' held on Monday, 7 December.

During the meeting which was held in the evening of Monday, Laurent Fabius, the French Foreign Minister and the UNFCCC's COP21 President, took stock of work of the minister-led informal consultations which began on Sunday, 6 December and outlined the mode of work for the rest of the week.

At the COP plenary on Saturday, 5 December, Parties had agreed that one single open-ended body would be established called the 'Comité de Paris' (Paris Committee), to carry out the consultations among Parties to make progress on the 21-page text for the Paris agreement which was transmitted from the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) and to help facilitate compromise. The Paris Committee will come out with a document which is expected to be adopted by the COP on Friday, 11 December.

During the Paris Committee meeting, Fabius said that the ministers who were appointed as co-facilitators would continue to consult and listen to groups of Parties. 'Work would intensify on 8 December and based on that, the facilitators, supported by the Secretariat and the Presidency, would propose a clean text with fewer options, which the Parties would need to look at collectively,' he added. He reiterated that while there was a need to make headway, he would ensure the process continued to be Party-driven.

In the report back of the minister-led informals, the ministers concerned said that they had sensed a great deal of convergence among Parties on various issues and also informed the Paris Committee that they had conducted several bilateral meetings with Parties and regional groups.

Speaking for **the Like-Minded Developing Countries (LMDC)**, Malaysia said that after the bilateral meetings and the reflections by the co-facilitators, the next stage would be to have a reality check and to ensure, on a group basis (instead of having consultations in bilaterals), that the reflections of the co-facilitators capture the comprehensiveness and balance of the discussions.

Malaysia said that 'we should have a wider group to look at their ideas of convergence and we should move to text-based negotiations or text-based reflections'. It added that the LMDC had made very specific inputs into the text instead of talking conceptually. Malaysia stressed that a great deal of goodwill was being built, which was a good signal for the prospect of concluding work favourably.

(According to sources, the discussions in the minister-led informals have remained at the conceptual level rather than text-based negotiations.)

Cuba said Parties should move to a higher level of consultations and negotiations to avoid delay. Waiting till 9 December (Wednesday) may mean that Parties are racing against the clock. 'It could happen tomorrow (Tuesday) and not in bilateral consultation formats,' said Cuba. It called for more open processes and stressed that that was the only way Parties would come to a collective agreement. It called for the plan of 9 December (of coming out with a text) to be moved to 8 December.

Cautioning against parallel processes, **Venezuela** also stressed there should not be bilateral meetings. Venezuela also sought clarity on when they would get the text and who was drafting the text. Like Cuba, Venezuela also said that the text needs to come out on 8 December. **Egypt** also wanted to know who would draft the text.

Tuvalu sought prior notice with regard to the bilateral meetings. **Georgia** also called for the participation of all the Parties in the process. Speaking for **the Independent Alliance of Latin**

American and Caribbean countries (AILAC), Guatemala said that the INDABA process worked in South Africa and that it would work in Paris. It stressed on the need to find common landing ground.

The Marshall Islands, however, expressed concern about the LMDC proposal and said that they had passed the point for such procedures. It said Parties need to trust their ministers and the Presidency to help deliver an agreement.

Speaking in its national capacity, **South Africa** proposed that textual options must be developed based on ministerial consultations and with the help of the co-facilitators of the ADP. South Africa called for such textual proposals to be discussed in an open-ended forum for the ministers to consider their options by Wednesday, 9 December so that the legal and linguistic committee could complete work by Friday, 11 December.

The European Union said given the complexity, line-by-line negotiation was not feasible. It said that it could not allow process issues, which had been a block at the negotiators' level, to block progress on what the ministers could do.

COP21 President Fabius said that he had heard all the proposals and that they would have to be efficient. He said he would like the drafting to begin at some point and would look for a solution that could be applied to all. He also said that there would be another session of the Paris Committee in the afternoon of 8 December, where further details on the mode of work would be proposed.

Fabius further said that consultations on adaptation and loss and damage, led by ministers from Bolivia and Sweden, would begin on 8 December. He outlined that there would also be facilitations on cooperative mechanisms led by Canada and on forests led by Ecuador. Their co-facilitators' names would be announced soon, he said. A working group on response measures would also be created, Fabius said, adding that the work would be intensifying this week and that he would appoint more facilitators, depending on the need.

Report-back on minister-led informals

Four groups were launched on Saturday, 5 December after the ADP handed over its work to the COP21 Presidency. The four consultation groups were on support (means of implementation – finance, technology development and transfer and capacity building) facilitated by ministers from Gabon and Germany; differentiation, with regard to mitigation, finance and transparency, facilitated by ministers from Brazil and Singapore; ambition, including long-term objective and periodic review, facilitated by ministers from Norway and St Lucia; and pre-2020 action or workstream 2, facilitated by ministers from Gambia and the UK.

While the ministers reported back to the Paris Committee on progress made in the informals, they also said that they had had a number of bilateral meetings with Parties and regional groups. The reports from the minister-led informal consultations are available on the UNFCCC website: http://unfccc.int/meetings/paris_nov_2015/insession/items/9320.php

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New Text for Paris Outcome to be Released

9 December, Paris (Hilary Chiew and Meena Raman) – With just less than three days left to conclude the Paris agreement under the UNFCCC, a new version of the outcome document will be issued by 1 pm today, 9 December.

Outlining the next steps of the open-ended ***Comité de Paris*** **or the Paris Committee** at its second meeting, the COP21 President, French Foreign Minister Laurent Fabius, proposed to reconvene at 5 pm on Wednesday, 9 December to gather Parties' initial reactions.

(On Saturday, 5 December, Parties had agreed that one single open-ended body would be established called the '*Comité de Paris*' to carry out the consultations among Parties to make progress on the text for the Paris agreement [which was transmitted from the Ad Hoc Working Group on the Durban Platform for Enhanced Action] and to help facilitate compromise.)

'After the first exchange, we will immediately organise the necessary consultations, to be held in the evening and until the next day, on pending issues. The objective is to present a final text within the set deadlines for a formal adoption by the COP on Friday 11 December at 6 pm,' he told a packed plenary convened at 7 pm on Tuesday, 8 December.

He said the new version will allow Parties to take a broad view of the balance that needs to be found across all elements and hoped that a significant number of brackets will be removed, noting that a number of political issues will require broader discussions to ensure a coherent result.

Reports-back from the ministerial-led conclusions clearly revealed that divergences continued to remain on the issues of 'differentiation' (on whether and how obligations between developed and developing countries would be differentiated under the new agreement), 'loss and damage' (as to whether there should be any reference to liability and compensation) and pre-2020 actions (related to the accelerated implementation of current commitments of developed countries under the Convention and Kyoto Protocol). [See below for further details.]

The COP 21 President said that he 'will ensure that this cleaner version of the text, to be provided to you at 1 pm tomorrow, is indeed based on the Ad Hoc Working Group of the Durban Platform for Enhanced Actions (ADP) text and respects the balance sought by all Parties'.

'It is on this basis that we will collectively negotiate the final version of the text of the agreement and the decision. It will be an important step in the process, I hope, but of course not yet the final result of the negotiations,' he added.

Minister Fabius further informed that the notification on the open-ended group of legal and linguistic experts has been issued and the secretariat is in the process of receiving nominations from the regional groups for the 11 representatives who will be ready to get to work once the Paris Committee passes the text onto them for their examination.

The group will be jointly chaired by Jimena Nieto Carrasco (Colombia) and Peter Horne (Australia), he said, adding that the mandate of the group is technical and under the authority of the Paris Committee.

'It is not to renegotiate substantive aspects of the text,' he assured.

The proposal was accepted by several negotiating groups and individual Parties who expressed that they looked forward to the cleaner version of the text and the opportunity to assess it.

South Africa speaking for the Group of 77 and China said it looked forward to the text and is of the view that it should be based on the Draft Paris Outcome and the ministerial consultations conducted since Sunday.

'It is important that this text be Party-owned and therefore Parties need to have the opportunity

to assess the text. In this regard, we request that ample time be allowed for regional and negotiating groups to consult on the text before the text can be considered by the Paris Committee.

'We recognise that time is very limited, but we believe that allowing time for proper consultation will in fact save time and facilitate reaching agreement,' stressed Edna Molewa, the South African Minister of Environmental Affairs.

Malaysia representing the Like-minded Developing Countries (LMDC) drew attention to the report of the ministerial consultation on 'acceleration of pre-2020 action (workstream 2) which showed divergence of position and the inclusion of "no provision"'.

Its spokesperson, Prof Gurdial Singh Nijar, warned that the G77-China has participated in this pre-2020 discussion and has put forward provisions that are constructive, hence, the 'no provision' inclusion would have serious implications.

He said the workstream 1 outcome will depend on workstream 2, which is a process that could clearly show what developed countries are doing in meeting their pre-2020 commitment.

'Given the significance, we feel confident that under your leadership … with a nudge or two, you will relax this "no provision" position. We trust and rely on you to conclude workstream 2 that will spell completeness for the Paris Agreement,' he stressed.

He expressed the Group's appreciation of the COP Presidency's efficient responses to its concerns on 'process issues' raised at the 7 December Paris Committee meeting, noting that the consultations are 'largely more transparent and effective and allow more groups to participate effectively'.

Prof Gurdial also pointed out that the clear criteria of transparency, inclusiveness and no surprise set by the COP President were being realised but cautioned that the test of these criteria is at the final critical hours.

'How we carry through these elements for a successful conclusion of the Paris Agreement is the real test. As they say, the test of pudding lies in the eating,' said Prof Gurdial, adding that that is the Group's unequivocal expectation of the process.

Representing the Alliance of Small Island States (AOSIS), the Maldives said the time is ripe to produce a new version of the text based on the ADP draft Paris Outcome. In doing so, it urged the COP Presidency to take into account the special circumstances and special needs of the small island developing states.

It also stressed the importance to give Parties the opportunity to reflect on the new text and allow for sufficient time so that everyone is confident with the final outcome, noting that it is also confident that transparency and inclusiveness will be maintained in the final days.

Angola speaking for the Least Developed Countries (LDCs) highlighted 'the need to keep in mind expression temperature goal that is responding to what science recommends', adding that 'it is heartening to know that there is emerging consensus on that target'.

It expressed its full support for a cleaner version of the text and looked forward to aligning it further to achieve an outcome in Paris.

China said it will study the cleaner text (when it is made available) and would table its constructive proposals for a successful conclusion and agreement.

The European Union supported the process forward presented by the COP Presidency, noting that the informal consultations were conducted in a transparent and inclusive fashion and that Parties must maximise use of remaining time for an ambitious agreement.

Australia speaking for the Umbrella Group supported and endorsed the plan for the new text and looked forward to delivering an ambitious, clear and implementable agreement.

Report-back on minister-led informals

In the report-back from the ministerial-led consultations on the issue of 'differentiation' led by Izabella Monica Vieira Teixeira, Minister of the Environment of Brazil and Vivian Balakrishnan, Minister of Foreign Affairs of Singapore, Balakrishnan said that 'differentiation is a key political issue that pervades the entire structure of the proposed agreement. We have been having a series of bilateral consultations throughout the day and it is very clear that the fault lines remain. We will be working with the Presidency and secretariat tonight to crystallise in the text that will be presented tomorrow the fault lines and leave the choice to the Parties,' he said. He added that 'Parties are not yet ready to place their final positions on the table.'

In their report-back on 'adaptation and loss and damage', Swedish Minister of Climate and Environment, Åsa Romson, and René Orellana, Minister for Planning for Development, Bolivia reported that in terms of 'loss and damage' (Article 5 of the agreement), 'there is no clear landing ground yet, as liability and compensation are red lines for Parties. How to strengthen institutional arrangements for addressing loss and damage is also being deliberated.'

They also said that there are 'a number of cross-cutting outstanding issues where we believe resolution in other parts of the agreement could facilitate finding consensus, including for example, references to a temperature goal, vulnerability, or to common but differentiated responsibilities and respective capabilities'.

On pre-2020 actions, Amber Rudd, Secretary of State for Energy and Climate Change, Department of Energy and Climate Change of the United Kingdom and Pa Ousman Jarju, Minister of Environment, Climate Change, Water, Forestry and Wildlife of the Gambia, reported that on the issue of accelerated implementation, 'Parties engaged further on this question, however there remains a divergence of positions, and some Parties noted that their position was to have no provision on this matter.'

The reports from the minister-led consultations are available on the UNFCCC's website: http://unfccc.int/meetings/paris_nov_2015/insession/items/9320.php

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New Revised Text for Paris Outcome to Be Issued

Paris, 10 December (Meena Raman and Hilary Chiew) – A new revised text on the Paris agreement will be released for the consideration of Parties sometime late afternoon of Thursday, 10 December.

This was made known to Parties by the President of the 21st meeting of the Conference of Parties (COP21) to the United Nations Framework Convention on Climate Change (UNFCCC).

COP 21 President, French Foreign Minister Laurent Fabius, announced his intention to issue a new revised text at the close of open-ended informal consultations that started at midnight on Wednesday and went on till 5 am. The consultations were closed to observers.

As of the time of writing, the new text is yet to be out. Parties are waiting anxiously to see how the divergent positions over very key issues such as differentiation, ambition (on the long-term global goal), mitigation, finance and loss and damage are going to be reflected in the new text.

With just a little more than a day left before COP 21 is expected to conclude, there is a race against time. Thus far, the French Presidency has been getting kudos from all Parties about the transparency in the process with a Party-driven approach.

However, concerns are mounting if this will remain so, as the clock ticks and the French have to deliver a successful outcome on Friday, 11 December.

Earlier in the day, hard copies of an initial revised version of the draft Paris Outcome was distributed to Parties in the plenary hall following a short meeting of the Paris Committee at 3 pm (two hours after the scheduled time of 1pm). Participants of the COP 21 swarmed the document centre to obtain copies of the 3 pm text.

Fabius said the text strived to reach compromises, which are emerging but is not to prejudge the remaining options in the text. 'It is to enable us to have an overview of progress made and to help us focus now on the open questions that still need to be settled at the political level,' he stressed.

He said the shortened text which now stands at 29 pages with a three-quarter reduction of brackets showed progress was made (14-page draft agreement and 15-page accompanying draft decision). He adjourned the meeting for Parties to study the new text and consult among themselves and announced that the Paris Committee will reconvene at 8 pm for Parties to give feedback and he would propose a way forward.

The Paris Committee meeting reconvened at 8 pm on Wednesday to take stock of the ministerial-led consultations, which were conducted throughout the day.

A lengthy session ensued, where numerous Parties took to the floor to express their initial reactions where Parties generally accepted that the new text is a good basis to proceed with negotiations (see reaction of Parties below).

Following the interventions, Fabius said that although progress was made in many areas, more work needed to be done and he urged Parties to work through the night to make swift progress. He then proposed the 'indaba-type' consultations (referring to a round table format that was introduced in South Africa in 2011 at COP17) and the parallel open-ended informal consultations.

He urged Parties not to reopen the compromises found so as not to go backward but to look at issues where political decisions are needed as he aimed to issue a new iteration and improved text of the Paris Outcome, which he described as the penultimate text, later in the afternoon of Thursday, 10 December.

As of midnight of Wednesday, there were open-ended 'indaba-type' consultations on differentiation, support and ambition, chaired by Minister Fabius.

In parallel, open-ended informal consultations on loss and damage, cooperative approaches and

mechanisms, forests, and the preamble, were held, involving the corresponding facilitating ministers and were coordinated by Minister Manuel Pulgar Vidal, the Peruvian COP 20 President.

According to several sources who were in these meetings, negotiations were not happening, in terms of what Parties could give and take. Most Parties were reciting their positions and speeches. Very few Parties suggested bridging proposals, which came mainly from developing countries. It seems that no one was seen taking notes and concerns abound as to how Parties' views were being reflected and taken into account for the new text.

The sources informed TWN that Fabius had said that the text has to be good and that Parties must not only look at red lines but also the green lines, and that this is how the French Presidency intends to proceed.

Reactions of Parties to text released on Wednesday (9 December)

Following are the highlights of the intervention by groupings and selected individual Parties.

Speaking for the Group of 77 and China, South Africa said the Group studied the text carefully and consulted with its members and wished to highlight some initial observations, which are not to be regarded as an exclusive list of the concerns of the Group.

South Africa Minister of Environmental Affairs Edna Molewa said the Group is concerned about the steady delinking of the text from the Convention and a dilution of its principles.

'In this regard, the framing of Parties' commitments in many places in the text is not properly differentiated. There are also numerous inconsistencies in the text between the Convention's language and the new draft text,' she noted.

Regarding adaptation, she said, 'We are concerned that key adaptation proposals from the Group do not appear in the new text. We trust that we will be able to engage further on this critical issue for developing countries.'

In the paragraphs dealing with the provision of the means of implementation, the Group does not see adequate reassurances that its actions on mitigation and adaptation will be sufficiently supported in the post-2020 period.

'In particular, we are concerned that there does not appear to be a long-term vision on the provision of support, nor strong legal commitments for developed country Parties to provide finance, technology transfer and capacity-building. There is no assurance that there will be predictability and scalable funds.

'It is not clear how the institutional mechanisms will be linked in order to deliver the necessary level of support. We also need to find a way to provide for the continued operation of and delivery by the Adaptation Fund, the Least Developed Country Fund and the Special Climate Change Fund,' she stressed.

On capacity-building, Minister Molewa said the Group is concerned about the lack of differentiation in the new text.

On loss and damage, while acknowledging that there will be further consultations to advance on this issue, she said the Group reiterates its position that the issue should be a separate article in the agreement. The article must be clearly bounded by the principles of the Convention, particularly common but differentiated responsibilities and respective capabilities (CBDR & RC) that addresses the permanent and irreversible impacts of climate change and a permanent institution is needed to deal with loss and damage arising from the adverse effects of climate change.

The Group is also concerned that the issue of unilateral measures has been omitted from the text when it is a principle of the Convention and stands ready to work on language for this matter.

Despite these concerns, Minister Molewa said the Group is of the view that the text is a good basis on which to continue our negotiations and on which a new iteration can be issued tomorrow.

She said the Group believes that addressing the key political and cross-cutting issues of differentiation, ambition and finance will unlock progress and enable many other issues to be resolved and brackets to be removed.

On issues where consensus is within reach, the Group is of the view that further informal consultations would be helpful to resolve outstanding matters, and she reiterated that it remains important that the process of negotiations be open, transparent and Party-driven.

Representing **the Like-minded Developing Countries (LMDC)**, Malaysia said the new text 'must seem to be balanced' as Parties across the divide also have concerns, noting that the LMDC is concerned that the issue of unilateral measures 'has been cleaned-out' and items like carbon pricing had remained.

Prof. Gurdial Nijar urged the COP President to be proactive and to capture the essence of the Parties' various positions but be mindful of the fact that they were human beings who are prone to misjudgement and wrong interpretation and hoped that there would

be some mechanism to capture accurately and faithfully the gist of the presentations by the Parties.

Nijar stressed that 'CBDR is the bedrock of the Convention … we are not here to embowel the principle but to enhance the implementation of the Convention.'

'We have to remind our partners that developing countries, poor as we are, have been dealing with climate change in these past many years in our own way and unfunded, despite the existence of the Convention, because the promised funding under Article 4.7 of the Convention never came or came in such paltry dribbles,' he said.

Nijar further warned that if there is no progress in workstream 2 (on pre-2020 action), there will be no progress in workstream 1 (on the post-2020 agreement).

'They are interlinked. If you want us to do away with the fundamental construct … if you try in any way, directly, indirectly, obliquely (to do so), we will have no choice but to resist because we need our policy space to eradicate poverty and ensure food security.

'We cannot accept subterfuge of (the narrative of) a changing world when the world still remains the same,' he stressed.

On long-term temperature goal, India said it is deeply sensitive to the demands for higher climate ambition. 'I understand fully the demand for mentioning 1.5°C as we also have over 1,300 islands. However, a 1.5°C goal would require developed countries to massively reduce their emissions and massively scale up their financial support to developing countries. This is not happening,' stressed its Minister of Environment, Forests and Climate Change Shri Prakash Javadekar.

He said India is not suggesting that Parties remain stuck to the past but must look forward and move steadily. But, he said a durable agreement cannot be crafted by diluting historical responsibilities or by putting the polluters and the victims at the same level.

Towards this, he underscored that the agreement being crafted must carefully balance climate ambition and the principle of differentiation. 'Both are equally important. We cannot have one without the other. It needs to be reaffirmed upfront in the agreement that it is under the Convention and in accordance with its principles.

'Its objective is to enhance the implementation of the Convention across all its pillars. This is crucial. The principles of the Convention must be stated correctly without any unnecessary additions,' he said, adding that the agreement must also meaningfully operationalise differentiation across all its elements, which is not clear in the current draft.

Minister Javadekar further said that India is in favour of a robust transparency mechanism that applies not just to mitigation but all other elements, in particular finance.

The transparency mechanism, he stressed, should cover all countries, in a differentiated manner. Implementing the current system, which has not yet been made operational, he added, is an essential component to build capacity and experience in developing countries. A transition period is therefore needed before changes could be made.

On finance, Minister Javadekar said it is deeply disappointing that on the one hand developed countries are not fulfilling their obligations and on the other hand, they are trying to shift their responsibilities to developing countries themselves where there is no indication of scaling up of finance nor a clear roadmap.

The Maldives speaking for the Alliance of Small Island States (AOSIS) in offering its initial reflections said a temperature goal of below 1.5°C should be reflected clearly in an operational manner under Article 2.

Regarding adaptation, it would like to see the link with the CBDR principle and not to create undue reporting burdens; that loss and damage should be maintained as a separate article and the special circumstances of small island developing states (SIDS) should be reflected in relation to financial provisions.

Representing the Caribbean Community, Barbados said holding temperature rise to 2°C is not acceptable and preferred 1.5°C. It also urged that already agreed COP decisions on forests be recognised and anchored in the agreement as an accepted mechanism.

Angola speaking for the Least Developed Countries (LDCs) considered the new text to be a very good basis to conclude the work in Paris with areas that need improvement. It trusted the COP President to engage Parties in a transparent and open manner on the outstanding issues and guide them towards a balanced agreement. It looked forward to continue engagement in a time-bound manner for a new iteration of the text by 10 December.

Representing the African Group, Egypt believed that the indaba process will be useful to unlock key political issues and would benefit from an inclusive drafting process. On adaptation, it said the key element for a global goal for adaptation is missing and cautioned against the missing reference to the special circumstances of LDCs and SIDS.

Guatemala speaking for the Independence Alliance of Latin America and the Caribbean said the new text is adequate to move towards the final stage. It believed that adaptation is a strategic area of climate actions for developing countries and to bear in mind the need of developing countries that are particularly vulnerable.

Saudi Arabia representing the Arab Group said it cannot accept any goal that threatens the sustainable development, or ability to eradicate poverty and ensure food security for its people.

Australia speaking for the Umbrella Group said the text is a step forward but significant work remains. It has serious concern about balance as choices made do not reflect consensus and would not lead to agreement in a range of issues. It said the Group has assured developing countries that the developed country Parties will continue to lead and the agreement must incentivise all Parties to do their best. It said Parties must set a clear direction of travel and not be bound to a static category.

The European Union said many options crossed the Group's red lines while some were lost from the new text. It said failure to address the issue of an ambitious mechanism of a five-year revisit signals low ambition for a Paris Agreement.

It saw bifurcation language throughout the text which is not consistent with this Paris Agreement, noting that developed countries will have obligations up to 2020 but in post-2020 'parties in a position to do so' should also join (in assuming obligations).

It said the text is not suitable for a line-by-line negotiation and it is time to resolve in a package and it looked forward to resolving the outstanding issues in the process proposed by the COP President.

Representing the Environmental Integrity Group, Switzerland said the text as a whole is not balanced especially in the article on finance. It said several developed countries and groupings had worked hard to find solution and made compromised proposals to show utmost flexibility to identify common landing zones.

China speaking for BASIC (Brazil, South Africa, India and China) said the current text is an open and balanced text as would serve as a basis for further negotiation to find common ground to reach an agreement.

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Second Version of Paris Outcome Text Issued – But a Deal is Still Far Away

Paris, 11 December (Meena Raman and Hilary Chiew) – The second version of the draft Paris Outcome was presented to Parties at the end of a brief meeting of the Paris Committee under the UNFCCC on Thursday evening, 10 December, by COP21 President, French Foreign Minister Laurent Fabius.

The first version of the draft Paris Outcome, encompassing the post-2020 agreement and an accompanying decision which includes decisions relating to pre-2020 actions, was issued on Wednesday, 9 December. The new iteration of the text, which was initially scheduled to be provided in the afternoon of 10 December, was only made available at 9 pm.

At this fifth meeting of the Paris Committee that was established on Saturday (5 December), COP21 President Fabius said after significant work and a series of consultations, Parties can now move to a decisive step.

Together with the Secretariat, he said, the text was prepared to reach balance, impartiality and reconciled positions. The text is shorter although brackets remain around complex issues, he said, citing issues of finance, differentiation and ambition which will see more consultation in these final hours of the COP.

(The new text was reduced from 29 to 27 pages of which 12 pages contained the draft agreement and 15 pages were allocated to the accompanying draft decision.)

'Compromise does require us to forget the ideal solution for everybody. That is the work we have now … we are close to the finishing line and we must find common grounds. In other words, time to come to an agreement,' said Fabius.

He then proposed that Parties study the new draft and consult with other Parties over the next 2.5 hours which will be followed by consultations similar to the setting on Wednesday night. He said he will chair the 'indaba-type consultations' which he named 'indaba of solutions' where he urged Parties not to present statements but to provide compromise solutions.

He also said in the event that there are persistent differences, the facilitating ministers will be asked to meet at a corner of the room or in a separate room and to report back to the indaba within 30 to 45 minutes.

After this final round of consultations, the COP21 President hoped to present a final version of the text on Friday (11 December). He hoped Parties will agree to this method of work in the final hours to complete the final lap that separates them from a legally-binding, ambitious and fair agreement that the world is expecting.

At 11.30 pm, the COP 21 President convened the indaba consultations, which were closed to observers.

According to sources, the consultations revealed that several developing countries, including China and India, raised their concerns over the dilution of the principle of common but differentiated responsibilities (CBDR) in the draft agreement as reflected in the obligations of Parties. They made proposals to address their concerns.

However, sources said that the United States, represented by its Secretary of State, John Kerry, supported the agreement, saying that differentiation was reflected, through the notion of 'self-differentiation' as represented by the intended nationally determined contributions (INDCs).

It seems that he stressed that the new agreement was a 'monument to differentiation'. Kerry was reported to have regretted the 'situation' of the US where there could not be a mandatory system (for emission cuts) and for finance to be legally binding.

Sources disclosed that divergences continued with developed countries stressing that the 'donor base' of those contributing to climate finance should be expanded to include developing countries, with references in the draft text to the mobilising of climate finance 'as part of a shared effort by all Parties'. Developing countries, on the other hand, could not agree to such proposals in the text.

Information provided to TWN revealed that developed countries also expressed that they are unable to commit to a quantified number for finance in the agreement. Several developing countries indicated that developed countries were breaking away from their obligations under the UNFCCC; one developing country said that the issue of finance could be a make-or-break for the Paris deal.

With the help of facilitators, breakout groups on differentiation, ambition and finance were held with Parties trying to find solutions.

According to sources, Parties expressed their red lines, which clearly reflected continued divergences over the issue of differentiation and its application as regards the various elements, especially in relation to mitigation, finance and transparency.

The consultations ended at around 5.30 am on Friday, 11 December.

The COP President informed Parties that there would be a 'slight delay' in the conclusion of the COP with a final text to be presented on Saturday morning, 12 December, and for its adoption sometime in the afternoon. (The COP was scheduled to close on 11 December.)

Whether and how compromises will be reached remains a challenge.

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Paris Agreement Adopted after Last-minute 'Technical Corrections'

Geneva, 14 December (Meena Raman and Hilary Chiew) – The Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC) was finally adopted in the evening of Saturday, 12 December, four years after the launch of the process to develop the legal instrument under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP).

The adoption of the Agreement was heralded as 'historic' by the President of the 21st meeting of the Conference of Parties (COP21) to the UNFCCC, French Foreign Minister Laurent Fabius, as well as several countries that spoke at the final plenary.

However, there was some disquiet over how the Agreement was adopted in the final two hours, which marred the process, which until then, was viewed as exemplary since the Copenhagen fiasco (where the Danish COP Presidency tried to impose a deal struck behind closed doors between a few countries upon all Parties, leading to the collapse of the talks).

The French Presidency sought compromises among Parties over polarised positions between developed and developing countries, especially in the areas of how differentiation was to be reflected in the agreement, as well as finance and ambition (in relation to the temperature goal).

The concern was over some 'technical corrections' which were presented orally by the Secretariat to the draft agreement at the meeting of the *Comité de Paris* (or Paris Committee which was responsible for finalising the agreement) prior to its transmission to the COP for adoption, which convened immediately after and was gavelled through by Fabius, in what seemed to many observers as a very rushed adoption.

When the Paris Committee convened on Saturday, 12 December at 5.30 pm to transmit the draft agreement for adoption to the COP, it was not until 7.15 pm that the meeting actually began and the Agreement was finally adopted.

The draft agreement was distributed to Parties earlier in the day at around 1.30 pm, following the convening of the Paris Committee by the COP President at around noon, where he informed Parties that the draft agreement was the best possible balance that could be struck and that it was a 'delicate balance'.

The French President Francois Hollande and UN Secretary-General Ban Ki Moon were also present and made speeches at the noon meeting of the Paris Committee, in what appeared as an effort to cajole all Parties to adopt the agreement without further changes.

There was thunderous clapping in the conference hall even before Parties had seen the text, let alone adopt it.

Fabius then informed Parties that the Paris Committee would convene again at 3.45 pm, after Parties had had a chance to see the text. The Committee finally convened around 5.30 pm.

When Parties gathered for the final Paris Committee meeting at 5.30 pm, many were wondering why the meeting did not begin.

News was abuzz that the United States (US) had issues with the draft agreement.

This related to Article 4.4 of the draft agreement as regards 'mitigation' and which reads as follows: '*Developed country Parties shall continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.*'

According to sources, the US wanted the word 'shall' in the first sentence to be replaced with the

word 'should', so that developed and developing countries will be treated in a like manner legally. Instead of raising the issue from the floor of the plenary, the US request was accommodated by the COP Presidency by what was termed a 'technical correction' and the word 'shall' was then replaced with 'should' in the Article which was read out by the Secretariat.

This approach was not viewed favourably by some developing country Parties, although this was not expressed during the COP plenary, given the rousing and jubilant mood in the hall with thunderous clapping and standing ovation over the adoption of the Agreement.

Spokesperson for **the Like-minded Developing Countries (LMDC)**, Professor Gurdial Singh Nijar, spoke to TWN later over this marring of the process. He explained that on the morning of 12 December, when the LMDC met with the Presidency, the latter pointed out some key elements of the text which seemed to have accommodated somewhat the LMDC red lines especially in relation to differentiation between developed and developing countries. The COP Presidency read out orally to the LMDC representatives the contents of Article 4.4 as was presented to the Paris Committee prior to the 'technical correction'.

'We found the text (in this regard) a little convoluted, but we felt we could consider it. We agreed with it and so did the Group of 77 and China,' said Nijar, adding that 'we felt there was balance and our red lines were somewhat preserved. Then when we went to the hall, we were shocked to find that the US was objecting to Article 4.4. They came up with this incredulous thing that it was a mistake. The European Union approached us and said that there is a problem and asked us if we could change the "shall" to "should". When we asked them why, they responded that the Americans had told them that if the word "shall" was introduced, the Congress would not pass it. We said that we have done so many things to get the US on board and they were diluting everything. In this case they were diluting something which was our super-red line.'

Nijar said further, 'We said if the US has a problem with Congress they have to sort it out. Then we said fine; we can consider this and let the US raise this problem from the floor and resolve this. It was holding up the meeting. They were trying to suggest that we were the ones holding up the process. We said no and that we were ready to approve the draft. If anyone had an objection with the text, they must raise the issue and get the Presidency to resolve it and we were happy to participate in any resolution. Before that, there was no indication from the US delegation of this problem. Suddenly the meeting was called and the decision was gavelled. The French Presidency then asked for the editorial mistakes to be read out and then the applause started. Nicaragua was raising its flag and shouting to be heard but they were ignored and the gavel came down and their voice was lost in the applause.'

[Article 4.2 of the UNFCCC states: 'The developed country Parties and other Parties included in Annex I commit themselves specifically as provided for in the following:

(a) Each of these Parties ***shall*** adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention, …' (Emphasis added).

This includes policies and measures adopted by regional economic integration organisations, i.e. the European Union.]

Following the adoption of the Agreement, several countries spoke, including Nicaragua.

Nicaraguan Minister Paul Oquist expressed surprise that the COP21 Presidency did not acknowledge his country, despite him raising his flag before the closing of the Paris Committee. He said he wanted to take the floor before adoption of the Agreement.

'The agreement weakens multilateralism in particular for small countries. (Therefore) it dilutes the value of the agreement. I did not intend to block the agreement but rather to work to fine tune. I wanted to make suggestions on some cross-cutting matters which have to be corrected to move forward for humanity. I wanted to explain why we are not able to support the consensus,' said Oquist.

Nicaragua supported the goal of limiting future temperature rise to 1.5°C. He said that the results of the intended nationally determined contributions (INDCs) lead the world to 55 gigatonnes (Gt) of emissions in 2030 rather than 40 Gt that is necessary to achieve the 2°C target. 'We need to go further because the level of ambition is leading to a 3°C world,' said Oquist further.

He also recommended the deletion of paragraph 52 in the decision text in relation to Article 8 of the Agreement (on loss and damage) which reads: '*Agrees that Article 8 of the Agreement does not involve or provide a basis for any liability or*

compensation.' (This clause was introduced by the US as a quid pro quo to have 'loss and damage' anchored in the Paris Agreement).

'This would mean giving 3°C temperature increase to our grandchildren and they are not able to ask for compensation and we strip them of any legal rights for legal action for the liability of other countries that caused the damage,' said Oquist.

To this, COP21 President French Foreign Minister Fabius simply said Nicaragua's statement will be included in the report of the meeting.

South African Minister of Environment, Edna Molewa, said that the text is not perfect, but believed that it represents a solid foundation from which we can launch our enhanced action with renewed determination. She added that the Agreement is balanced and the best that we can do at this historic moment and was a turning point to a better and safer world. It should be recognised that the Paris Agreement represents a major leap forward for developing countries, creating new legal obligations that they did not have before, she said.

'Again, developing countries have been asked to take this leap without the firm commitments to provide the support that will enable us to contribute our fair share. For our efforts to combat climate change to be successful, it is critical that developed countries significantly enhance the ambition of their actions and ensure that the enhanced actions of developing countries are adequately supported. In the build-up to this conference we have noticed and welcomed the pledges of support made by a number of developed country Parties. This support has to be sustained if we wish to have any meaningful action,' said the South African Minister further.

Molewa also said that 'the closing of the pre-2020 ambition gap is essential and the work of the COP in this regard must remain our focus. We have been focusing strongly on the creation of a post-2020 climate agreement and therefore spent less time on major tasks that would enhance our implementation pre-2020. We must now refocus our attention to the urgent tasks at hand. A number of key issues related to the COP finance agenda unfortunately could not receive the appropriate consideration, particularly issues related to long-term finance and the guidance to the Standing Committee on Finance. We expect to come back in Morocco (the venue of the next COP) with substantive discussions on increasing finance ambition pre-2020,' she added.

Indian Minister of Environment, Forests and Climate Change Prakash Javadekar said that the Paris Agreement acknowledges and recognises the development imperatives of India and other developing countries. The agreement supports their right to development and their efforts to harmonise development with environment, while also protecting the interests of the most vulnerable, he said.

He also said that the agreement had unequivocally acknowledged the imperative of climate justice, and has based itself on the principles of equity and common but differentiated responsibilities (CBDR). The agreement also acknowledges the importance of sustainable lifestyles and sustainable consumption patterns, he added.

The Minister said India was happy that the agreement differentiates between the actions of developed and developing countries across its elements. 'India has consistently said that the path to climate ambition must be paved with equity. I am happy that the Agreement has recognised this,' said Javadekar.

He added that while give-and-take was normal in negotiations, India was of the opinion that the agreement could have been more ambitious. 'We share the concern of several friends that this Agreement does not put us on the path to prevent temperature rise below 2°C and that the actions of developed countries are far below their historical responsibilities and fair shares. We have in the spirit of compromise agreed on a number of phrases in the Agreement,' said Javadekar.

China's Vice-Minister of the State Development and Reform Commission, Xie Zhenhua, welcomed the adoption of the Paris Agreement. Acknowledging that the agreement is not perfect and there are some areas in need of improvement, he nevertheless said it does not prevent us from taking the historical step forward. 'The Paris conference is a critical point in the global effort against climate change. Its success is critical to the global future in response to climate change and achievement of a sustainable future. After relentless efforts, the Paris Agreement that we achieved today is an agreement that is fair and just, comprehensive and balanced, highly ambitious, enduring and effective with legally binding force. It reflects a strong and positive signal that the world is going to achieve low carbon, green development and sustainable development,' he added.

Xie further said the Agreement is based on the UNFCCC and is built on a series of achievements such as the Kyoto Protocol and the Bali Roadmap following the principle of CBDR and respective capabilities, fairness and justice. It intends to further enhance the comprehensive, effective and sustainable implementation of the UNFCCC, he said,

stressing that enhancing ambition in the pre-2020 is compatible with actions post-2020.

'It is our hope that all Parties implement the outcome of the Agreement and to be better prepared for the entry into force of the Agreement. I hope all will take active action in enhancing efforts before 2020 and I would like to emphasise the need for developed countries to honour their commitments in providing finance, technology transfer and capacity-building to lay down a solid effort for enhanced actions after 2020,' said Xie.

US Secretary of State John Kerry said the Paris Agreement 'is a tremendous victory that will empower us to chart a new path'. He said that it 'will help the world prepare for the impacts of climate change that are already here and also for those we know are headed our way inevitably. We reached an agreement that if globally implemented will help us transition to a global clean energy economy and prevent the worst devastating consequential climate change from ever happening.'

Kerry said, 'We are sending a critical message to the global market place. Many of us here know that it would not be governments that actually make the decision or find the products, or the new technologies… it will be the genius of the American spirit; it will be the businesses unleashed because 196 nations are saying to the global business that we need to move in this direction that will create the research and development and the next great products that will come and change our lives.'

Kerry also said, 'We took a critical step forward but what we do next, how we implement our targets and build this agreement and how we strengthen it in times ahead … that will determine how we actually address one of the most complex challenges humankind has ever faced.'

Australia speaking for the Umbrella Group congratulated the COP21 Presidency for producing the global agreement that created the global framework for all nations to play their part to ensure a safe and prosperous world for future generations.

'Our work here is done and now we can return home to implement this historical agreement. This is a pivotal moment of new global agreement which will see all countries committed to taking ambitious steps in accordance to national circumstances and capabilities.

'It certainly does not include everything that we envisage but it does give us the strategy to work together over coming years and decades to build strong and effective actions that the world needs. The Agreement is clear that we will do this on the basis of actions by all in line with national circumstances. Each country will progress our efforts to the best of our capabilities and no countries will step back,' it added.

It said the Agreement critically provided for all Parties to come back every five years to update on their emissions reduction efforts and ensures Parties build ambition over time and 2020 will be a key moment for this, adding that the Agreement delivers a strong transparency and accounting system which will establish a common basis for all countries to track their efforts, building in flexibility for countries with different capacity, recognising that countries may cooperate through an international mechanism to achieve high mitigation ambition through market and other means.

It further said that the Agreement confirmed that developed countries will continue to lead in providing support for climate actions and recognise the important role that others can play in mobilising support and financial flows for low-emission and climate-resilient development initiatives.

The European Union noted that the Agreement is a real feat of the COP21 Presidency in holding a fragile balance. It said that this is a landmark agreement, adding that Europe is strongly committed to its financial commitments and to translate the Agreement into concrete actions to transform societies.

(With inputs from Indrajit Bose.)

(Further articles on the Paris Agreement will follow.)

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What Countries Agreed to under the Paris Agreement (Part 1)

Penang, 18 December (Meena Raman) – The adoption of the Paris Agreement, under the United Nations Framework Convention on Climate Change (UNFCCC), has been heralded by many countries as a historic moment and a critical point in the global effort against climate change.

The Agreement was adopted evening of Saturday, 12 December in Paris.

Several countries that spoke at the final plenary of the 21st meeting of the Conference of Parties (COP21) to the UNFCCC expressed this view. COP 21 began on 30 November and went on for an extra day till 12 December (see TWN Update 17 for further details: *Paris Agreement adopted after last-minute 'technical correction'*).

According to the decision adopted at COP 21, the Agreement will be open for signature by Parties in the UN in New York from 22 April 2016 to 21 April 2017. The Secretary-General of the UN is invited to convene a high-level signature ceremony for the Agreement on 22 April next year.

Given that the Agreement is a new legal instrument, it will have to be ratified by Parties for it to come into effect. It will enter into force after at least 55 Parties to the Convention, accounting for at least an estimated 55% of the total global greenhouse gas (GHG) emissions, have deposited their instruments of ratification or acceptance. (The Agreement is expected to come into effect post-2020.)

Parties also agreed to establish a new body called the Ad Hoc Working Group on the Paris Agreement that is responsible to prepare for the entry into force of the Agreement and this will meet starting in 2016 in conjunction with the Convention's subsidiary bodies from 16 to 26 May.

Highlights of the Agreement

The Paris Agreement was adopted in a decision of COP21, with the Agreement contained in an annex to the decision. The Agreement itself is 12 pages, while the decision is 19 pages. The decision includes the following parts – the adoption of the Agreement, intended nationally determined contributions (INDCs), decisions to give effect to the Agreement, enhanced action prior to 2020, non-Party stakeholders, and administrative and budgetary matters.

Some of the main highlights of the Agreement and the relevant parts of the decision are set out below. (Part 1 of this article reflects aspects relating to the purpose of the agreement, nationally determined contributions and mitigation. Other aspects will be covered in further articles.)

Purpose of the Agreement

Article 2 of the Agreement (known generally as 'purpose' during the negotiations) states in sub-paragraph 1 that: *'This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:*

(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.'

Sub-paragraph 2 states that '*This Agreement will be implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC), in the light of different national circumstances.*'

The purpose of the Agreement was a major area of contention between developed and developing countries.

It was clear from the four years of work leading to the Paris Agreement under the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP), that the common refrain of developing countries under the G77 and China was for the Agreement not to 'rewrite, replace or reinterpret the Convention'. The G77 and China, including its sub-groupings especially the Like-minded Developing Countries (LMDC) and the African Group, constantly stressed that the purpose of the Agreement is to enhance the implementation of the Convention on the elements of mitigation, adaptation, finance, technology transfer, capacity-building, and transparency of action and support.

Developed countries, on the other hand, appeared to focus more of their attention on the 'objective' of the Agreement, which was perceived by developing countries as a mitigation-centric approach linked only to the temperature goal, with an attempt to weaken the link to the Convention provisions and the obligations of developed countries under the Convention, especially on the means of implementation (finance, technology transfer and capacity-building).

Hence, the reference to 'enhancing the implementation of the Convention' is seen as a positive win for developing countries.

While global attention seemed to be on the temperature goal of limiting temperature rise to well below 2°C above pre-industrial levels and to pursue efforts to limit the increase to 1.5°C, developing countries wanted the focus to also be on adaptation and finance and to ensure that the global response is in 'the context of sustainable development and efforts to eradicate poverty'.

Several senior developing country delegates did express their unhappiness over the reference to 'finance flows' in Article 2(1)(c) of the Agreement rather than a reference to the provision of financial resources from developed to developing countries, the commitment language of the Convention.

A major win for developing countries is Article 2.2 that states that the Agreement will be implemented to reflect equity and the principle of CBDR-RC, in the light of different national circumstances.

A key issue throughout the ADP process and at COP21 was whether and how the principle of CBDR-RC will be operationalised in all the elements of the Agreement.

Developed countries had been insisting that the agreement must reflect the 'evolving economic and emission trends' of countries in the post-2020 timeframe, while developing countries continued to argue that given the historical emissions of developed countries, developed countries continue to bear the responsibility in taking the lead in emission reductions and in helping developing countries with the provision of finance, technology transfer and capacity-building as provided for under the UNFCCC.

At the last COP in Lima in 2014, where the issue of differentiation was also hotly contested, Parties underscored their commitment to reaching an ambitious agreement in Paris that reflects the principle of CBDR-RC, in light of different national circumstances. This was the 'landing-zone' arrived at in reflecting the CBDR principle, following the China-United States joint statement issued last year prior to Lima and that has accordingly found its way to the Paris Agreement.

Nationally determined contributions (NDCs)

Article 3 (previously known as Article 2*bis* during the negotiations) states that, '*As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.*'

Article 3 symbolises the 'battle' over the nature of the agreement to ensure that the NDCs are not viewed only as being 'mitigation-centric' (Article 4 refers to the element of 'mitigation', Article 7 to 'adaptation', Article 9 to 'finance', Article 10 to 'technology development and transfer', Article 11 to 'capacity-building' and Article 13 to a 'transparency framework for action and support').

The LMDC was the major proponent of what was then Article 2*bis* for all Parties to regularly prepare, communicate and implement their INDCs towards achieving the purpose of the Agreement. It also proposed that INDCs will represent a progression in light of Parties' differentiated responsibilities and commitments under the Convention.

It was an uphill task during the negotiations to get developed countries to see the viewpoint of the LMDC in this regard. The proposal was to ensure that the contributions of Parties are viewed in a comprehensive manner, reflecting the respective obligations they have under the provisions of the Convention, and not to confine the contributions only to mitigation as desired by the developed countries.

Mitigation (Article 4)

The following sub-paragraphs of Article 4 are among the main highlights of what Parties agreed to in relation to mitigation:

'*1. In order to achieve the long-term temperature goal set out in Article 2, Parties aim to reach global peaking of GHGs as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.*

'*2. Each Party shall prepare, communicate and maintain successive NDCs that it intends to achieve. Parties shall pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions.*'

The US was against any reference that each Party shall implement the NDCs that it has communicated, as this would make it an obligation for the US and others to implement the emissions reduction target communicated. To accommodate the US 'problem', all Parties have to do is to 'pursue domestic mitigation measures, with the aim of achieving the objectives of such contributions'. What this means is that there is an obligation to take the measures necessary, **with the aim of achieving** the emissions reduction target, but not to achieve the target itself (emphasis added).

'*3. Each Party's successive NDC will represent a progression beyond the Party's then current NDC and reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances.*'

'*4. Developed country Parties should continue taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.*'

Article 4.4 was another major paragraph of contention between developed and developing countries. Many developing countries wanted the nature of the mitigation efforts to be differentiated between developed and developing countries, reflecting the existing provisions of the Convention that are based on historical responsibility and CBDR.

The US and its allies in the Umbrella Group were opposed to any form of differentiated efforts, preferring that Parties 'self-differentiate' among themselves, while recognising that those who have undertaken absolute emission reduction targets before should continue to do so in the post-2020 timeframe.

While this sub-paragraph continues to provide the policy space for developing countries in undertaking any type of enhanced mitigation efforts (including relative emission reduction targets which are economy-wide and non-economy-wide actions), over time, developing countries will have to move to economy-wide targets, in light of their different national circumstances.

The term 'over time' is not precisely defined and there is also no reference that developing countries have to undertake 'absolute' emission reduction targets, which was what developed countries and some developing countries were pushing for during the negotiations.

Also noteworthy is that in the original version of the text for adoption on Article 4.4, the reference was that developed countries 'shall' and developing countries 'should'…

According to sources, the US wanted the word 'shall' in the first sentence to be replaced with the word 'should', so that developed and developing countries will be treated in a like manner legally. Instead of raising the issue from the floor of the plenary, the US request was accommodated by the COP Presidency by what was termed a 'technical correction' and the word 'shall' was then replaced with 'should' in the Article which was hastily read out by the Secretariat together with several minor corrections (see TWN Update 17).

'*9. Each Party shall communicate a NDC every five years…*'

Some developed and developing countries have communicated an INDC which is for a timeframe of 10 years. This sub-paragraph requires all Parties to communicate an NDC every five years.

'*10. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall consider common time frames for NDCs.*'

What this suggests is that in the preparation of the next NDC (following from the first NDC), there could be common timeframes set for NDCs as to whether it should be a five-year or 10-year or other period.

'*11. A Party may at any time adjust its existing NDC with a view to enhancing its level of ambition…*'

'*12. NDCs communicated by Parties shall be recorded in a public registry maintained by the secretariat.*'

The US had maintained throughout the negotiations that it could not have its NDC 'housed' in the Agreement as this could mean that the emissions reduction target is legally binding. Hence the recording of the NDC in a public registry outside of the Paris Agreement.

'*19. All Parties should strive to formulate and communicate long-term low greenhouse gas emission development strategies, mindful of Article 2 taking into account their CBDR-RC, in the light of different national circumstances.*'

(Further articles will follow on other elements of the Agreement and decision.)

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Debate behind Closed Doors on the Temperature Goal in Paris Agreement

21 December, Penang (T Ajit) – The long-term temperature goal and how to operationalise it was discussed at length among Parties before compromise was reached in the Paris Agreement under the United Nations Framework Convention on Climate Change (UNFCCC).

The negotiations were spread over several sessions at the recently concluded twenty-first session of the Conference of the Parties (COP21) of the UNFCCC in Paris that took place from 30 November to 12 December.

Central to the temperature goal debate was whether the Paris Agreement should strive to keep global average temperature rise to under 2°C or 1.5°C by the end of the century and in what context.

The 'context' discussed by Parties included science, sustainable development, poverty eradication, equity, common but differentiated responsibilities (CBDR) and availability of means of implementation. The options for operationalisation of the long-term goal of 1.5°C or 2°C ranged from transformation towards climate neutrality to decarbonisation to peaking. Different country groupings had their own preferences and it took lengthy negotiations to agree on a formulation on the long-term goal and in operationalising it, which was finally crafted and presented to Parties by the COP21 President, French Foreign Minister, Laurent Fabius.

In the Agreement adopted in Paris on 12 December, Article 2 or what was referred to as the 'purpose' of the Agreement provides the context to the long-term goal along with a formulation on what the long-term goal should be.

Article 2 reads:

'*This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change,* ***in the context of sustainable development and efforts to eradicate poverty*** *(emphasis added), including by:*

(a) Holding the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

(b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production;

(c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.'

(See also TWN Update 18: *What countries agreed to under the Paris Agreement-Part 1.*)

The reference to operationalising the above, in the mitigation section in Article 4 of the Paris agreement, reads: '*...Parties aim to reach global peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century, on the basis of equity, and in the context of sustainable development and efforts to eradicate poverty.*'

The consensus to reflect both 2°C and 1.5°C in the agreement and how to operationalise this was achieved after considerable discussions and late night sessions among Parties.

For instance, in the first version of the draft agreement, which was a proposal by COP21 President, Laurent Fabius, presented on 9 December, the following three options with respect to the long-term goal were provided:

'*Option 1: below 2°C above pre-industrial levels,*

Option 2: well below 2°C above pre-industrial levels [and to [rapidly] scale up global efforts to limit temperature increase to below 1.5°C] [,while recognizing that in some regions and vulnerable ecosystems high risks are projected even for warming above 1.5°C],

Option 3: below 1.5°C above pre-industrial levels, taking into account the best available science, equity, sustainable development, the need to ensure food security and the availability of means of implementation, by ensuring deep reductions in global greenhouse gas [net] emissions.'

For operationalisation of these options, two further options were presented in the mitigation section:

'*Option 1: Parties collectively aim to reach the global temperature goal referred to in Article 2 through [a peaking of global greenhouse gas emissions as soon as possible, recognizing that peaking requires deeper cuts of emissions of developed countries and will be longer for developing countries; rapid reductions thereafter to [40-70 per cent][70-95 per cent] below 2010 levels by 2050; toward achieving net zero greenhouse gas emissions [by the end][after the middle] of the century] informed by best available science, on the basis of equity and in the context of sustainable development and poverty eradication.*

Option 2: Parties collectively aim to reach the global temperature goal referred to in Article 2 through a long-term global low emissions [transformation toward [climate neutrality] [decarbonization]] over the course of this century informed by best available science, on the basis of equity and in the context of sustainable development and poverty eradication.'

In the second version of the text, also prepared by the COP21 President, presented on 10 December, the text pertaining to the long-term goal read: '*Hold the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C, recognizing that this would significantly reduce risks and impacts of climate change.*'

To operationalise the above temperature goal, the option presented read: '*In order to achieve the long-term global temperature goal set in Article 2 of this Agreement, Parties aim to reach the peaking of greenhouse gas emissions as soon as possible, recognizing that peaking will take longer for developing country Parties, and to undertake rapid reductions thereafter towards reaching greenhouse gas emissions neutrality in the second half of the century on the basis of equity and guided by science in the context of sustainable development and poverty eradication.*'

Since negotiations were happening behind closed doors, not open to observers, Third World Network (TWN) spoke to several negotiators to find out how these options evolved into the consensus reflected in the Paris Agreement.

According to sources there was a strong push from groups such as **the Alliance of Small Island States (AOSIS)** and **the Least Developed Countries (LDCs)**, led by **Grenada, the Marshall Islands, Kiribati, Tuvalu** and **Gambia**, and countries such as **Venezuela** and **Bolivia** to reflect 1.5°C as the long-term goal, since going above the temperature would put their survival at stake.

Countries such as **the United States (US), India**, **China** and groups such as **the European Union (EU)** were in favour of reflecting below 2°C, but given the strong demand to reflect 1.5°C, they were willing to work on a formulation reflecting both 2°C and 1.5°C. This seemed widely agreeable, a developing country negotiator told TWN.

However, the tone of **the US** behind the closed doors was quite clear. '1.5°C is very ambitious. We need to make sure the overall agreement looks like a reasonable one. The more ambitious we go, the more difficult it is to get there,' the US is supposed to have said.

Differences also arose in relation to the context in which the temperature goal should be achieved. Sources revealed that during the discussions on operationalising the long-term goal, there was a debate on terms such as 'decarbonisation' and 'carbon neutrality' and on keeping differentiation (between developing and developed countries) with respect to peaking of emissions.

On operationalisation of the long-term goal, sources said that **the US** supported global peaking, but with no timeframe. The US also said that it was attracted to the notion of decarbonisation over the course of the century. For the US, decarbonisation did not mean the end of use of carbon, but 'controlling carbon through technologies'. On the context, it said that the context for the entire agreement would govern how they would see it reflected with respect to the long-term temperature goal. The US was in favour of reflecting the diversity of circumstances of Parties 'over time'.

Supporting a 1.5°C goal, **the EU** also pushed for a 2050 target and to achieve carbon neutrality by then. The EU further said the long-term goal needs to be driven by science and that each country would

do what they liked and there was no need to reflect differentiation in operationalising the long-term goal.

China was in favour of a long-term objective that had reference to below 2°C, with a possible vision of 1.5°C, based on equity and poverty reduction. For China the context to the temperature goal should be connected and it would be important to define long-term goal for not just mitigation, but one that talked of ambition covering mitigation and adaptation in the context of means of implementation and sustainable development. On operationalising the long-term goal, 1.5°C would cause negative emissions for some Parties and this would be difficult to achieve even with technologies such as CCS (carbon capture and storage). For China the context to the long-term goal was equity and CBDR. It also said that decarbonisation would mean gradually one would have to phase out all fossil fuels and it cautioned Parties to be realistic about it.

'Of the other options present such as carbon neutrality, some developing countries said they did not understand such terms. Decarbonisation and carbon neutrality were the cause of anxiety to some Parties and there was fear that these could prevent broad participation. It is not that developing countries would not do anything. CBDR will ensure that we will be on a solid moral basis to cooperate effectively,' a developing country negotiator told TWN.

For **India** whatever goal was mentioned, there was a need to know how to achieve it. And if that clarity was provided, India could agree on any temperature goal. India wanted to safeguard its development in translating the mitigation long-term goal and called for equitable distribution of carbon budget and alluded to climate justice during the discussions on the global goal. India also called for finance, technology and capacity-building support.

India said it could not support concepts such as decarbonisation and called for a qualitative pathway so that countries could determine how they move. 'If you want to have 1.5°C or 2°C, global carbon budget based on historical responsibility is the way forward. Developing countries need the policy space to develop. We are not against science. Equity and CBDR should provide the context,' India is supposed to have said.

Bolivia also called for the operationalisation of the goal on the basis of equitable distribution of carbon budget.

Sources also said that for **Brazil** any long-term goal should be in the context of poverty eradication and sustainable development. Brazil said that the direction of travel for agreeing on a temperature goal should account for the means of implementation required to implement the goal. It said that while it did not object to reflecting reference to 1.5°C, it would be possible if the goal was treated as a trajectory of travel. Brazil also said that it was difficult to solve 1.5°C or 2°C in isolation and the context should be differentiation. For the context, it preferred sustainable development over decarbonisation. Brazil also expressed concerns on peaking and said that it would be good to agree on the principle on the basis of equity and science, which would provide the context of how to reach the goal.

Saudi Arabia cautioned that for 1.5°C, severe action needs to be taken, and that it needs to be supported by finance, technology and capacity-building support from the developed countries. It said it could not subscribe to a goal that Parties would not keep, especially in the absence of means of implementation support from the developed countries.

Sudan for the **Africa Group** was in favour of the context of equity and CBDR. It also cautioned against using terms such as 'decarbonisation' and 'net zero', which were least understood.

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What Countries Agreed to under the Paris Agreement (Part 2)

Penang, 22 December (Meena Raman) – In Part 2 of this article on what countries agreed to under the UNFCCC's Paris Agreement, focus is on some highlights in relation to adaptation and loss and damage.

(See TWN Update 18 for Part 1 of this article at www.twn.my.)

Adaptation (Article 7)

In sub-paragraph 1 of Article 7, Parties agreed to '*establish the global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change, with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal referred to in Article 2'.*

Developing countries had been pushing for a long-term goal or vision on adaptation to ensure that there is parity between adaptation and mitigation and to avoid having only a mitigation-centric goal linked to the temperature goal (of holding the rise in temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C). This goal also links the adaptation response to the temperature goal.

In relation to the global goal on adaptation, developing countries had during the negotiations proposed 'an assessment of the adequacy of support' from developed countries to developing countries as well as the 'recognition of increased adaptation needs and associated costs in the light of mitigation efforts…'.

What eventually found a way in the adaptation section (in sub-paragraph 14 of Article 7) is the reference to the global stocktake (in Article 14) which states that the stocktake '*shall*' '*review the adequacy and effectiveness of adaptation and support provided for adaptation' as well as 'review the overall progress made in achieving progress made in achieving the global goal on adaptation…*'.

According to sub-paragraph 3, *'the adaptation efforts of developing country Parties shall be recognised...'*, with the modalities to be developed for such recognition.

Developing countries during the negotiations wanted to ensure that the adaptation efforts they are undertaking with or without international support are recognised as their contribution to climate action.

In sub-paragraph 7, Parties agreed to '*strengthen their cooperation on enhancing action on adaptation, taking into account the Cancun Adaptation Framework, including with regard to: (a) Sharing information, good practices, experiences and lessons learned, including, as appropriate, as these relate to science, planning, policies and implementation in relation to adaptation actions;*

(b) Strengthening institutional arrangements, including those under the Convention that serve this Agreement, to support the synthesis of relevant information and knowledge, and the provision of technical support and guidance to Parties;

(c) Strengthening scientific knowledge on climate, including research, systematic observation of the climate system and early warning systems, in a manner that informs climate services and supports decision-making;

(d) Assisting developing country Parties in identifying effective adaptation practices, adaptation needs, priorities, support provided and received for adaptation actions and efforts, and challenges and gaps, in a manner consistent with encouraging good practices;

(e) Improving the effectiveness and durability of adaptation actions.'

Sub-paragraph 9 provides that: 'Each Party shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include: (a) The implementation of adaptation actions, undertakings and/or efforts;

(b) The process to formulate and implement national adaptation plans;

(c) The assessment of climate change impacts and vulnerability, with a view to formulating nationally determined prioritized actions, taking into account vulnerable people, places and ecosystems;

(d) Monitoring and evaluating and learning from adaptation plans, policies, programmes and actions; and

(e) Building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources.'

Parties also agreed in sub-paragraph 10 that '*Each Party should, as appropriate, submit and update periodically an adaptation communication, which may include its priorities, implementation and support needs, plans and actions, without creating any additional burden for developing country Parties.*'

Also noteworthy is sub-paragraph 11 which states that '*The adaptation communication referred to in paragraph 10 of this Article shall be, as appropriate, submitted and updated periodically, as a component of or in conjunction with other communications or documents, including a national adaptation plan, a nationally determined contribution as referred to in Article 4, paragraph 2, and/or a national communication.*'

According to sub-paragraph 12, 'The adaptation communications referred to in paragraph 10 of this Article shall be recorded in a public registry maintained by the secretariat.' Sub-paragraph 13 provides that '*Continuous and enhanced international support shall be provided to developing country Parties for the implementation of paragraphs 7, 9, 10 and 11 of this Article, in accordance with the provisions of Articles 9, 10 and 11.*'

Loss and Damage (Article 8)

One major victory for developing countries is the recognition of 'loss and damage' as a separate article to the Paris Agreement, distinct from 'adaptation'. Developing countries had been arguing very hard for 'loss and damage' to be separately recognised.

(The term 'loss and damage' refers broadly to the entire range of damage and permanent loss associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change that can no longer be avoided through mitigation nor can be avoided through adaptation.)

The anchoring of 'loss and damage' as a distinct article in the Agreement came at a costly price when a deal was sealed behind closed doors between the United States (US), European Union (EU) and some Small Island Developing States and Least Developed Countries (LDC) in the final hours, prior to the draft agreement being released to Parties for consideration and adoption.

The compromise reached is found in paragraph 52 of the decision text which provides that Parties agree '*that Article 8 of the Agreement does not involve or provide a basis for any liability or compensation*'.

According to one source, the deal was between the US, the EU, the Maldives, Saint Lucia, Jamaica, the Marshall Islands, and Tuvalu. It seems that most developing countries were completely unaware of the deal being done until it was too late. According to the same source, the deal might have also been linked with getting reference to 1.5°C in the long-term temperature goal in the Paris Agreement in Article 2.1 (a).

In a strong retort to this compromise, Nicaraguan Minister Paul Oquist at the closing plenary of COP21 on 12 December after the adoption of the Agreement, called for the deletion of paragraph 52. Referring to the low level of ambition of the intended nationally determined contributions, the Minister said that 'this would mean giving a 3°C temperature increase to our grandchildren and they are not able to ask for compensation and we strip them of any legal rights for legal action for the liability of other countries that caused the damage'.

The Nicaraguan Minister's call for deletion was of course not heeded and the COP 21 President responded to say that his remarks will be noted in the report of the meeting.

According to several experts who have been following the UNFCCC negotiations, the clause in paragraph 52 on exclusion of liability and compensation does not mean that financial resources cannot be allocated through the Financial Mechanism of the Convention and the Agreement for developing countries to seek funds to address the adverse impacts related to loss and damage.

The sub-paragraphs of Article 8 are as follows:

'*1. Parties recognize the importance of averting, minimizing and addressing loss and*

damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage.

2. The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and may be enhanced and strengthened, as determined by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement.

3. Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.

4. Accordingly, areas of cooperation and facilitation to enhance understanding, action and support may include: (a) Early warning systems; (b) Emergency preparedness; (c) Slow onset events; (d) Events that may involve irreversible and permanent loss and damage; (e) Comprehensive risk assessment and management; (f) Risk insurance facilities, climate risk pooling and other insurance solutions; (g) Non-economic losses; (h) Resilience of communities, livelihoods and ecosystems.

5. The Warsaw International Mechanism shall collaborate with existing bodies and expert groups under the Agreement, as well as relevant organizations and expert bodies outside the Agreement.'

(Further articles will follow on other elements of the Paris Agreement.)

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What Countries Agreed to under the Paris Agreement (Part 3)

Penang, 22 December (Meena Raman) – In Part 3 of this article on what countries agreed to under the UNFCCC's Paris Agreement, focus is on highlights in relation to the aspects of finance, technology transfer, and capacity-building.

(See TWN Updates 18 and 20 for Parts 1 and 2 of this article at www.twn.my.)

Finance (Article 9)

Prior to the final outcome in the Paris Agreement, the thrust of the developed countries' position on the issue of finance was to increase the scope of countries (to include developing countries) who should be 'donors' of climate finance by proposing terms in the text like 'all Parties in a position to do so' should provide financial resources or that the mobilisation of climate finance is a 'shared effort' of all Parties.

In the final Agreement, some highlights of what was agreed to in the sub-paragraphs on finance are as follows:

'*1. Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.*'

This paragraph continues to ensure that developed countries are not absolved from their existing financial commitments under Articles 4.3 and 4.4 under the UNFCCC.

However, the G77 and China had, during the negotiations, pressed for the provision of these resources to be 'new, additional, adequate, predictable, accessible and sustained' but these terms were not found in the Agreement, except for a reference in sub-paragraph 4 on 'the provision of scaled-up resources' (see below). Sub-paragraph 2 states that '*Other Parties are encouraged to provide or continue to provide such support voluntarily.*'

Instead of the reference to 'all Parties in a position to do so' also having to contribute to climate finance (which was opposed to by many developing countries), the above paragraph was agreed to, which stresses the 'voluntary' nature of such support.

Sub-paragraph 3 provides that '*As part of a global effort, developed country Parties should continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds through a variety of actions, including supporting country-driven strategies, and taking into account the needs and priorities of developing country Parties. Such mobilization of climate finance should represent a progression beyond previous efforts.*'

Many developing countries including the Like-minded developing countries (LMDC) preferred the reference to the provision of financial resources by developed countries instead of the focus on the 'mobilisation' of climate finance. The Paris Agreement provides for both the provision of support by developed countries and the mobilisation of climate finance.

In the earlier version of the draft agreement (version 2 issued on 10 December by the COP 21 President), there was reference that the provision and mobilisation of climate finance 'shall represent a progression beyond previous efforts from a floor of USD100 billion per year…' and 'towards achieving short-term collective quantified goals for the post-2020 period to be periodically established and reviewed…'.

It is notable that the reference to the US$100 billion per year as a floor did not make it to the Agreement but is found in paragraph 54 of the COP 21 decision which states as follows: '*Also decides*

that, in accordance with Article 9, paragraph 3, of the Agreement, developed countries intend to continue their existing collective mobilization goal through 2025 in the context of meaningful mitigation actions and transparency on implementation; prior to 2025 the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall set a new collective quantified goal from a floor of USD 100 billion per year, taking into account the needs and priorities of developing countries.'

In Cancun in 2010, Parties had agreed to developed countries mobilising US$100 billion per year by 2020. With the Paris Agreement, a five-year extension has been obtained to reach this target and a new quantified goal will be set for the period after 2025. Senior developing country negotiators also point out that the mobilisation of existing climate finance as stated above, is conditional on 'meaningful mitigation actions and transparency on implementation', which was actually previously agreed to under the Copenhagen Accord (in 2009) and later affirmed in the decision in Cancun.

Developed countries, with the United States (US) in particular, were against the indication of any quantified target on the scale of resources in the Paris Agreement.

Developing countries, through the G77 and China on the other hand, pressed for clear 'pathways to annual expected levels of available resources towards achieving short-term collective quantified goals for the post 2020 period to be periodically established and reviewed' and for 'financial resources to be scaled up from a floor of USD100 billion per year, including a clear burden-sharing formula, and in line with needs and priorities identified by developing country Parties…'.

There were also efforts by developed countries to 'integrate climate considerations' into 'international development assistance'. This was strongly resisted by developing countries and there is no reference to international development assistance in the Paris Agreement.

However, under Article 2.1(c) of the Agreement which relates to the purpose of the Agreement, there is reference to 'making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development'. The meaning of 'finance flows' can be expected to be a matter of intense debate in the years ahead.

Sub-paragraph 4 of Article 9 of the Agreement provides that '*The provision of scaled-up financial resources should aim to achieve a balance between adaptation and mitigation, taking into account country-driven strategies, and the priorities and needs of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change and have significant capacity constraints, such as the least developed countries and small island developing States, considering the need for public and grant-based resources for adaptation.*'

During the negotiations, there were attempts by developed countries to limit the scope of developing countries who are recipients of finance under the Convention to those 'who are particularly vulnerable to the impacts of climate change', and are 'capacity-constrained developing countries, least developed countries (LDCs), Small Island Developing States (SIDs) and Africa'.

Negotiations were intense especially among developing countries until the final hours on the need to expand the list to not only include Africa but to cover other regions of the developing world. Countries in Africa were also unhappy that they were not mentioned in the final Agreement, which was a compromise crafted by the COP 21 Presidency.

In sub-paragraph 5, it was agreed that '*Developed country Parties shall biennially communicate indicative quantitative and qualitative information related to paragraphs 1 and 3 of this Article, as applicable, including, as available, projected levels of public financial resources to be provided to developing country Parties. Other Parties providing resources are encouraged to communicate biennially such information on a voluntary basis.*'

Although the provision of support by 'other Parties' is voluntary, the paragraph above 'encourages' these countries 'to communicate biennially such information on a voluntary basis'. At issue will be how 'such information' will be used and for what purpose, when the resources provided are purely voluntary and not linked to the UNFCCC.

Sub-paragraph 6 provides that '*The global stocktake referred to in Article 14 shall take into account the relevant information provided by developed country Parties and/or Agreement bodies on efforts related to climate finance.*'

According to sub-paragraph 7, '*Developed country Parties shall provide transparent and consistent information on support for developing country Parties provided and mobilized through public interventions biennially in accordance with the modalities, procedures and guidelines to be adopted…Other Parties are encouraged to do so.*'

It was also agreed in sub-paragraph 8 that '*The Financial Mechanism of the Convention, including its operating entities, shall serve as the financial mechanism of this Agreement.*'

The operating entities of the Financial Mechanism currently include the Green Climate Fund and the Global Environment Facility.

Sub-paragraph 9 states that '*The institutions serving this Agreement, including the operating entities of the Financial Mechanism of the Convention, shall aim to ensure efficient access to financial resources through simplified approval procedures and enhanced readiness support for developing country Parties, in particular for the least developed countries and small island developing States, in the context of their national climate strategies and plans.*'

On the issue of the Adaptation Fund (a fund established under the Kyoto Protocol), paragraph 60 of the decision states as follows: '*Recognizes that the Adaptation Fund may serve the Agreement, subject to relevant decisions by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA).*'

Paragraph 61 of the decision invites the CMP to consider the issue and make a recommendation to the CMA at its first session.

In paragraph 53 of the decision, it was also decided '*that, in the implementation of the Agreement, financial resources provided to developing countries should enhance the implementation of their policies, strategies, regulations and action plans and their climate change actions with respect to both mitigation and adaptation to contribute to the achievement of the purpose of the Agreement as defined in Article 2*;'.

Technology transfer (Article 10)

In the negotiations on technology transfer, developing countries had been very proactive in coming with various proposals to enhance technology development and transfer to developing countries. Developed countries opposed the proposals of developing countries and only wanted a very weak outcome relating to technology cooperation.

The Like-Minded Developing Countries (LMDC) had called for the establishment of a global goal on the transfer of technologies by developed countries and know-how as well as for the provision of financial resources for collaborative research and development of environmentally sound technologies and enhancing accesses of developing countries to such technologies that match their technology needs. There was also a proposal from India for developed countries to provide financial resources to address barriers related to intellectual property rights (IPRs) and facilitate access to technologies. The African Group proposed a technology framework to be adopted that will provide direction and guidance in relation to technology assessments, including in identifying options for enhancing access and to address barriers. These proposals from developing countries were opposed by developed countries with options for no text in the agreement.

Finally, what was agreed to under technology transfer in the Agreement is as follows:

'*1. Parties share a long-term vision on the importance of fully realizing technology development and transfer in order to improve resilience to climate change and to reduce greenhouse gas emissions.*

2. Parties, noting the importance of technology for the implementation of mitigation and adaptation actions under this Agreement and recognizing existing technology deployment and dissemination efforts, shall strengthen cooperative action on technology development and transfer.

3. The Technology Mechanism established under the Convention shall serve this Agreement.

4. A technology framework is hereby established to provide overarching guidance to the work of the Technology Mechanism in promoting and facilitating enhanced action on technology development and transfer in order to support the implementation of this Agreement, in pursuit of the long-term vision referred to in paragraph 1 of this Article.

5. Accelerating, encouraging and enabling innovation is critical for an effective, long-term global response to climate change and promoting economic growth and sustainable development. Such effort shall be, as appropriate, supported, including by the Technology Mechanism and, through financial means, by the Financial Mechanism of the Convention, for collaborative approaches to research and development, and facilitating access to technology, in particular for early stages of the technology cycle, to developing country Parties.

6. Support, including financial support, shall be provided to developing country Parties for the implementation of this Article, including for strengthening cooperative action on technology development and transfer at different stages of the technology cycle, with a view to achieving a balance between support for mitigation and adaptation. The global stocktake referred to in Article 14 shall take into account available information on efforts related to support on technology development and transfer for developing country Parties.'

Clearly, from the above, the real value for developing countries in this regard is the

establishment of the technology framework in providing guidance to the Technology Mechanism (which comprises the Technology Executive Committee and the Climate Technology Centre and Network) in promoting and facilitating enhanced action on technology development and transfer.

In addition, there is now a link established between the Technology Mechanism and the Financial Mechanism to allow for collaborative approaches in R and D and for facilitating access to technologies, which somewhat reflects the call by India to provide financial resources to address barriers related to IPRs and facilitate access to technologies.

The IPR issue has been a long-standing battle between developed and developing countries under the UNFCCC process, with strong opposition by developed countries led by the US in particular, to even mention of the words 'IPRs'.

Capacity-building (Article 11)

Some highlights of the Agreement on capacity-building are as follows.

'*1. Capacity-building under this Agreement should enhance the capacity and ability of developing country Parties, in particular countries with the least capacity, such as the least developed countries, and those that are particularly vulnerable to the adverse effects of climate change, such as small island developing States, to take effective climate change action, including, inter alia, to implement adaptation and mitigation actions, and should facilitate technology development, dissemination and deployment, access to climate finance, relevant aspects of education, training and public awareness, and the transparent, timely and accurate communication of information.*

3. All Parties should cooperate to enhance the capacity of developing country Parties to implement this Agreement. Developed country Parties should enhance support for capacity-building actions in developing country Parties.

4. All Parties enhancing the capacity of developing country Parties to implement this Agreement, including through regional, bilateral and multilateral approaches, shall regularly communicate on these actions or measures on capacity-building. Developing country Parties should regularly communicate progress made on implementing capacity-building plans, policies, actions or measures to implement this Agreement.

5. Capacity-building activities shall be enhanced through appropriate institutional arrangements to support the implementation of this Agreement…'

The G77 and China had during the negotiations called for an international capacity-building mechanism to enhance and coordinate capacity building. Developed countries did not want the creation of any new mechanism.

However, in the decision adopted, in paragraph 72, it was decided that '*the Paris Committee on Capacity-building' is established, 'whose aim will be to address gaps and needs, both current and emerging, in implementing capacity-building in developing country Parties and further enhancing capacity-building efforts, including with regard to coherence and coordination in capacity-building activities under the Convention'.*

The US was keen to establish a '*Capacity-building Initiative for Transparency' and this found way in the decision adopted in paragraph 85 'in order to build institutional and technical capacity, both pre-and post-2020. This initiative will support developing country Parties, upon request, in meeting enhanced transparency requirements…*'.

(More details will be provided under the section on 'transparency' in a separate article.)

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What Countries Agreed to under the Paris Agreement (Part 4)

Penang, 22 December 2015 (Meena Raman) – In Part 4 of this article on what countries agreed to under the UNFCCC's Paris Agreement, focus is on highlights in relation to transparency of action and support, global stocktake and facilitating implementation and compliance.

(See TWN Updates 18 (Part 1), 20 (Part 2) and 21 (Part 3) for previous parts of this article.)

Transparency of action and support (Article 13)

With a 'bottom-up' system in place for countries to nationally determine (not multilaterally determined) their contributions to climate change efforts under the Paris Agreement as advanced primarily by the United States, there was a push by developed countries to have a common and unified system in place (which is not differentiated between developed and developing countries) on 'transparency of action' – which is a 'top-down' rules-based system in providing clarity on the content and information regarding those efforts.

Developing countries on the other hand were pressing for a transparency framework, which is differentiated between developed and developing countries and better rules on 'transparency of support' which relates to information from developed countries on the means of implementation (finance, technology transfer and capacity-building).

The main bone of contention therefore was whether such a transparency framework should be differentiated between developed and developing countries.

Options included a differentiated framework between developed and developing countries building on existing arrangements (proposed by the Like-Minded Developing Countries); a unified system with built-in flexibility to take into account Parties' differing capacities and applicable to all (proposed by the US and New Zealand); a tiered system based on self-differentiation with no backsliding (proposed by the Arab Group) and a framework, building on existing arrangements that takes into account Parties' different capacities (a proposal from Brazil and the African Group).

In the Agreement, what was agreed to is as follows:

'*1. In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established.*

2. The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.

3. The transparency framework shall build on and enhance the transparency arrangements under the Convention, recognizing the special circumstances of the least developed countries and small island developing States, and be implemented in a facilitative, non-intrusive, non-punitive manner, respectful of national sovereignty, and avoid placing undue burden on Parties.'

By the above sub-paragraphs, it appears that what has been agreed to is a transparency framework with flexibilities taking into account the different capacities of countries and builds on the existing transparency arrangements (that is currently differentiated between developed and developing countries):

Sub-paragraph 5 states that *'The purpose of the framework for transparency of action is to provide a clear understanding of climate change action in the light of the objective of the Convention as set out*

in its Article 2, including clarity and tracking of progress towards achieving Parties' individual nationally determined contributions under Article 4, and Parties' adaptation actions under Article 7, including good practices, priorities, needs and gaps, to inform the global stocktake under Article 14.'

Sub-paragraph 6 states that '*The purpose of the framework for transparency of support is to provide clarity on support provided and received by relevant individual Parties in the context of climate change actions under Articles 4, 7, 9, 10 and 11, and, to the extent possible, to provide a full overview of aggregate financial support provided, to inform the global stocktake under Article 14.' (Article 4 relates to 'mitigation', Article 7 to 'adaptation', Article 9 to 'finance', Article 10 to 'technology transfer' and Article 11 to 'capacitybuilding*').

Sub-paragraph 7 relates to the mitigation contributions of Parties and states that '*Each Party shall regularly provide the following information: (a) A national inventory report of anthropogenic emissions by sources and removals by sinks of greenhouse gases, prepared using good practice methodologies accepted by the Intergovernmental Panel on Climate Change and agreed upon by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement; (b) Information necessary to track progress made in implementing and achieving its nationally determined contribution under Article 4.'*

Sub-paragraph 8 relates to adaptation and states that '*Each Party should also provide information related to climate change impacts and adaptation under Article 7, as appropriate.*'

In sub-paragraph 9 which relates to the means of implementation, it is provided that '*Developed country Parties shall, and other Parties that provide support should, provide information on financial, technology transfer and capacity-building support provided to developing country Parties under Article 9, 10 and 11.*'

What is problematic in this sub-paragraph is the reference to information from 'other Parties that provide support' who 'should' also provide information on such support.

Under Article 9 on 'finance', the support provided by 'other Parties' (referring to developing countries) is supposed to be voluntary but the provision of information under this sub-paragraph in the 'transparency' section appears to change the notion of the voluntary support.

Moreover, under Article 9 (5), the Agreement provides that '*Other Parties providing resources are encouraged to communicate biennially such information on a voluntary basis.*'

Clearly, based on the above, the provision of such information is on a voluntary basis. In the coming years, intense debates can be expected on this issue of whether the information by 'other Parties' should be provided or if it is to be purely voluntary and up to the countries to decide. Whether in fact, 'other Parties' will provide information on their voluntary support remains to be seen. At issue will be how 'such information' will be used and for what purpose, when the resources provided are purely voluntary and not linked to the UNFCCC obligations.

Sub-paragraph 10 states that '*Developing country Parties should provide information on financial, technology transfer and capacity-building support needed and received under Articles 9, 10 and 11.*'

According to sub-paragraph 11, '*Information submitted by each Party under paragraphs 7 and 9 of this Article shall undergo a technical expert review, in accordance with decision 1/CP.21. For those developing country Parties that need it in the light of their capacities, the review process shall include assistance in identifying capacity-building needs. In addition, each Party shall participate in a facilitative, multilateral consideration of progress with respect to efforts under Article 9, and its respective implementation and achievement of its nationally determined contribution.*' (Article 9 relates to 'finance').

In sub-paragraph 12, '*The technical expert review…shall consist of a consideration of the Party's support provided, as relevant, and its implementation and achievement of its nationally determined contribution. The review shall also identify areas of improvement for the Party, and include a review of the consistency of the information… taking into account the flexibility accorded to the Party under paragraph 2 of this Article. The review shall pay particular attention to the respective national capabilities and circumstances of developing country Parties.*'

Sub-paragraph 13 states that '*The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall, at its first session, building on experience from the arrangements related to transparency under the Convention, and elaborating on the provisions in this Article, adopt common modalities, procedures and guidelines, as appropriate, for the transparency of action and support.*'

This sub-paragraph is expected to generate further debate on what is meant by 'common modalities, procedures and guidelines' when it is to be built on the experience from current arrangements

under the Convention, which is differentiated between developed and developing countries.

Sub-paragraph 14 provides that '*Support shall be provided to developing countries for the implementation of this Article;'* sub-paragraph 15 states that *'Support shall also be provided for the building of transparency-related capacity of developing country Parties on a continuous basis.*'

In the COP 21 decision, there are lengthy provisions on transparency and for further work to be undertaken by the Ad Hoc Working Group on the Paris Agreement, pending entry into force of the Agreement. Paragraph 85 of the decision states that Parties have decided to '*establish a Capacity-building Initiative for Transparency in order to build institutional and technical capacity, both pre- and post-2020. This initiative will support developing country Parties, upon request, in meeting enhanced transparency requirements as defined in Article 13 of the Agreement in a timely manner*'.

This initiative was a proposal advanced by the US.

In Paragraph 90, it is agreed that '*in accordance with Article 13, paragraph 2, of the Agreement, developing countries shall be provided flexibility in the implementation of the provisions of that Article, including in the scope, frequency and level of detail of reporting, and in the scope of review, and that the scope of review could provide for in-country reviews to be optional ...*'.

According to paragraph 91, '*all Parties, except for the least developed country Parties and small island developing States, shall submit the information referred to in Article 13, paragraphs 7, 8, 9 and 10, as appropriate, no less frequently than on a biennial basis, and that the least developed country Parties (LDCs) and small island developing States (SIDs) may submit this information at their discretion*'.

The information referred to paragraph 91 above relates to mitigation, adaptation and means of implementation. Except for LDCs and SIDS, all Parties have to submit the information on a biennial basis.

Global Stocktake (Article 14)

During the negotiations, the main issue around the global stocktake was around its purpose and scope. The idea was for a periodic stocktake of the implementation of the Agreement and there were options as to the purpose of the stocktake: whether to assess the overall/aggregate/collective progress towards achieving the objective of the Convention or the Agreement's long-term goal.

On the scope, for developed countries, the stocktaking was primarily for considering the aggregate effect of the mitigation contributions of Parties in light of the long-term mitigation goal linked to the temperature goal, while for developing countries, it was to consider the overall implementation of obligations of Parties (consistent with the differentiated responsibilities), in relation to mitigation, adaptation and the means of implementation.

For the European Union (EU), the proposal was for a review process every five years to assess if Parties' mitigation contributions are on track in meeting the long-term mitigation goal and for enhancing (or ratcheting up) the contributions of Parties accordingly.

Many developing countries, especially from the Like-Minded Developing Countries (LMDC), were worried about such a ratcheting up process due to concerns that with developed countries not doing their fair share of the effort (taking into account their historical emissions), the pressure would be on developing countries to plug the emissions gap to limit the temperature rise. They were also worried by any ex-ante process to review the intended nationally determined contributions (INDCs) provided by Parties prior to their communication.

Highlights of what Parties agreed to under the Agreement are as follows.

'*1. The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) shall periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals (referred to as the "global stocktake"). It shall do so in a comprehensive and facilitative manner, considering mitigation, adaptation and the means of implementation and support, and in the light of equity and the best available science.*'

It is noteworthy that the global stocktake is to be comprehensive and undertaken in the light of both equity and the best available science. This will avoid a mitigation-centric process, which also takes into account considerations of equity.

In sub-paragraph 2, it is agreed that the CMA '*shall undertake its first global stocktake in 2023 and every five years thereafter unless otherwise decided ...*'.

According to sub-paragraph 3, '*The outcome of the global stocktake shall inform Parties in updating and enhancing, in a nationally determined manner, their actions and support in accordance with the relevant provisions of this Agreement, as well as*

in enhancing international cooperation for climate action.'

In a related matter, it is also vital to note that in the COP 21 decision, under the section on INDCs, paragraph 17 '*Notes with concern that the estimated aggregate greenhouse gas emission levels in 2025 and 2030 resulting from the INDCs do not fall within least-cost 2°C scenarios but rather lead to a projected level of 55 gigatonnes in 2030, and also notes that much greater emission reduction efforts will be required than those associated with the INDCs in order to hold the increase in the global average temperature to below 2°C above pre-industrial levels by reducing emissions to 40 gigatonnes or to 1.5°C above pre-industrial levels by reducing to a level to be identified in the special report referred to in paragraph 21 below.*'

In paragraph 20, Parties agreed that a facilitative dialogue among Parties will be convened in 2018 'to take stock of the collective efforts of Parties' in relation to progress towards the long-term goal referred to Article 4(1) of the Agreement (which relates to the long-term temperature goal and the mitigation goal) and to inform the preparation of nationally determined contributions (NDCs) pursuant to Article 4, paragraph 8, of the Agreement (which relates to the communication of the NDCs).

This appears to be an ex-ante process to inform the preparation of the NDCs.

Paragraph 21 invites the '*Intergovernmental Panel on Climate Change to provide a special report in 2018 on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways*'.

Facilitation and compliance (Article 15)

On the issue of facilitation and compliance, the Agreement provides as follows.

'*1. A mechanism to facilitate implementation of and promote compliance with the provisions of this Agreement is hereby established.*

2. The mechanism referred to in paragraph 1 of this Article shall consist of a committee that shall be expert-based and facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive. The committee shall pay particular attention to the respective national capabilities and circumstances of Parties.

3. The committee shall operate under the modalities and procedures adopted by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session and report annually to the CMA.'

During the negotiations, some developing countries had been calling for differentiated mechanisms for developed and developing countries, with a compliance mechanism for developed countries and a facilitative mechanism for developing countries. Developed countries, particularly the US, did not want such a differentiated approach.

In the final outcome, as seen from above, there is no differentiation between developed and developing countries in this regard.

(This is the last of the four-part series on **What Countries Agreed to under the Paris Agreement.**)

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Differentiation under the Paris Agreement – a Tough Fight

28 December, Penang (T Ajit) – The issue of differentiation between developed and developing countries remained a key sticking point until the final hours of the climate talks on the UNFCCC's Paris Agreement.

Parties remained firm in their respective positions and were deadlocked over how to reflect differentiation and to operationalise it in the different elements of the Paris Agreement, covering mitigation, adaptation, finance, technology development and transfer, capacity building and transparency. The compromise was crafted by the French Presidency of the 21st meeting of the Conference of Parties (COP21), and was accepted on 12 December.

With positions of Parties on differentiation completely polarised, commentators and experts were of the view that the Paris talks could make or break over this issue.

Central to the disagreement was whether the Agreement would retain differentiation by reflecting the principle of common but differentiated responsibilities (CBDR) as provisioned for in the Convention, a key demand of the Like-Minded Developing Countries (LMDC), or reflect 'dynamic differentiation' which the European Union (EU) called for, and 'self-differentiation' of which the United States (US) and its allies were proponents.

The justification of the developed world to move away from the Convention-based differentiation was that the world had changed since 1992 (when the Convention was agreed upon).

However, developing countries provided strong arguments to the contrary and spoke of the historical responsibility of the developed countries in causing climate change, the unfulfilled legally binding commitments of the developed countries since 1992, the right of the developing countries to not compromise their development space and the reality that the world has not really changed between developed and developing countries. (See TWN Paris Update 10: *Differentiation between developed and developing countries still relevant, say developing countries*).

Given the critical nature of the issue, several sessions in Paris were dedicated to this cross-cutting issue in the Agreement. Since most of these discussions were behind closed doors, Third World Network (TWN) spoke to several negotiators to find out what transpired during the discussions.

In one of the closed-door consultation sessions chaired by COP21 President Laurent Fabius (French Foreign Minister), **Malaysia for the LMDC** said the Convention had been in place since 1992 and that developed countries had not fulfilled their obligations. It said that the LMDC, which houses two-thirds of the poor population of the world, continues to suffer climate extremes. Then in Durban (which established the mandate for the Paris Agreement in 2011), Parties decided that they would enhance the Convention implementation and Parties should stick to the mandate (and not rewrite the Convention), said Malaysia.

Both **China and India** (members of the LMDC) also reportedly said that the purpose of the Agreement must clearly reflect that it is to enhance the implementation of the Convention and follow its principles, including equity and CBDR.

India also said that mentioning sustainable lifestyle and sustainable consumption would help ambition. It cautioned against some Parties insisting on options, which completely obliterated and diluted the differentiation issue, which would not be acceptable to most developing countries.

Sources said that the **EU** was of the view that the principles of the Convention must be applied in a fair and contemporary manner, reflecting evolving realities. It said that progress made in Lima on the issue must be translated into mitigation, adaptation and means of implementation, taking into account the different national circumstances. (At COP20 in Lima, Parties had agreed that the Paris outcome must reflect the principle of CBDR and respective capabilities, in light of different national circumstances.)

According to sources, even though the US said it was supportive of CBDR, its interpretation of CBDR was different in that it could not accept the mention of annexes in the agreement. 'We have always supported CBDR. We are for differentiation but we must remember the failure of Kyoto Protocol, which had a mandatory one-sided effort (referring to only developed countries having to take on emission cuts). We tried, but failed. You can take the US out of this. Take the developed world out of this. The Earth has a problem. What will you do with the problem on your own?' US Secretary of State John Kerry is supposed to have asked this to countries in the closed-door session on 10 December, which was also chaired by Fabius.

(The UNFCCC Annex I lists the developed countries that have committed to emission reductions, while Annex II are those that have financial commitments. These are the annexes that developed countries object to.)

Referring to the draft agreement proposed by the COP21 President on 10 December, Kerry is also supposed to have said that this Agreement was a 'monument to differentiation' but that the US was not in favour of loading the agreement with differentiation.

It seems that **Singapore** asked Parties to stop scaring each other by invoking the spectre of bifurcation and firewalls. 'Those are the standard negotiating tactics. There is no point paralysing ourselves. We already decided that we would work on INDCs (Intended Nationally Determined Contributions). The genius is it expresses differentiation in the fullest sense of the word. Let's not scare each other about greater differentiation and then say mitigation pledges have to be unconditional. Are you trying to scare people or encourage people to voluntarily come to a system? When the concept of INDCs came about, none of us believed there would be 186 (contributions) on the table. Even if you don't want to face the frontal nudity of the annexes, the fact is we have developed countries and developing countries. There are different roles played by these,' Singapore's foreign minister Vivian Balakrishnan is supposed to have said.

Below are further highlights of the closed-door discussions on differentiation in mitigation, finance and transparency, according to several negotiators who spoke to TWN.

Mitigation

During discussions on mitigation, the **LMDC** made it clear that differentiation must be clearly reflected for developed and developing countries and that it forms the bedrock upon which Parties could achieve ambition. 'Attempts to break this firewall would not help. The LMDC, which represents 50 per cent of the world, will not agree to this,' asserted Malaysia.

For **China**, differentiation in mitigation could be stated by provisions such as developed countries should take the lead in mitigation and must take economy-wide absolute quantified targets. These countries must also enhance the ambition in the forthcoming years. For developing countries, it should be in a sustainable development framework, supported by finance, technology, capacity building, as well as facilitative instruments and policies to undertake modified enhanced mitigation action and such diversified mitigation action could undertake multiple and different targets.

The Africa Group also spoke along the same lines that differentiation should be reflected in the nature of commitments countries would undertake. Developed countries should take the lead by committing to quantified, economy-wide emission reductions, whereas developing countries could take on other types of commitments, said Ethiopia for the Africa Group.

The Least Developed Countries (LDC) were of the view that developed countries must take the lead in taking action and in supporting developing countries. It said the special needs of the LDCs must be recognised throughout the agreement.

The EU said that it was not in a position to accept a bifurcated approach that freezes the divide for decades to come. For the EU, actions should be based on what each Party can do and it should strive to reach economy-wide targets (in emission reductions). It was for each Party to demonstrate its highest possible ambition and regularly prepare, communicate and implement its INDCs and each Party's successive commitment must reflect its highest possible ambition.

For **the US**, a wrong kind of differentiation would do a disservice to ambition. 'We will not support a category-based approach, whether annexes or developed or developing countries. Some developing countries' per capita income are higher than the US's. To make sure we do not get into such kind of problems, we should have a nationally determined approach,' the US is supposed to have said behind closed doors and advocated self-differentiation.

In the agreement finally adopted on 12 December, differentiation between developed and developing countries is reflected explicitly in Article 4.4.

Article 4.4 reads:

'*Developed country Parties should continue*

taking the lead by undertaking economy-wide absolute emission reduction targets. Developing country Parties should continue enhancing their mitigation efforts, and are encouraged to move over time towards economy-wide emission reduction or limitation targets in the light of different national circumstances.'

Finance

Malaysia for the **LMDC** cautioned that Parties should not go down the pathway of using phrases such as 'countries in a position to do so' since it was a legal minefield and who would determine who is in a position to do so?

For **China** concepts such as 'countries with capacity and in a position to do so' would not help reach an agreement as these terms had not been defined earlier. China was for developed countries to fulfil their legal obligations and continue to provide financial support after 2020 to developing countries. 'We could encourage other countries to voluntarily come forward and provide supplementary support to developing countries, rather than saying those in a position to do so or capacity to do so,' said China during the discussion on finance.

For **India** it was imperative that differentiation in means of implementation recognised that Annex II Parties (who are developed countries in the Convention) must provide support to developing countries, which until now had not been satisfactorily done, as there was neither predictability nor any additional money coming in. It also said that terms such as 'Parties willing to do so' only served to create confusion. India said public finance, being over and above ODA (Official Development Assistance), must be anchored. It also called for a funding mechanism to support technology transfer.

The LDCs stressed that the 'landing zone' in finance was where developed countries reaffirmed their commitments for scaled-up finance, with particular emphasis on SIDS (Small Island Developing States), LDCs and Africa. The LDCs, though, were of the view that while the Convention must play a role in informing the agreement, Parties must also recognise finance opportunities within the context of South-South cooperation and emerging realities must be captured in the agreement by reflecting the desire of those countries willing to do so.

The EU too was in favour of all Parties taking on enhanced action and mobilising finance. Without this, it will not be possible to meet climate-resilient economies, and Parties should communicate *ex ante* information in this regard, according to the EU. It was also in favour of other countries in a position to do so to provide climate finance.

The US was looking at broadening the donor base. It did not see a short-term goal for finance in a durable agreement. It also was not in a position to accept a quantified goal that would be scaled up over time. According to a source, Kerry at a closed-door meeting said, 'Our situation is such, if I had my way, we would have a legally binding agreement. We tried to pass cap and trade but failed. I would love to have a legally binding agreement but the situation in the US is such that a legally binding agreement with respect to finance will be a killer for the agreement. We are for voluntary, non-punitive action.'

Referring to the US$100 billion commitment a year by 2020 of the developed countries, **Singapore** said that the LMDC had told Parties that the US$100 billion was not a donation. 'As far as the LMDC is concerned, it is the fulfilment of an obligation. Even if we hope other developing countries support developing countries, these countries will not accept that these contributions and support are on the same terms as fulfilment of prior obligations. That is why "in a position to do so" is being opposed. What China is doing is South-South (cooperation). If you leave it voluntarily, it will flow,' said Singapore.

In the agreed finance chapter of the Agreement, Article 9.1 reads:

'*Developed country Parties shall provide financial resources to assist developing country Parties with respect to both mitigation and adaptation in continuation of their existing obligations under the Convention.*'

The notion of 'countries in a position to do so' is not reflected in the final outcome, although sub-paragraph 2 states that '*Other Parties are encouraged to provide or continue to provide such support voluntarily.*'

(For further details on this, see TWN Paris Update 21: *What countries agreed to under the Paris Agreement – Part 3.*)

Transparency

On transparency, **the LMDC** was of the view that 'it is important to recognize the different starting points between developed and developing countries and not lose sight of the different economic realities. Developing countries started at a different point. If you put a burden that is so high then it will be a dead letter as far as developing countries are concerned,' said Malaysia. A common system would be very onerous. It is difficult to even collect data for developing countries. 'We can have differentiation, but which can be embodied without a total bifurcated

system that provides flexibility to developing countries only,' said Malaysia.

China also stressed that the agreement should establish an enhanced transparency system, based on existing arrangements under the Convention. It should not be unified, but reflect differentiation between developed and developing countries on matters such as institutions, frequency of reporting, methodologies and a lot of other ways. The international community should provide support to developing countries on how to build their capacity, according to China.

India too called for a robust transparency framework but not to change goalposts. 'Only 16 countries have submitted their biennial update reports. The system is not in place and yet we want to change the goalpost,' said India, stressing that while it was willing to work on language, the issue of differentiation could not be compromised.

[The existing system of transparency is differentiated through International Assessment and Review (IAR) for developed countries and International Consultation and Analysis (ICA) for developing countries, with biennial reports for developed countries and biennial update reports for developing countries agreed to in Cancun in 2010. All those decisions and reporting rules were the result of multiple negotiations.]

The Africa Group said it was important to take into account the different levels of capacities of countries to build the framework, which should translate into providing for flexibilities for developing countries on a voluntary basis. The Africa Group wanted flexibility for reporting, timing of submission of reports and treatment of information, and called for effective participation on transparency in finance arrangements. It also said that any new transparency framework must build on the existing framework.

The EU said differentiation in relation to transparency is not related to history (referring to historical responsibilities). All Parties have the same responsibility to report in a transparent way. Differentiation can be nuanced through flexibility for developing countries, the EU said. 'We are advocating for a new system to inform, review and create a facilitative link to compliance. The existing transparency system is not fit for purpose and the EU cannot accept current arrangements,' it said. The new system should allow for flexibility that takes into account the capabilities of developing countries and provide further flexibility for developing countries and SIDS and recognise their national circumstances.

The US called for a new, credible, robust transparency system, which should cover both action and support. There would be a new funding mechanism for capacity building to developing countries with low capacity. It added that there was a need to build a strong system for inventories and that many large developing countries do inventories once in 10 years. (The US proposed a 'Capacity-building Initiative for Transparency', which is reflected in paragraph 85 of the COP21 decision that accompanied the Paris Agreement.)

According to **Singapore**, if Parties started with ICA and IAR, they would end up with a global inventory with time. 'Do you want to start with a starting point or a final common destination? This is not the time to be scaring each other,' it cautioned.

In the Paris agreement, the transparency section included the following provisions with respect to differentiation.

Article 13.1 reads:

'*In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established.*'

Article 13.2 reads:

'*The transparency framework shall provide flexibility in the implementation of the provisions of this Article to those developing country Parties that need it in the light of their capacities. The modalities, procedures and guidelines referred to in paragraph 13 of this Article shall reflect such flexibility.*'

Article 13.3 reads:

'*The Conference of the Parties serving as the meeting of the Parties to the Paris Agreement shall, at its first session, building on experience from the arrangements related to transparency under the Convention, and elaborating on the provisions in this Article, adopt common modalities, procedures and guidelines, as appropriate, for the transparency of action and support.*'

Sub-paragraph 13.3 is expected to generate further debate on what is meant by 'common modalities, procedures and guidelines' when it is to be built on the experience from current arrangements under the Convention, which differentiate between developed and developing countries. (See TWN Paris Update 22: *What countries agreed to under the Paris Agreement – Part 4.*)

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COP21 Decision on Enhanced Action Prior to 2020

New Delhi, 28 December (Indrajit Bose) – Besides the Paris Agreement, Parties to the UNFCCC's 21st meeting of the Conference of Parties (COP21) also adopted a decision on enhanced action prior to 2020.

Since the Paris Agreement focuses on actions post-2020, the COP21 decision on pre-2020 enhanced action is important for climate action to continue in the current timeframe between 2016-2020, even as Parties have to continue further work pending the entry into force of the Paris Agreement.

There have been several fights in the run-up to and during the Paris climate talks under the Durban Platform process on pre-2020 actions (known then as negotiations under workstream 2, with workstream 1 focused on the Paris Agreement).

Developing countries have focused much of their attention to ensure that developed countries fulfil all their existing commitments under the various decisions from Cancun (2010) under the Bali process and the Kyoto Protocol, to step up ambition on emission reductions as agreed and to fulfil their commitments on the mobilisation of climate finance of US$100 billion a year by 2020. (The COP21 decision has extended this finance timeframe to 2025 and for a new collective goal to be set post-2025.)

The focus of the developed countries for the pre-2020 period has largely been on technical expert meetings and high-level events, often termed by developing countries as 'talk-shops that do not focus on any real action'.

Also, developed countries have tried to outsource climate action to 'non-state' actors and initiatives outside of the UNFCCC to plug their emissions gap in the pre-2020 period in relation to the pledges of countries and what countries must do to keep temperature rise to below the 2°C temperature goal agreed in Cancun.

While the Paris decision adopted a mix of developed and developing countries' proposals, one of the big wins for developing countries is the launch of a technical expert process on adaptation (see further details on this below).

However, the call especially by the Like-Minded Developing Countries (LMDC) for a strong mechanism to accelerate the implementation of current obligations (under the Bali process and the Kyoto Protocol) has been watered down in the decision to the conduct of a 'facilitative dialogue' at COP22 next year to assess the progress in implementation. This was due to the resistance by developed countries, especially in not wanting to raise their mitigation ambition any further.

Below are some of the key highlights of the COP21 decision on pre-2020 enhanced actions.

Ratifying and implementing the **Doha Amendment** to **the Kyoto Protocol** has been a key demand of developing countries, as that would give effect to the second commitment period of the Kyoto Protocol for emission reductions by developed countries. The relevant parts of the decision are as follows:

'*106. Resolves to ensure the highest possible mitigation efforts in the pre-2020 period, including by:*

(a) Urging all Parties to the Kyoto Protocol that have not already done so to ratify and implement the Doha Amendment to the Kyoto Protocol;

(b) Urging all Parties that have not already done so to make and implement a mitigation pledge under the Cancun Agreements;

(c) Reiterating its resolve, as set out in decision 1/CP.19, paragraphs 3 and 4, to accelerate the full implementation of the decisions constituting the agreed outcome pursuant to decision 1/CP.13 and enhance ambition in the pre-2020 period in order to ensure the highest possible mitigation efforts under the Convention by all Parties;

(d) Inviting developing country Parties that have not submitted their first biennial update reports to do so as soon as possible;

(e) Urging all Parties to participate in the existing measurement, reporting and verification processes under the Cancun Agreements, in a timely manner, with a view to demonstrating progress made in the implementation of their mitigation pledges.'

The provision in sub-paragraph 106(a), however, only 'urges' countries to ratify the Doha amendment to the Kyoto Protocol without specifying a deadline for this, due to resistance from developed countries.

Sub-paragraph (c) refers to paragraphs 3 and 4 of the Warsaw decision (1/CP.19) and the Bali Action Plan (1/CP.13) and developing countries have said in the past sessions that these decisions provide a comprehensive mandate in relation to the pre-2020 actions, and are not just a mitigation-centric focus.

The paragraphs below provide how the existing technical examination process on **mitigation** would be strengthened and also assessed in 2017.

'*110. Resolves to strengthen, in the period 2016–2020, the existing technical examination process on mitigation as defined in decision 1/CP.19, paragraph 5(a), and decision 1/CP.20, paragraph 19, taking into account the latest scientific knowledge, including by:*

(a) Encouraging Parties, Convention bodies and international organizations to engage in this process, including, as appropriate, in cooperation with relevant non-Party stakeholders, to share their experiences and suggestions, including from regional events, and to cooperate in facilitating the implementation of policies, practices and actions identified during this process in accordance with national sustainable development priorities;

(b) Striving to improve, in consultation with Parties, access to and participation in this process by developing country Party and non-Party experts;

(c) Requesting the Technology Executive Committee and the Climate Technology Centre and Network in accordance with their respective mandates:

(i) To engage in the technical expert meetings and enhance their efforts to facilitate and support Parties in scaling up the implementation of policies, practices and actions identified during this process;

(ii) To provide regular updates during the technical expert meetings on the progress made in facilitating the implementation of policies, practices and actions previously identified during this process;

(iii) To include information on their activities under this process in their joint annual report to the Conference of the Parties;

(d) Encouraging Parties to make effective use of the Climate Technology Centre and Network to obtain assistance to develop economically, environmentally and socially viable project proposals in the high mitigation potential areas identified in this process.

114. Also decides to conduct in 2017 an assessment of the process referred to in paragraph 110 above so as to improve its effectiveness;'

Another key issue for developing countries was on **finance**, i.e. to have a roadmap for the US$100 billion annually by 2020. Paragraph 115 takes care of that to an extent, but developing countries wanted the roadmap to be spelt out in the decision itself but this did not materialise. Paragraph 115 reads:

'Resolves to enhance the provision of urgent and adequate finance, technology and capacity-building support by developed country Parties in order to enhance the level of ambition of pre-2020 action by Parties, and in this regard strongly urges developed country *Parties to scale up their level of financial support, with a concrete roadmap to achieve the goal of jointly providing USD 100 billion annually by 2020 for mitigation and adaptation while significantly increasing adaptation finance from current levels and to further provide appropriate technology and capacity-building support.*'

The above paragraph must also be read with paragraph 54 of the COP21 decision which states as follows: '*Also decides that, in accordance with Article 9, paragraph 3, of the (Paris) Agreement, developed countries intend to continue their existing collective mobilization goal through 2025 in the context of meaningful mitigation actions and transparency on implementation; ...*'

As pointed out above, the decision in paragraph 54 has extended the timeframe for the mobilisation of finance through to 2025, instead of concluding in 2020.

'*116. Decides to conduct a facilitative dialogue in conjunction with the twenty-second session of the Conference of the Parties to assess the progress in implementing decision 1/CP.19, paragraphs 3 and 4, and identify relevant opportunities to enhance the provision of financial resources, including for technology development and transfer and capacity-building support, with a view to identifying ways to enhance the ambition of mitigation efforts by all Parties, including identifying relevant opportunities to enhance the provision and mobilization of support and enabling environments.*'

As stated in paragraph 116 above, there will be a facilitative dialogue in 2016 to assess the progress in implementing paragraphs 3 and 4 of the Warsaw decision, which relates to accelerating the full implementation of the decisions constituting the agreed outcome pursuant to the Bali Action Plan, (in particular in relation to the provision of means of

implementation, including technology, finance and capacity building support for developing country Parties), and the Kyoto Protocol.

However, paragraph 116 is a compromise. The LMDC had called for the launch of an accelerated implementation process to give effect to paragraphs 3 and 4 of the Warsaw decision (1/CP.19). However, the developed countries were against such a process.

In the draft decision version presented on 9 December by COP21 President Laurent Fabius, there were three options with respect to accelerating the implementation of Paragraphs 3 and 4 of the Warsaw decision. These were as follows:

'123. Decides to launch an accelerated implementation process starting in 2016 and continuing until 2020, to give effect to decision 1/CP.19, paragraphs 3 and 4, inter alia, by:

(a) Assessing the progress of the implementation of decision 1/CP.19, paragraph 4;

(b) [Reviewing and] assessing the adequacy of financial, technological and capacity-building support to enable increased mitigation and adaptation ambition by developing country Parties in accordance with decision 1/CP.19, paragraphs 3, 4(e) and 4(f);

(c) Developing and implementing measures to identify and address the adaptation and means of implementation gaps in the pre-2020 period;

(d) Developing ways and means to address the implementation gaps identified in the paragraph 123(c) above in accordance with the principles and provisions of the Convention;

(e) Sharing experiences, assessing the adequacy and addressing economic diversification as well as the adverse social and economic impacts of response measures on developing country Parties;

123bis. Requests the secretariat to organize the process referred to in paragraph 123 above and disseminate its results;

123ter. Decides that the process referred to in paragraph 123 above should be conducted under the Subsidiary Body for Implementation and take place annually until 2020;

Option 2: (paragraph 123)

123. Decides to conduct a facilitative dialogue in conjunction with the twenty-third session of the Conference of the Parties (November 2017) with a view to identifying ways to enhance the ambition of mitigation efforts by all Parties, including identifying relevant opportunities to enhance the provision and mobilization of support and enabling environments;

Option 3: (paragraph 123)

123. Decides to conduct biennial facilitative dialogues starting in 2016, through 2020, to assess the progress in implementing decision 1/CP.19, paragraphs 3 and 4, including identifying relevant opportunities to enhance the provision of financial resources, including for technology development and transfer and capacity building;]'

It is clear therefore that in the decision adopted, paragraph 116 is a compromise and instead of an accelerated implementation mechanism, there is a facilitative dialogue instead.

Progress was made on **adaptation** with the following agreed paragraphs:

'*125. Decides to launch, in the period 2016-2020, a technical examination process on adaptation;*

126. Also decides that the technical examination process on adaptation referred to in paragraph 125 above will endeavour to identify concrete opportunities for strengthening resilience, reducing vulnerabilities and increasing the understanding and implementation of adaptation actions;

127. Further decides that the technical examination process referred to in paragraph 125 above should be organized jointly by the Subsidiary Body for Implementation and the Subsidiary Body for Scientific and Technological Advice, and conducted by the Adaptation Committee;

128. Decides that the process referred to in paragraph 125 above will be pursued by:

(a) Facilitating the sharing of good practices, experiences and lessons learned;

(b) Identifying actions that could significantly enhance the implementation of adaptation actions, including actions that could enhance economic diversification and have mitigation co-benefits;

(c) Promoting cooperative action on adaptation;

(d) Identifying opportunities to strengthen enabling environments and enhance the provision of support for adaptation in the context of specific policies, practices and actions;

129. Also decides that the technical examination process on adaptation referred to in paragraph 125 above will take into account the process, modalities, outputs, outcomes and lessons learned from the technical examination process on mitigation referred to in paragraph 110 above;

130. Requests the secretariat to support the technical examination process referred to in paragraph 125 above by:

(a) Organizing regular technical expert meetings focusing on specific policies, strategies and actions;

(b) Preparing annually, on the basis of the meetings referred to in paragraph 130(a) above and in time to serve as an input to the summary for

policymakers referred to in paragraph 112(c) above, a technical paper on opportunities to enhance adaptation action, as well as options to support their implementation, information on which should be made available in a user-friendly online format;

131. Decides that in conducting the process referred to in paragraph 125 above, the Adaptation Committee will engage with and explore ways to take into account, synergize with and build on the existing arrangements for adaptation-related work programmes, bodies and institutions under the Convention so as to ensure coherence and maximum value;

132. Also decides to conduct, in conjunction with the assessment referred to in paragraph 120 above, an assessment of the process referred to in paragraph 125 above, so as to improve its effectiveness;

133. Invites Parties and observer organizations to submit information on the opportunities referred to in paragraph 126 above by 3 February 2016.'

A positive outcome was thus the launch of a technical expert process on adaptation. During the inter-sessions in Bonn, Parties had serious differences over the mandate of workstream 2. While the developed countries said that the mandate of workstream 2 was just mitigation, developing countries said the mandate extends to adaptation and wanted to launch a technical expert process on adaptation under workstream 2.

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Kyoto Protocol: CP2 Implementation Rules Adopted, 'Revisit Mechanism' Deferred

Kuala Lumpur, 28 December (Hilary Chiew) – The 11th session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP11) adopted a major set of decisions pertaining to the rules for the implementation of the Doha Amendment to the Kyoto Protocol on 11 December.

The Doha Amendment deals with the second commitment period (CP2) of greenhouse gas emissions reduction under the Kyoto Protocol.

While the work at the 43rd session of the Subsidiary Body for Scientific and Technological Advice (SBSTA 43) successfully concluded on three issues under agenda item 11 on the 'Methodological issues under the Kyoto Protocol', efforts to get developed countries to increase their CP2 emissions reduction ambition through a 'revisit mechanism' did not yield results. The latter has been deferred to CMP12 in 2016 when developed countries refused to have a contact group set up for this purpose, as they did at CMP10 in 2014.

SBSTA 43 was held in Paris, France in conjunction with the 21st session of the Conference of the Parties to the United Nations Framework Convention on Climate Change (COP21) and the 11th session of the COP serving as the meeting of the Parties to the Kyoto Protocol (CMP11) between 30 November and 11 December 2015. (Negotiations over the Paris Agreement stretched the conference till 12 December.)

During the first week, Parties reached agreement on the outstanding issues since SBSTA 39 and COP19 at Warsaw in 2013 that would determine the set of rules for the implementation of the CP2.

The three sub-agenda items are:

(a) Implications of the implementation of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8 of the Kyoto Protocol;

(b) Accounting, reporting and review requirements for Parties included in Annex I (developed countries and countries with economies in transition) without quantified emission limitation and reduction commitments for the second commitment period;

(c) Clarification of the text in section G (Article 3, paragraph 7 *ter*) of the Doha Amendment to the Kyoto Protocol, in particular the information to be used to determine the 'average annual emissions for the first three years of the preceding commitment period';

Presenting the SBSTA 43 report to the CMP, **SBSTA chair Lidia Wojtal (Poland)** described the achievement as of special interest to the CMP.

She said the outcome represented the tireless work of Parties and co-chairs who were engaged in highly technical discussions with immense dedication and decisiveness.

'These agreements are extremely important for the further operation of the entire reporting and review process of the Convention and the Kyoto Protocol. The year 2015 marked the first time that the annual reporting and review of the Kyoto Protocol did not take place. (But) we can say with certainty now that the reporting and review process can restart including those submissions by Annex I Parties to facilitate calculation of the assigned amount for the CP2.'

(The Doha Amendment to the Kyoto Protocol has not received enough ratifications especially from Annex I Parties and thus CP2 has not begun yet.)

'With the agreement of the matters relating to Article 5, 7 and 8 of the Kyoto Protocol, the full implementation of the CP2 has been enabled … Parties are able to implement the agreement back

home to the best of their capacities,' said Wojtal, noting that the success was due to the transparent and open process despite the time constraint.

At the closing plenary of SBSTA 43 on 4 December, **the Group of 77 and China** was pleased that Parties worked constructively to generate clarity of the rules of implementation in a manner that maintained the environmental integrity of the system.

The European Union praised the flexibility and spirit of compromise and hard work of all Parties, the co-chairs and the secretariat in reaching the package agreement of the three sub-agenda items for full implementation of the CP2.

St Lucia appreciated the work of the co-facilitators in delivery of the set of rules 'despite the complexity of this daunting task'.

'With this rule now agreed, we can look forward to the ratification of the Kyoto Protocol for all Parties,' it said, adding that the Kyoto Protocol has been a cornerstone of international efforts to address climate change.

'We have now completed a lengthy process of updating our rules. Our motivation has been to secure the environmental integrity of the emission reduction committed in Doha (2012). As we come to Paris to establish an ambitious agreement, we need to build on these robust rules,' it stressed.

The draft conclusion for sub-item 11(a) reads:

1. At the request of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP), the Subsidiary Body for Scientific and Technological Advice (SBSTA) continued its work on assessing and addressing the implications of the implementation of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8 of the Kyoto Protocol.

2. The SBSTA concluded its work on the matters referred to in paragraph 1 above and agreed to forward to the CMP the draft decision texts on the implications of the implementation of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8 of the Kyoto Protocol, for consideration and adoption by the CMP at its eleventh session (for the text of the decisions, see document FCCC/SBSTA/2015/L.27/Add.1 and 2).

3. The SBSTA at its forty-second session agreed to forward to the CMP a draft decision on the training programme for members of expert review teams participating in annual reviews under Article 8 of the Kyoto Protocol for consideration and adoption by the CMP at its eleventh session (for the text of the decision, see document FCCC/SBSTA/2015/2/Add.2).

The draft conclusion for sub-item 11(b) reads:

1. The Subsidiary Body for Scientific and Technological Advice (SBSTA) continued its consideration of the accounting, reporting and review requirements for Parties included in Annex I without quantified emission limitation and reduction commitments for the second commitment period of the Kyoto Protocol, as agreed at SBSTA 41.1

2. The SBSTA, noting that draft decisions -/CMP.11 and -/CMP.11 address these matters sufficiently, agreed that its work under this agenda item has been completed.

Draft decision -/CMP.11 has two components. The <u>first component</u> refers to 'Implications of the implementation of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol, including those relating to Articles 5, 7 and 8 of the Kyoto Protocol, **part I: implications related to accounting and reporting and other related issues**' proposed for adoption under agenda item 11(a) of the SBSTA. (Emphasis added.)

The <u>second component</u> of Draft decision -/CMP.11 refers to 'Implications of the implementation of decisions 2/CMP.7 to 4/CMP.7 and 1/CMP.8 on the previous decisions on methodological issues related to the Kyoto Protocol including those relating to Articles 5, 7 and 8 of the Kyoto Protocol, **part II: implications related to review and adjustments and other related issues**' proposed for adoption under agenda item 11(a) of the SBSTA. (Emphasis added.)

The draft conclusion of <u>sub-item 11 (c)</u> reads:

1. In response to the request made by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) at its tenth session, the Subsidiary Body for Scientific and Technological Advice (SBSTA) continued its consideration of the issues related to the clarification of the text in section G (Article 3, paragraph 7 ter) of the Doha Amendment to the Kyoto Protocol, in particular the information to be used to determine the 'average annual emissions for the first three years of the preceding commitment period'.

2. The SBSTA concluded its work on this agenda sub-item. It recommended a draft decision on this matter for consideration and adoption at CMP 11 (for the text of the draft decision, see document FCCC/SBSTA/2015/L.29/Add.1).

(Section G of the Doha Amendment, Article 3, paragraph 7 *ter* reads:

The following paragraph shall be inserted after paragraph 7 bis of Article 3 of the Protocol:

7 ter. Any positive difference between the assigned amounts of the second commitment period for a Party included in the Annex I and average annual emissions for the first three years of the preceding commitment period multiplied by eight shall be transferred to the cancellation account of that Party.)

'Revisit mechanism' for Kyoto Protocol CP2 deferred again

However, another outstanding issue of the CMP again failed to deliver results.

Item 8 of CMP11 titled ***Report on the high-level ministerial round table on increased ambition of Kyoto Protocol commitments*** was again deferred to the next session of the CMP in 2016.

At the plenary in the afternoon of 11 December, Parties were told that although consultations were facilitated by Paul Watkinson (France), there was still no consensus on the way forward. Therefore, pursuant to rule 10 (c) and rule 16 of the draft rules of procedure being applied, this item will be included in the provisional agenda for CMP12. Parties were also informed that as the matter been postponed over many meetings, the COP Presidency hoped to find a solution at the inter-sessional (May 2016) on the way forward.

At the third meeting of CMP11 on 2 December, **China** called for the setting up of a contact group to deal with the matter that was deferred from CMP10 in Lima last year. However, the proposal was rejected by Annex I Parties and the informal consultation process was consequently established.

The incident was similar to CMP10 in Lima where Annex I Parties had blocked the setting up of a contact group proposed by Bolivia, then chair of the G77 and China. The COP20 President Manuel Pulgar-Vidal of Peru led the informal consultation but failed to find a way forward.

In its intervention, Bolivia reminded that the Doha amendment for the CP2 of the Kyoto Protocol was a political compromise and Annex I Parties must take it seriously to close the mitigation gap and it was disappointed that none of the Annex I Parties had declared their intention to increase their commitment in the pre-2020 period (as committed to at CMP8.)

Decision 1/CMP.8 paragraphs 9 and 10 read:

- *Requests each Party with a quantified emission limitation and reduction commitment inscribed in the third column of Annex B as contained in annex I to this decision to submit to the secretariat, by 30 April 2014, information relating to its intention to increase the ambition of its commitment, including progress made towards achieving its quantified emission limitation and reduction commitment, the most recently updated projections for greenhouse gas emissions until the end of the second commitment period, and the potential for increasing ambition;*
- *Decides further that the information submitted by Parties included in Annex I in accordance with paragraph 9 above shall be considered by Parties at a high level ministerial round table to be held during the first sessional period in 2014, and requests the secretariat to prepare a report on the round table for consideration by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its tenth session; ...*

Generally referred to as the 'revisit mechanism', Annex I Parties are supposed to report to the CMP on whether they will increase their emission reduction targets following the June 2014 ministerial meeting. However, nothing has been forthcoming. (See also TWN Paris Update 24: *COP21 decision on enhanced action prior to 2020.*)

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Key UNFCCC COP21 Decisions on Finance-related Issues

Kuala Lumpur, 29 December (Hilary Chiew) – Several finance-related decisions were adopted by the 21st session of the Conference of the Parties (COP21) to the United Nations Framework Convention on Climate Change (UNFCCC).

Four decisions were adopted in the afternoon of 10 December while one decision was adopted in the final plenary in the evening of 12 December.

The four finance issues in the agenda item of COP21 were (i) long-term climate finance, (ii) report of the Standing Committee on Finance, (iii) report of the Green Climate Fund (GCF) to the COP and guidance to the GCF, and (iv) report of the Global Environment Facility (GEF) to the COP and guidance to the GEF.

Adoption of the draft decisions of the items (except for the report of the GCF and guidance to the GCF adopted on 12 December) was swift in the afternoon of 10 December to the dismay of developing countries.

After the plenary was closed and the Chair moved on to open the plenary for the COP serving as the Meeting of the Parties to the Kyoto Protocol (CMP), the spokespersons for the Group of 77 and China and the Alliance of Small Island States (AOSIS) asked for the floor to deliver their interventions.

Ambassador Diann Black-Layne of Antigua and Barbuda, speaking for AOSIS, requested to go back to the COP items, expressing concern over the conduct of the adoption.

'This is an unusual COP … we are adopting items that were not negotiated but were streamlined and nowhere in the decisions indicated that this was the case. In the future, we will be referencing these COP decision over and over again. These are issues of importance for developing countries, particularly small island developing states (yet they are adopted) with no clear idea of what will happen to those items and paragraphs that we never got to discuss and negotiate,' said a clearly upset Black-Layne, adding that she wanted the status of these COP decisions to be noted.

Representing **the G77 and China, Bernaditas Muller (Bolivia)** noted that she and Black-Layne could not come in time to express their views due to the 'efficient manner' of the conduct of the COP plenary.

She shared the views of Ambassador Black-Layne, noting 'the unusual way that was followed (in adopting the decisions)' and said that 'Parties were busy with negotiating the new agreement and therefore not able to devote enough time to these very important issues,' referring to the parallel intense negotiations on the Paris Agreement for the post-2020 period.

'I would like to put on record our concerns and that we reserve the right to bring it up at the next COP or perhaps the next SBI (Subsidiary Body for Implementation) of these streamlined decisions that for the most part left out very essential points critical to developing countries' interests,' stressed Muller.

The European Union noted that in the course of discussion of these agenda items, 'we agreed with proposals from Parties (that) in light of the exceptional circumstances of this COP to focus on agreeing on streamlined text for these items.'

'While we would like to have more opportunities to consider proposals made by Parties, we support the approach taken here and look forward to engaging in all these items at COP22,' it said, adding that it would also like its statement to be noted for the record.

COP21 Vice-President Cheikh Ndaiye Sylla (Senegal) acknowledged that the interventions are very important statements and they would be taken into account and noted that as per the suggestion of Bolivia, they can be taken into account in future SBI meetings.

(i) Long-term finance

The decision from Paris is contained in five paragraphs which read as follows:

'1. Welcomes with appreciation the pledges and announcements and progress made towards reaching the goal of jointly mobilizing USD 100 billion annually by 2020 by developed country Parties, in accordance with decision 1/CP.16, including financial contributions made to the Green Climate Fund, the Least Developed Countries Fund and the Adaptation Fund, providing further clarity to and predictability of public climate finance flows from 2015 to 2020;

2. Urges developed country Parties to continue efforts to channel a substantial share of public climate funds to adaptation activities and to strive to achieve a greater balance between finance for mitigation and adaptation, recognizing the importance of adaptation finance;

3. Takes note with appreciation of the summary report on the in-session workshop on long-term climate finance held in 2015;

4. Decides that the second biennial high-level ministerial dialogue on climate finance, to be convened in accordance with decision 3/CP.19, will focus on the issues of adaptation finance, needs for support to developing country Parties and cooperation on enhanced enabling environments and support for readiness activities, and that it will be informed by the report of the in-session workshop in 2016 and the second biennial assessment and overview of climate finance flows;

5. Requests the Presidency of the Conference of the Parties, with the support of the secretariat, to prepare a summary of the second biennial high-level ministerial dialogue on climate finance for consideration by the Conference of the Parties at its twenty-third session (November 2017).'

(ii) Report of the Standing Committee on Finance (SCF)

Among the key paragraphs of the decision are:

'*3. Endorses the workplan of the Standing Committee on Finance for 2016-2017;*

4. Requests the Standing Committee on Finance, in implementing its workplan on the measurement, reporting and verification of support beyond the biennial assessment and overview of climate finance flows, to continue to engage with relevant bodies under the Convention, multilateral and bilateral agencies and international institutions;

5. Welcomes the third forum of the Standing Committee on Finance on enhancing the coherence and coordination of forest financing, held on 8 and 9 September 2015 in Durban, South Africa;

6. Notes the recommendations of the Standing Committee on Finance on its third forum; ...

8. Requests the Standing Committee on Finance to report to the Conference of the Parties at its twenty-second session (November 2016) on the progress made in the implementation of its workplan;

9. Decides to initiate the review of the functions of the Standing Committee on Finance referred to in decision 6/CP.20, paragraph 23, at the twenty-second session of the Conference of the Parties;

10. Requests the Subsidiary Body for Implementation, at its forty-fifth session (November 2016), to prepare draft terms of reference for the review referred to in paragraph 9 above, on the basis of the submissions referred to in paragraph 11 below, for consideration by the Conference of the Parties at its twenty-second session;

11. Also requests the members of the Standing Committee on Finance and invites Parties and observer organizations to submit their views on the terms of reference for the review of the functions of the Standing Committee on Finance by 21 September 2016, for compilation by the secretariat into a miscellaneous document;

12. Further requests the Standing Committee on Finance to consider the guidance provided to it in other relevant decisions of the Conference of the Parties.'

(iii) Report of the GCF to the COP and guidance to the GCF

Of the 29-paragraph decision, which was adopted at the final plenary on 12 December, those of significance are:

'*8. Urges Parties that made pledges under the initial resource mobilization process of the Green Climate Fund but have not yet confirmed them to the Green Climate Fund through fully executed contribution arrangements or agreements to do so as a matter of high priority;*

9. Reiterates the invitation for financial inputs from a variety of sources, public and private, including alternative sources, throughout the initial resource mobilization process;

10. Requests the Board of the Green Climate Fund to agree on the arrangements for the first formal replenishment process of the Green Climate Fund as soon as feasible;

11. Welcomes the decision of the Board of the Green Climate Fund to develop a strategic plan for the Green Climate Fund and to adopt it as soon as possible;

12. Also welcomes the decision of the Board of the Green Climate Fund to simplify the funding proposal template and concept note template in an expeditious manner;

13. Requests the Board of the Green Climate Fund to ensure that the revised funding proposal template and concept note template are designed to facilitate the application process;

14. Also requests the Board of the Green Climate Fund to adopt a simplified process for approval of proposals for certain activities, in particular for small-scale activities, as soon as possible in 2016, to reduce complexities and costs involved in project proposal development;

15. Welcomes the decisions of the Board of the Green Climate Fund to approve the accreditation of 20 national, regional, international and private entities to the Green Climate Fund;

16. Urges the Board of the Green Climate Fund to streamline the accreditation modalities and to seek a balance of diversity in accredited entities;

17. Takes note of the progress achieved to date in the implementation of the readiness and preparatory support programme of the Green Climate Fund and stresses the importance of improving the approval process and timely disbursement of readiness resources to facilitate readiness programme implementation pursuant to Green Climate Fund Board decision B.11/4;

18. Requests the Board of the Green Climate Fund to prioritize the development of its initial risk management framework;

19. Also requests the Board of the Green Climate Fund to enhance transparency and stakeholder engagement;

20. Urges the Board of the Green Climate Fund to operationalize the Independent Evaluation Unit, Independent Redress Mechanism and Independent Integrity Unit as a matter of urgency and to make public the procedures Parties and affected individuals should follow when seeking redress until the Independent Redress Mechanism is operationalized;

21. Invites the Board of the Green Climate Fund to take into account in its programmatic priorities the Cancun Adaptation Framework, in particular the principles referred to in paragraph 12 and the activities referred to in paragraph 14 of decision 1/CP.16;

22. Also invites the Board of the Green Climate Fund, in line with paragraph 38 of the governing instrument of the Green Climate Fund,6 to consider ways to provide support, pursuant to the modalities of the Green Climate Fund, for facilitating access to environmentally sound technologies in developing countries, and for undertaking collaborative research and development for enabling developing countries to enhance their mitigation and adaptation action;

23. Urges the Board of the Green Climate Fund to operationalize results-based payments for activities referred to in decision 1/CP.16, paragraph 70, consistent with decision 9/CP.19, and in accordance with Green Climate Fund Board decision B.08/08;

24. Encourages the Board of the Green Climate Fund to consider the mobilization of private sector finance to progress the Fund's forestry-related result areas;

25. Requests the Board of the Green Climate Fund to take into account decision -/CP.21,7 in particular paragraph 6, referring to support for alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests as appropriate in its funding decisions;

26. Encourages the Board of the Green Climate Fund to improve complementarity and coherence with other institutions, per paragraphs 33 and 34 of the governing instrument, including by engaging with relevant bodies of the Convention, including the Standing Committee on Finance; and

27. Invites Parties to submit to the secretariat in writing annually, no later than 10 weeks prior to each session of the Conference of the Parties, their views and recommendations on the elements to be taken into account in developing guidance to the operating entities of the Financial Mechanism of the Convention.'

(iv) Report of the GEF to the COP and guidance to the GEF

Of the 16-paragraph decision, those of significance are:

'*4. Encourages additional voluntary financial contributions to provide support for the national adaptation plan process through contributions to the Least Developed Countries Fund and the Special Climate Change Fund;*

5. Welcomes the addition of eight project agencies to the network of the Global Environment Facility;

6. Notes that the Independent Evaluation Office of the Global Environment Facility is carrying out a review of the Least Developed Countries Fund;

7. Encourages the Global Environment Facility to include the conclusions of the review in its report to the Conference of the Parties at its twenty-second session (November 2016);

8. Requests the Global Environment Facility to carry out a technical review of the programme priorities of the Least Developed Countries Fund, taking into account the independent review referred to in paragraph 6 above, and focus the technical review on, inter alia:

(a) Undertaking pilot concrete climate change activities that are particularly relevant for the least developed countries;

(b) Enhancing longer-term institutional capacity to design and execute activities referred to in paragraph 8(a) above;

9. Urges the Global Environment Facility to work with all its agencies and recipient countries to ensure that these countries can take full advantage of the expanded network of agencies;

10. Welcomes the exploration of innovative non-grant instruments by the Global Environment Facility and encourages the Global Environment Facility to work with its agencies, recipient countries and the private sector to submit proposals;

11. Also welcomes the approval of projects by the Global Environment Facility to support 46 developing country Parties in preparing their intended nationally determined contributions and encourages the Global Environment Facility to continue providing such support;

12. Requests the Global Environment Facility to consider how to support developing country Parties in formulating policies, strategies, programmes and projects to implement activities that advance priorities identified in their respective intended nationally determined contributions in a manner consistent with the operational policies and guidelines of the Global Environment Facility, starting in 2016;

14. Welcomes the efforts to date of the Global Environment Facility to engage with the Green Climate Fund and encourages both entities to further articulate and build on the complementarity of their policies and programmes within the Financial Mechanism of the Convention; and

15. Invites Parties to submit to the secretariat annually, in writing and no later than 10 weeks prior to each session of the Conference of the Parties, their views and recommendations on the elements to be taken into account in developing guidance to the Global Environment Facility; ...'

Another finance-related decision was the adoption of the SBSTA43 draft conclusion and draft decision on **Methodologies for the reporting of financial information by Parties included in Annex I to the Convention**.

Of the 17-paragraph decision, those of significance are:

'*1. Recognizes the need to enhance common understanding on key terminology for reporting financial information under the Convention to facilitate transparency and comparability of information and data on support over time and across Parties;*

...

6. Decides to enhance consistency and transparency through adjustments in the reporting parameters in tables 7, 7(a) and 7(b) of the common tabular format by:

(a) Creating reporting fields for the provision of information on definitions or methodologies used for reporting information in the following reporting parameters: "climate-specific" or "core/general", "status", "funding source", "activity", "financial instrument", "type of support" and "sector";

(b) Improving the software for tables 7, 7(a) and 7(b) of the common tabular format by extending the number of input rows in the Microsoft Excel file;

(c) Aligning the categorization in the reporting parameter "status" of support ("pledged", "committed" and "provided") in tables 7, 7(a) and 7(b) of the common tabular format with the categorization used in other existing international methodologies ("committed" and "disbursed");

7. Requests the secretariat to revise the electronic reporting application for a common tabular format, in accordance with the provisions contained in the annex, in time for the preparation and submission of the biennial reports of Parties due in 2018;

8. Decides that developed country Parties shall use the revised electronic reporting application, taking into account their national circumstances, when preparing and submitting their biennial reports in 2018 in accordance with decision 2/CP.17; ...

12. Requests the secretariat to update the UNFCCC national focal points when the information referred to in paragraph 6 above on climate finance directed to recipient countries as reported under the Convention is made available;

13. Also requests the Standing Committee on Finance to take into account the enhanced information provided by Parties included in Annex II to the Convention referred to in paragraph 6 above in its biennial assessment and overview of climate finance flows;

14. Further requests the Standing Committee on Finance to take into account the work on the methodologies for the reporting of financial information from Parties included in Annex I to the Convention in the context of its workplan on the measurement, reporting and verification of support;

15. Invites the Subsidiary Body for Implementation to take into consideration the adjustments referred to in paragraph 6 above in its revision of the "Guidelines for the preparation of national communications by Parties included in Annex I to the Convention, Part II: UNFCCC reporting guidelines on national communications", to be completed at the twenty-second session of the Conference of the Parties; ...'

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Other Key COP21 Decisions, Some Issues Deferred to COP22

Kuala Lumpur, 29 December (Hilary Chiew) – In the shadow of the Paris Agreement, several decisions of the 21st session of the Conference of the Parties (COP21) to the United Nations Framework Convention on Climate Change (UNFCCC) were adopted in two plenary sessions.

COP21 was held between 30 November and 11 December 2015 in Paris, France along with the 43rd session of the Subsidiary Body for Implementation (SBI 43) and the Subsidiary Body for Scientific and Technological Advice (SBSTA 43), as well as the 12th part of the second session of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP2-12).

ADP2-12 work came to a close on 5 December and the Draft Paris Outcome was transmitted to the COP for continued work under the COP21 Presidency, which culminated in the adoption of the Paris Agreement around 7:15pm on 12 December.

The bulk of the decisions were adopted in the afternoon of 10 December while the remaining were adopted later in the evening of 12 December after the adoption of the Paris Agreement.

(i) Proposals by Parties for amendments to the Convention under Article 15

Russian proposal

The proposal from the Russian Federation to amend Article 4, paragraph 2(f) of the Convention was dealt with in a contact group setting on 5 December.

China urged the proponent of the agenda item to withdraw the proposal while other Parties in the Umbrella Group such as the United States, Japan, Canada and Australia 'see merits with the proposal as the world has changed since 1992' and preferred to wait for the outcome of the Paris COP on a new agreement.

The United States said, 'We are in the process of negotiating the Paris outcome to reflect the world today … (so) we are inclined to wait and see what would happen in Paris.'

However, Parties could not reach agreement and the matter was referred to informal consultations facilitated by French Ambassador Xavier Sticker. At the COP21 plenary on 10 December, the COP decided that due to divergence of views, rule 16 would be applied and the matter would be included in the provisional agenda of COP22 in 2016.

[In May 2011, the Russian Federation informed the UNFCCC Secretariat about its proposal for the amendment to Article 4.2 (f) of the Convention. The Russian proposal states that a 'periodic review and, where appropriate, updating of the lists of countries in annexes I and II would be the most appropriate and fair way to allocate the burden of obligations among the Parties to the Convention, so that the objectives of the Convention may be achieved as promptly and efficiently as possible'.)

Mexico and Papua New Guinea proposal

This sub-agenda item was once again deferred to the next COP for the third time in a row due to divergent views of Parties following informal consultations led by Ambassador Sticker (France).

[By a letter dated 26 May 2011, Papua New Guinea and Mexico transmitted to the UNFCCC secretariat the text of a proposal for amendments to Articles 7 and 18 of the Convention. A revised proposal was received at COP17 (in Durban in 2011) and the matter (related to the right to vote) was first raised at COP19 (in Warsaw in 2013) with no agreement and rule 16 of the draft rules of procedure was accordingly applied.]

(ii) Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts

On 10 December, COP21 adopted the draft decision on this joint agenda item of SBI 43 and

SBSTA 43. Paragraph 5 of the eight-paragraph decision '*Notes with concern* the limited progress made in the implementation of the initial two-year workplan of the Executive Committee owing to the late nomination of members as referred to in paragraph 3 above; …'

Paragraph 6 '*Acknowledges with appreciation* that the Executive Committee plans to schedule at least three meetings during the course of 2016; ..'

Paragraph 7 '*Urges* the Executive Committee to explore modalities of work in order to fulfil its mandate in accordance with decisions 2/CP.19 and 2/CP.20; …'

Paragraph 8 '*Also urges* Parties to make available sufficient resources for the successful and timely implementation of the initial two-year workplan of the Executive Committee in view of the ambitious nature of that workplan.'

(iii) Development and transfer of technologies and implementation of the technology mechanism

On 10 December, COP21 adopted the '*Joint annual report of the Technology Executive Committee and the Climate Technology Centre and Network*'.

Of the six-paragraph decision, those of significance are:

'4. *Welcomes* the interim report of the Technology Executive Committee on guidance on enhanced implementation of the results of technology needs assessments, noting that the report should be considered final;

5. *Notes* that the Technology Executive Committee is to elaborate the outline for guidance on the preparation of technology action plans, contained in the annex to the report referred to in paragraph 4 above, and make it available in early 2016 to developing countries for use in informing the technology needs assessment process;

6. *Invites* the Climate Technology Centre and Network to use the guidance referred to in paragraph 5 above when responding to requests from developing countries regarding the provision of assistance to enable the implementation of the results of their technology needs assessments.'

On 12 December, the decision on the sub-agenda item '*Linkages between the Technology Mechanism and the Financial Mechanism of the Convention*' was adopted.

Of the 10-paragraph decision, those of significance are:

'5. *Recognizes* the importance of and the need for defined, mutually beneficial and functional linkages between the Technology Mechanism and the Financial Mechanism, through its operating entities, the Global Environment Facility and the Green Climate Fund;

6. *Also recognizes* that the definition and elaboration of linkages between the Technology Mechanism and the Financial Mechanism has the aim of ensuring financial resources for, and scaling up action on, technology development and transfer;

7. *Underlines* the need for the Technology Executive Committee, the Climate Technology Centre and Network and the operating entities of the Financial Mechanism to enhance cooperation and collaboration with a view to enhancing the fulfillment and implementation of their respective mandates effectively, in accordance with Article 12, paragraph 4, of the Convention;

8. *Requests* the Technology Executive Committee, the Climate Technology Centre and Network and the operating entities of the Financial Mechanism to continue to consult on and further elaborate, including through an in-session workshop at the forty-fourth sessions of the subsidiary bodies (May 2016), the linkages between the Technology Mechanism and the Financial Mechanism;

9. *Also requests* the Technology Executive Committee to include, in its annual report, the findings arising from the activities referred to in paragraph 8 above for consideration by the Conference of the Parties at its twenty-second session, taking into consideration the recommendations referred to in paragraph 4 above;

10. *Invites* the Board of the Green Climate Fund, in line with paragraph 38 of the Governing Instrument for the Green Climate Fund, to consider ways to provide support, pursuant to the modalities of the Green Climate Fund, for facilitating access to environmentally sound technologies in developing countries, and for undertaking collaborative research and development for enabling developing countries, to enhance their mitigation and adaptation action.'

(iv) The 2013-2015 Review

On 12 December, COP21 adopted the decision on this agenda item.

During the first week in Paris, Parties were unable to reach a conclusion on this joint agenda item of SBI 43 and SBSTA 43. Hence, the matter was included in the ministerial consultation under the Paris Committee (set up by the COP21 Presidency to manage the negotiations of the Paris Agreement).

The consultations led by Ministers James Fletcher of St Lucia and Tine Sundtoft of Norway addressed Article 2.1 (a) of the Paris Agreement

which is linked to the adequacy of the long-term global goal and a draft decision was produced.

Paragraph 4 of the draft decision includes the same language as Article 2.1(a) of the Paris Agreement. It reads:

'*Decides*, in relation to the adequacy of the long-term global goal, and in the light of the ultimate objective of the Convention, that the goal is to hold the increase in the global average temperature to well below 2°C above pre-industrial levels and to pursue efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change; …'

The 12-paragraph decision also includes:

'5. *Also decides* that, in the light of the overall progress made towards achieving the long-term global goal, including consideration of the implementation of the commitments under the Convention, Parties should act urgently and ambitiously under the Convention while recognizing the technological, economic and institutional challenges;

6. *Notes* that, although some progress has already been made by UNFCCC bodies in scaling up financial, technological and capacity-building support, significant gaps still exist in terms of both the scale and speed of such progress;

7. *Also notes* that there continue to be information gaps in relation to the areas covered within the scope of the 2013–2015 review as set out in decision 1/CP.18, paragraph 79;

8. *Encourages* the scientific community to address information and research gaps identified during the structured expert dialogue, including scenarios that limit warming to below 1.5 °C relative to pre-industrial levels by 2100 and the range of impacts at the regional and local scales associated with those scenarios;

9. *Recalls* that the next periodic review should be conducted in accordance with decision 2/CP.17, paragraph 167, and agrees that the next periodic review should be conducted in an effective and efficient manner, avoid duplication of work, and take into account the results of relevant work conducted under the Convention, its Kyoto Protocol and the subsidiary bodies;

10. *Requests* the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to consider the scope of the next periodic review, referred to in paragraph 9 above, with a view to forwarding a recommendation for consideration by the Conference of the Parties by no later than 2018, as appropriate;

11. *Agrees* to reconvene the structured expert dialogue in conjunction with the next periodic review; …'

(v) Impact of the implementation of response measures

Forum and work programme

At the second contact group meeting on 3 December for this joint agenda item of SBI 43 and SBSTA 43, Parties agreed to forward the draft conclusion and draft decision to the COP for consideration. The draft decision contained in the annex to the draft conclusion was the one that was forwarded from the 42nd session of the Subsidiary Bodies from Bonn in June.

At the first contact group on 2 December, the co-facilitators proposed that the draft decision be forwarded for adoption but this was resisted by the Umbrella Group and the European Union which made the link to the then on-going negotiations of the Paris Agreement. The contention was around whether the decision is limited to addressing the issues in the pre-2020 period. On the contrary, in the spirit of compromise and towards an agreement on response measures, the G77 and China was prepared to go along with the co-facilitators' proposal to forward the draft decision without brackets for its adoption by the COP, although the Group stated that the draft decision was not perfect.

Singapore said, 'We should be careful not to conflate the structures needed to address pre-2020 and post-2020.'

Argentina representing the G77 and China and Ghana speaking for the Africa Group lamented that the Annex I Parties are holding hostage the matter to the final result of the ADP.

The EU replied that 'it is not about if we get an agreement but how we get one', noting that nowhere in the draft decision text does it say that it is only to address the issues in the pre-2020 period.

After the objection by Annex I Parties to the first co-facilitators' proposal, the co-facilitators made another proposal to forward the draft decision for consideration and adoption by the COP. This was finally accepted by Parties, though the G77 and China expressed its disappointment to the initial objection by Annex I Parties to make progress in the SBs on response measures, linking a result to the overall ADP negotiations.

Finally, COP21 adopted the draft decision, which meant that the SBI and SBSTA were finally able to conclude their work on this joint agenda item, after being unable to do so since the 39th session of

the two subsidiary bodies held alongside COP 19 in Warsaw in 2013.

Also, the Paris Agreement includes response measures in its preamble and in Article 3. In addition, the accompanying decision to the Paris Agreement addresses the matter in paragraphs 33 and 34.

'33. *Also decides* that the Forum on the Impact of the Implementation of response measures, under the subsidiary bodies, shall continue, and shall serve the Agreement;

34. *Further decides* that the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation shall recommend, for consideration and adoption by the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its first session, the modalities, work programme and functions of the Forum on the Impact of the Implementation of response measures to address the effects of the implementation of response measures under the Agreement by enhancing cooperation amongst Parties on understanding the impacts of mitigation actions under the Agreement and the exchange of information, experiences, and best practices amongst Parties to raise their resilience to these impacts; …'

(vi) Capacity-building under the Convention

At the resumed second meeting of SBI 43 on 4 December, a bracketed draft decision was recommended to the COP for consideration. However, several Parties took the floor to express their views.

The United States expressed concern with the process in reaching a conclusion to forward the draft decision to the COP. **Australia, Japan and the EU** echoed the US sentiment but all agreed to continue the constructive spirit in consultations at the COP level.

In response, **Swaziland speaking for the Africa Group** said for the past four years of negotiations, the most frustrating aspect is that 'we faced resistance and are not given the right rationale for not moving this item forward'. It said the proposal has been on the table for the last four years but Parties failed to reach a conclusion. It reminded partners that a successful outcome is to find a landing zone and it believed the text forwarded is to find that landing zone and looked forward to the COP to deliver the way forward.

Burundi said due to the lack of capacity-building, countries are suffering from the effects of climate change, noting that 'if we do not deliver, we simply could not adapt and mitigate'.

'Even if we put all the money in the Green Climate Fund, without capacity-building we cannot work. It is difficult to understand how the entire text is still in brackets,' it lamented.

On 10 December, the COP adopted the 11-paragraph draft decision together with an annex on the terms of reference for the third comprehensive review, which among others said:

'1. *Adopts* the terms of reference for the third comprehensive review of the implementation of the framework for capacity-building in developing countries established under decision 2/CP.7 (hereinafter referred to as the capacity-building framework) as contained in the annex;

2. *Requests* the Subsidiary Body for Implementation to conduct the comprehensive review at its forty-fourth session (May 2016) on the basis of the terms of reference referred to in paragraph 1 above, with a view to recommending a draft decision on this matter for consideration and adoption by the Conference of Parties at its twenty-second session (November 2016);

3. *Also requests* the secretariat to prepare a technical paper based on the terms of reference referred to in paragraph 1 above as input to the comprehensive review;

4. *Invites* Parties and observer organizations to submit their views on the comprehensive review by 9 March 2016 for compilation by the secretariat into a miscellaneous document;

5. *Encourages* Parties to continue to provide information through the appropriate channels, including annual submissions on the implementation of the capacity-building framework, national communications, biennial reports and biennial update reports, on the progress made in enhancing capacity to address climate change.'

(vii) 'REDD-plus'

Three decisions on matters related to the agenda item on tackling emissions from forestry activities which was transmitted by SBSTA 42 held in June to COP21 were adopted on 10 December afternoon.

The decisions are related to the methodological guidance for activities relating to reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries or REDD-plus as commonly referred to.

They were:

1. Further guidance on ensuring transparency, consistency, comprehensiveness and effectiveness

when informing on how all the safeguards referred to in decision 1/CP.16, appendix I, are being addressed and respected.

2. Alternative policy approaches, such as joint mitigation and adaptation approaches for the integral and sustainable management of forests.

3. Methodological issues related to non-carbon benefits resulting from the implementation of the activities referred to in decision 1/CP.16, paragraph 70.

(viii) Market and non-market approaches under the Convention

For a third year in a row, Parties failed to make much progress on market and non-market approaches under the Convention. Item 12 of SBSTA 43 yielded a two-sentence draft conclusion that read:

1. The SBSTA continued its consideration of the work programmes to elaborate the following: a. A framework for various approaches; b. Non-market-based approaches; c. Modalities and procedures for the new market-based mechanism.

2. The SBSTA took note of the progress made in conducting the work programmes. It noted the technical work conducted in response to the mandate from the 18th session of the COP to facilitate the discussions under the work programmes, including two technical syntheses, three technical papers, three workshop reports and the views expressed by Parties and admitted observer organisations.

SBSTA chair Lidia Wojtal (Poland) reported that Parties worked in contact groups but were unable to reach a conclusion by the end of the consultations and therefore Rule No. 16 of the rules of procedure is applied. Rule 16 means the issue will be included in the agenda of the next SBSTA meeting (SBSTA 44 in May 2016).

(ix) Issues relating to agriculture

No draft decision was reached but Parties took note of the reports of the two in-session workshops conducted during SBSTA 42 (June 2015 in Bonn) and agreed to continue consideration of the reports together with the reports on the two in-session workshops to be held at SBSTA 44.

At the closing plenary, **the G77 and China** welcomed the progress and look forward to further engagement at SBSTA 44, noting the importance of agriculture to developing countries in light of its relationship to millions of their inhabitants.

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Huge Fight to Ensure 'Contributions' under Paris Agreement are Not Mitigation-centric

Penang, 4 January (T Ajit) – A proposal by the Like-Minded Developing Countries (LMDC), aimed at ensuring that nationally determined contributions (NDCs) under the Paris Agreement are comprehensive and not mitigation-centric, was a hard fought battle that eventually succeeded in being reflected in the Paris Agreement.

During the UNFCCC's twenty-first session of the Conference of the Parties in Paris (COP21), held from 30 November to 12 December 2015, it took considerable effort for the LMDC to get developed countries to even engage on the proposal in Paris, known as 'Article 2*bis*', that eventually became Article 3 in the Paris Agreement.

The Article was initially contained in the draft agreement text of 23 October that emerged from an intersession of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) in Bonn, Germany.

Sources told Third World Network (TWN) that the developed countries led by the Umbrella Group, the European Union (EU) and Turkey refused to engage on the LMDC proposal in Paris.

This TWN update captures how Article 2*bis* evolved from the 23 October text to being reflected in the Paris Agreement as Article 3, along with highlights of some of the closed-door discussions, obtained by talking to several negotiators.

In the 23 October negotiating text under the ADP, Article 2*bis* was as follows:

Option 1:

1. All Parties shall regularly prepare, communicate and implement [intended] nationally determined contributions towards achieving the [purposes of this Agreement as set out in Article 2 above] [objective of the Convention as set out in its Article 2], in accordance with Article 4 of the Convention.

2. Each Party's [intended] nationally determined contribution will represent a progression in light of Parties' differentiated responsibilities and commitments under the Convention.

3. The extent to which developing country Parties will effectively implement this Agreement will depend on the effective implementation by developed country Parties of their commitments on provision of finance, technology development and transfer and capacity-building.

4. Successive [intended] nationally determined contribution will be communicated before the expiry of the previous [intended] nationally determined contribution by that Party.

Option 2:
No text

The proposal in option 1 above was from the LMDC for all Parties to regularly prepare, communicate and implement their intended nationally determined contributions (INDCs)/NDCs towards achieving the purpose of the agreement/ objective of the Convention. It also stated that the INDCs would represent a progression in light of Parties' differentiated responsibilities and commitments under the Convention. It also included a provision that successive INDCs would be communicated by Parties before the expiry of the previous contributions. The 'no text' option was from developed countries not to have any text in this regard.

The proposal was to ensure that the contributions of Parties are viewed in a comprehensive manner, reflecting the respective obligations they have under the provisions of the Convention, and not to confine the contributions only to mitigation as desired by developed countries.

Since the Warsaw COP in 2013, where the notion of INDCs was born, developed and developing countries have expressed a difference of views on what the INDCs should contain. Attempts by developed countries to define INDCs as only mitigation contributions were thwarted in Lima last year. For a large number of developing countries, the INDCs of developed countries are also supposed to reflect the contributions they will make on finance and technology transfer in addition to what they will do on mitigation as set out in the Convention, while for developing countries, their contributions could be mitigation and adaptation, coupled with an indication of their financial, technology and capacity-building needs.

Hence, the Article *2bis* proposal was to provide for this comprehensive notion, and for progression to be shown for all the elements and not limit this to only mitigation.

Referring to Article *2bis* as an 'overarching, cross-cutting article', **Malaysia** for the **LMDC** said at a closed-door meeting in the first week of the Paris climate talks under the ADP, 'This proposal is for parity. It will involve clear links to not just mitigation, but also adaptation, finance and so on. The specificities can be detailed in the respective sections.'

Sources said that **China** reminded Parties that in Warsaw, there was a huddle and everyone felt happy about the INDCs, although nobody knew the meaning of INDCs. 'There is a general obligation. It is applicable to all. That is why we need to regularly prepare, communicate and implement our INDCs. We are for achieving the objective as set out in Article 2 because that is (the) Warsaw language. Another cross-cutting issue is the link between action and support. If you want to deal with the NDC issue, then finance and technology is key (for developing countries). To show progression in finance support is very simple, which is to just scale up (the level of finance),' said China.

However, **Turkey, the EU, the US, Canada, Australia** and **New Zealand** said they preferred the no-text option for Article *2bis*. **Turkey** said that it did not see a place for Article *2bis* in the Paris Agreement. It also said that it would not accept any reference to Article 4 of the Convention.

(Article 4 of the Convention sets out the commitments of developed and developing countries in accordance with common but differentiated responsibilities.)

For **the EU**, Article *2bis* was a 'one-size-fits-all approach' and was viewed as 'not being helpful in trying to solve everything through one article', especially since the elements are different from each other in nature (referring to mitigation, adaptation, finance, technology transfer and capacity-building). It suggested that the Article be shortened to capture the preparation and communication aspect of the NDCs, stressing that the mitigation contribution was different from the rest of the elements.

The US said that Article *2bis* was not compatible with an ambitious agreement. It was a one-size-fits-all approach and took a strict bifurcated approach, which the US could not accept. 'It would undermine the agreement and we strongly oppose this,' the US is supposed to have said. It also said that discussing Article *2bis* would lead to duplication and confusion since the specific elements were being discussed separately. 'In Warsaw, INDCs were focused on mitigation. There were many countries that were concerned about adaptation. We sort of resolved that in Lima, where adaptation was included. By spending our time here (on this Article) we will not make progress,' said the US.

Canada was reported to have said that Malaysia's explanation took Parties backward. 'We have made a lot of effort since Lima within each element … Consolidating this does not get the parity. It is doing the opposite. We intended to look at each characteristic of each element separately,' said Canada. It added that for the cross-cutting consideration, there was a separate global stocktake Article. It was not in favour of Article *2bis*. In subsequent closed-door discussions, Canada provided an alternative proposal to Article *2bis* to say that Parties would regularly prepare, communicate and report on progress in implementing their contributions towards achieving the ultimate objective of the Convention as set out in its Article 2, in accordance with the provision of this (Paris) Agreement. It said it was not in favour of paragraph 3 of Article *2bis*.

Australia said Parties were engaged in a dynamic process in each of the elements (of the Agreement), which should be reflected accordingly, and that progression meant different things in different issues.

According to sources, **Saudi Arabia, India, Brazil, Sudan** and **Malaysia** countered these arguments of the developed countries and objected to their stance of not engaging on the Article.

Saudi Arabia for **the Arab Group** said there were merits to having the Article. 'If you address it here, then you do not need to worry about this in the rest of the places (of the Agreement). We are trying to address differentiation under mitigation; what INDCs are meant for and how it will be linked with means of implementation. That is a prudent way to move forward. This will help us get a streamlined

text. If you do not do this here, you will have to contextualize it when you go to mitigation, adaptation or means of implementation. You want to raise ambition, then you can show some sort of reference to that through this Article,' it said. Saudi Arabia also countered arguments by saying that a general provision for all the elements is needed and not just in mitigation.

Sudan for **the Africa Group** said the Group shared the views of those who supported Article *2bis* as it reflects previous COP decisions, addresses ambition and progression, and also establishes the link to means of implementation. It shared the LMDC concern that there should be balance between mitigation and adaptation as well as on the means of implementation.

India said the context for Article 2*bis* was the Warsaw COP. 'If there were no INDCs, we would not have put this here. In Lima, we agreed to expand the scope of INDCs to adaptation. INDCs are the vehicle to undertake action and show how we take forward the new agreement. On scope, we are talking about parity. Adaptation and means of implementation are also part of that parity. This is a general provision. We will bring in the specificities in the specific elements.' India also stressed that there is no legal basis for the idea of a nationally determined mitigation contribution (NDMC), arguing the point that INDCs are not only confined to mitigation.

On the insistence of the developed countries on the use of the term NDMC, India emphasised that 'progression is not just about mitigation, but (should be) in all the elements'. It also stressed that if Parties decided not to engage in Article *2bis*, it would be very difficult for India to engage on the issue of mitigation. 'We engaged in mitigation, on the presumption that we will discuss it here (in Article *2bis*). We have agreed on INDCs … which also has an adaptation component.'

Brazil said it saw merit in discussing Article *2bis,* pointing out that this brings to the fore having universal obligations applicable to all. It addresses the question of balance. The separate Articles on mitigation and adaptation and that of means of implementation cannot ensure balance adequately. 'We need to improve the language (in Article *2bis*). We need coherence with other parts of the agreement. The idea of progression is included here so we need to link it to global stocktake. INDCs are not limited to mitigation and we would be reluctant in engaging in an agreement that speaks about an NDMC. We have NDMC in the mitigation Article, an adaptation contribution in the Article on adaptation and in finance we have information to be provided. We need to have a broader look and consider how we could strike a right balance of how they are interlinked … We are not interested in a process where Parties drastically oppose it because they do not like it. We are here to negotiate. We must be able to show some willingness to consider it and show respect to those who proposed it,' said Brazil.

Malaysia said Article *2bis* was an honest attempt to deal with cross-cutting issues. 'This is not perfect. We are willing to engage. This is not a new provision,' it said. In reference to those who were rejecting the notion, it expressed disappointment. In response to the various comments from developed countries that the various elements should be considered separately, Malaysia asked Parties if they will give an undertaking that there would be parity among all the elements. It said that there was no such assurance. Referring to the example of technology transfer and finance, it said, 'We do not have parity there … Let's have a fair negotiating field. This provision (Article *2bis*) talks about the "what" (of the Agreement). The "how", we can deal with. When you say each element is different what are you saying? Does it mean that in mitigation, there will be progression and ambition, and that will not be the case for finance? Why should finance and other means of implementation have different requirements? We are prepared to adjust our proposal, but give us your specificities,' Malaysia urged the developed countries.

'We are talking about the overriding principle that the extent to which developing countries will act will depend on the support provided by developed countries (referring to Article 4.7 of the Convention). This is the principle … If these proposals are not okay, we cannot engage in mitigation with you (referring to developed countries). Some said they want an *ex ante* assessment of the INDCs, but no to (the assessment) of the means of implementation. Have you read the INDCs (presented by developing countries)? There are conditions … These concerns are real which will affect our development. We are expected to peak (in relation to emissions). That will have very serious consequences (for developing countries). Our call is to have parity on all the elements and go on an even pace. Article *2bis* is an obligation we take upon ourselves. We hope we can discuss this constructively,' said Malaysia.

Malaysia also asserted that no result could be achieved if the agreement was mitigation-centric. 'You make it mitigation-centric and it affects our development space. We will not accept it. This (referring to Article *2bis*) is a genuine attempt to frame (all the elements in the agreement) in broad terms. If the option of no text remains, then we have nothing left to discuss,' it said.

Following these discussions, on 5 December, the draft negotiating text of the ADP was transmitted to the COP21 Presidency for further consideration. Following was the text of Article 2*bis* at that stage:

Article 2bis (GENERAL)

1. [All Parties [shall] regularly prepare, communicate [and implement] [intended] nationally determined [contributions][components] [on [mitigation] and adaptation] [undertakings in adaptation planning] [and means of implementation]2 [towards achieving the [purpose of this Agreement as set out in Article 2 of the Convention] [objective of the Convention as set out in its Article 2],] [in accordance with Article 4 of the Convention] [in accordance with the provisions of this Agreement, including the specific provisions related to mitigation and adaptation and means of implementation.]]

2. [Each Party's [intended] nationally determined contribution will represent a progression in the light of Parties' differentiated responsibilities and commitments under the Convention.]

3. [The extent to which developing country Parties will effectively implement this Agreement will depend on the effective implementation by developed country Parties of their commitments on the provision of finance, technology development and transfer and capacity-building.]

4. [Successive [intended] nationally determined contributions will be [informed by the result of the global stocktake as defined in Article 10 of the Convention] and communicated before the expiry of the previous [intended] nationally determined contribution by the Party concerned.]

Once the COP21 Presidency took over the process, there were further informal closed-door consultations on Article 2*bis*.

Discussions continued to be polarised, with **Japan**, **New Zealand**, **Norway** and **the US** outrightly rejecting the need for Article 2*bis*. **Colombia** for **the Independent Alliance of Latin America and the Caribbean (AILAC) as well as the Alliance of Small Island States (AOSIS)** too expressed that Article 2*bis* was not necessary. Discussions, however, progressed at the insistence of the **LMDC**, **the Africa Group, India, China** and **Bolivia**. Even though some bridging proposals came forth from some of the developed countries, the reluctance to engage with the proposal was clear, a negotiator told TWN.

India repeated that Article 2*bis* is an overarching framework. 'My INDC is about adaptation and means of implementation. What do I say (to the head of state) that there is no frame for (comprehensive) INDCs in the Agreement?'

Malaysia said to Parties that the 'Lima (decision) makes it clear that all the elements shall be addressed in a balanced manner. The fact is we have agreed to that. If that is not so, declare that you want to resile from that agreement. That is exactly what we are doing in Article 2*bis*. There are commitments across the board, not just mitigation. If you put in only mitigation, then you are rolling back what you agreed,' said Malaysia in an attempt to explain the rationale for Article 2*bis* all over again.

'For us, Article 4.7 of the Convention is a start. If you look at the INDCs, a large number of them are from developing countries and are conditional upon finance,' reiterated Malaysia.

In a lengthy explanation in a further response to Parties, Malaysia highlighted that the LMDC was talking about INDCs that go beyond mitigation. It stressed that, 'Article 2*bis* sets out the obligations of Parties. How it will work out will depend on the various Articles. If we want to be dynamic, which we agree, we can accept that there is a general obligation and we are agreeing that it is beyond mitigation and also includes adaptation. Then we deal with the specific provisions … We have a general obligation to prepare, communicate and implement (INDCs). Parties have reservations on "implement" and we can work on it (referring to the US reluctance to have an obligation to implement its INDC). Then we look at the specificities (under the relevant Articles) of each element… We go from the general to the specific. So you have contributions on mitigation, adaptation and means of implementation, and we discuss the specificities …

'You (referring to developed countries) introduced (the notion of) NDMC. It will not fly. INDCs are there to stay … There is a conditional component in all of the developing country INDCs. We cannot will it away. If you think there is an adaptation and means of implementation component, then we have to reflect that in the INDCs.'

Further successive versions of Article 2*bis* evolved when the French Presidency prepared further iterations of the text of the Agreement on 9 and 10 December. In the 9 December version of the draft agreement text, Article *2bis* read:

Option 1:

1. [All Parties shall undertake efforts defined in Articles 3, 4, 6, 7, 8 and 9 towards achieving the purpose of this Agreement as set out in its Article 2, and communicate such efforts in accordance with the provisions of this Agreement. Over time such

efforts will represent a progression taking into account Parties' different national circumstances and development stages while recognizing that the extent of the efforts taken by developing country Parties will depend on the extent of support they receive.]

2. Subsequent efforts will be informed by the results of the global stocktake as defined in Article 10, and represent a progression taking into account Parties' common but differentiated responsibilities and respective capabilities, in light of different national circumstances.]

Option 2:

1. [All Parties [shall] regularly prepare, communicate [and implement] [intended] nationally determined [contributions][components] [on [mitigation] and adaptation] [undertakings in adaptation planning] [and means of implementation]3 [towards achieving the [purpose of this Agreement as set out in Article 2 of the Convention] [objective of the Convention as set out in its Article 2],] [in accordance with Article 4 of the Convention] [in accordance with the provisions of this Agreement, including the specific provisions related to mitigation and adaptation and means of implementation.]

2. Each Party's [intended] nationally determined contribution will represent a progression in the light of Parties' differentiated responsibilities and commitments under the Convention.

3. The extent to which developing country Parties will effectively implement this Agreement will depend on the effective implementation by developed country Parties of their commitments on the provision of finance, technology development and transfer and capacity-building.

4. Successive [intended] nationally determined contributions will be [informed by the result of the global stocktake as defined in Article 10 of the Convention] and communicated before the expiry of the previous [intended] nationally determined contribution by the Party concerned.]

In the 10 December version of the draft agreement text prepared by COP21 President, Article 2*bis* read:

Option 1:

All Parties shall undertake efforts defined in Articles 3, 4, 6, 7, 8 and 9 progressively towards achieving the purpose of this Agreement as set out in Article 2, while recognizing that enhanced support for developing country Parties will allow for higher ambition in their actions. Over time efforts of all Parties will represent a progression taking into account Parties' different national circumstances and stages of development.

Option 2:

1. All Parties shall regularly prepare and communicate their nationally determined contributions towards achieving the purpose of this Agreement as set out in its Article 2, recognizing that the ambition of developing country Parties in relation to their contributions will depend on the extent of support they receive.

2. Subsequent nationally determined contributions should be informed by the results of the global stocktake as defined in Article 10, and represent a progression taking into account Parties' common but differentiated responsibilities and respective capabilities, in light of different national circumstances.

In the agreement adopted on 12 December, Article 2*bis* is reflected as Article 3 in the agreement. It reads:

Article 3

As nationally determined contributions to the global response to climate change, all Parties are to undertake and communicate ambitious efforts as defined in Articles 4, 7, 9, 10, 11 and 13 with the view to achieving the purpose of this Agreement as set out in Article 2. The efforts of all Parties will represent a progression over time, while recognizing the need to support developing country Parties for the effective implementation of this Agreement.

The above reflects a compromise given that 'implementation' is missing from the agreed formulation because the US was against this. The Agreement does cover the comprehensiveness of NDCs that cannot anymore be seen as being only mitigation-centric. (Article 4 refers to the element of 'mitigation', Article 7 to 'adaptation', Article 9 to 'finance', Article 10 to 'technology development and transfer', Article 11 to 'capacity-building' and Article 13 to a 'transparency framework for action and support'.)

Following the huge resistance of Parties to Article 2*bis*, the hard fight to have it reflected as Article 3 in the final Agreement represents a big and significant win for the LMDC in the Paris Agreement.

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