

Durban Platform negotiations must respect equity principles, say developing countries

Bonn, 18 May (Meena Raman) – The launch of a new round of negotiations known as the Durban Platform aimed at a new regime (whether a protocol, another legal instrument or an agreed outcome with legal force) under the UN Framework Convention on Climate Change and involving all countries, must be in accordance with the objective, principles and provisions of the Convention, including the principles of equity and common but differentiated responsibility and respective capabilities. This was emphasised by Algeria, on behalf of the G77 and China, at the inaugural meeting of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) held Thursday, 17 May in Bonn.

The G77 and China also stressed that any progress in the Durban Platform (DP) must be coherent with effective and strong action and concrete and ambitious results under the Kyoto Protocol as well as the Ad Hoc Working Group on Long-term Cooperative Action under the Convention.

Many developing countries also stressed that the nature of the outcome of the ADP process cannot be a replacement of or a reinterpretation of the Convention.

A number of developing countries also underscored the view that the terms “applicable to all Parties” in the DP decision did not mean that the outcome of the process must be such that all Parties undertake uniform or similar types and levels of obligations. They stressed that the “universality of application, is not uniformity of application”.

Many developing countries also said the choice of the legal form of the DP process should not be decided on up-front and discussions in this regard

need not be an immediate priority. They said that such discussions should be phased in at an appropriate time, when the negotiations on the substantive issues evolve and mature.

The inaugural session of the ADP was opened by the President of the 17th meeting of the UNFCCC Conference of Parties (COP), Ms. Maite Nkoana-Mashabane of South Africa.

Nkoana-Mashabane recalled that one of the decisions at the Durban COP last year was to “... to launch a process to develop a protocol, another legal instrument or an agreed outcome with legal force under the Convention applicable to all Parties, through a subsidiary body under the Convention hereby established and to be known as the Ad Hoc Working Group on the Durban Platform for Enhanced Action.

[The new process of negotiations is to commence work in Bonn and is to be completed no later than 2015 in order for the adoption of the protocol, legal instrument or agreed outcome with legal force in 2015 and for it to come into effect and be implemented from 2020. The issue of whether the principles of equity and common but differentiated responsibilities (CBDR) would apply to the new regime was contested in Durban last year, with the United States opposing any reference to ‘equity’ and ‘CBDR’ in the decision to launch the new process.]

In her opening remarks, the COP President said that history was made by the adoption of the DP decision and was part of a delicate package of decisions and was related to the finalising of work under the Kyoto Protocol working group to secure a second commitment period (of greenhouse gases emission reduction) and to

conclude the work of the Ad-hoc Working Group on Long-term Cooperative Action (AWG-LCA).

The Executive Secretary of the UNFCCC, Ms. Christiana Figueres said that the creation of the ADP was historical and a “major gift” and provided a new opportunity to show that multilateralism worked and to set a clear path for a universal agreement by 2015 and a clear mitigation plan to close the 6-11 gigatonne gap in relation to mitigation reductions needed.

Algeria, speaking for the **G77 and China** said that any progress in the Durban Platform must be coherent with effective and strong action and a concrete and ambitious result of the Kyoto Protocol and the AWG-LCA tracks. Such progress must also include a linkage between mitigation, adaptation and means of implementation.

Algeria stressed that the negotiations and outcome of the Durban Platform process must be in accordance with the objective, principles and provisions of the Convention, including the principles of equity and common but differentiated responsibility and respective capabilities.

The Group said that any work plan should be based on the Durban decision (1CP/17), and in accordance with the equity and CBDR principles and with relevant provisions of the Convention. It should also be comprehensive, inclusive and equitable in scope given the urgency of responding to climate change and the vulnerability of our members to the adverse impacts of climate change.

Argentina presented a joint-statement on behalf of 24 countries that included **Argentina, Bolivia, China, Cuba, Democratic Republic of Congo, Ecuador, Egypt, El Salvador, India, Iran, Iraq, Kuwait, Lebanon, Malaysia, Mali, Nicaragua, Pakistan, Philippines, Saudi Arabia, Sri Lanka, Sudan, Thailand, Venezuela and Yemen.**

Argentina said that the decision establishing the DP was part of a delicate overall package in Durban that includes a meaningful second commitment period of Kyoto Protocol, and the understanding that developed countries will undertake commitments for deep emission reductions taking into account the comparability of efforts, including up to 2020. Therefore the negotiations and progress on the Durban

Platform are intrinsically connected to the developments and conclusion of the Kyoto Protocol and the AWG-LCA tracks.

It expressed concern that this decade could become a lost decade, a decade where the prevailing philosophy would seem to be “do what you want, when you want and how you want ...” a decade of “voluntary irresponsibility”, a decade of lost trust. It said that countries left Durban with the firm commitment that developed country Parties would ratify their emission reduction commitments but they continue to wait and were concerned about the motives.

Argentina said the group was convinced that the outcome of the Durban Platform can be an effective instrument in the struggle to overcome climate change, through the strengthening of the multilateral regime under the Convention. In this sense, it said that countries must not forget that the democratic nature of multilateralism is premised in the fact that all States have equal rights. There must be mutual trust, that can only grow strong roots when no one takes advantage of the others and when commitments are fulfilled and everyone respects the established principles and rights.

It was the group’s firm belief that the term “under the Convention” means that the outcome, whatever the form it takes, must be in accordance with and consistent with the Convention.

The nature of the outcome of the AWG-DP process cannot therefore be a replacement of or a reinterpretation of the Convention, which remains the overarching framework for the climate change regime.

It was of the firm view that this (DP) outcome must be in accordance with the principles and provisions of the Convention, including the principles of equity and CBDR, and must recognize the historical responsibilities of developed countries in their contribution to climate change. Therefore, Parties must ensure that any outcome ensures the enhancement of the full, effective and sustained implementation of the Convention.

The group also believed that the term “applicable to all Parties” refers to the fact that the outcome of the Durban Platform process will apply to all Parties, similar to how the Convention and the Kyoto Protocol is applicable to all Parties which enter into these treaties. This term does not mean

that the outcome must be such that all Parties undertake uniform or similar types and levels of obligations. Universality of application is not uniformity of application, it added.

Referring to paragraph 5 of the DP decision, Argentina said the scope of work, and the outcome, under the DP and the ADP will include all relevant and interlinked issues, notably the building blocks of mitigation, adaptation, finance, technology and capacity building.

It stressed that there was no legal doubt in the Convention that the mitigation efforts of developing countries are linked to receiving support in terms of finance, technology and capacity building, in accordance with Article 4.7 of the Convention. There was need to ensure a proper balance among these issues, in particular as to mitigation; adaptation; and means of implementation, that is, finance and technology for enabling and supporting the voluntary mitigation and adaptation nationally appropriate actions of developing countries.

It also underlined that the design of the work-plan on enhancing mitigation ambition shall recognise the differentiation of the nature and level of obligations of developed and developing countries, and of Annex I and non-Annex I countries, in accordance with the principles of equity and CBDR and with relevant provisions of the Convention.

It reiterated that the voluntary mitigation efforts by developing countries are related to the extent of obtaining of finance, technology transfer and capacity building, what has been long recognised in the history of the Convention and remains valid and relevant.

In this sense, Argentina welcomed the celebration of the workshop on equitable access to sustainable development (held on 16 May). It said that the deliberations in this DP Working Group should be informed of the inputs of that workshop, as equity must be the centrepiece and underpin any possible outcome of the DP.

It reaffirmed the developing countries' right to development in the framework of harmony and balance with nature, which effectively permits ecosystems to adapt naturally to climate change building on a society with more justice, equity and solidarity.

Regarding the legal form of the outcome, Argentina said the choice of the legal form should

not be decided on up-front, nor should discussions on this be an immediate priority, but such discussion should be phased in at an appropriate time, when the negotiations on substantive issues evolve and mature.

On the plan of work of the working group, it was of the view that the scoping of the work including an agreement on the guiding principles of the AWG should precede more substantive discussions on the outcomes.

Swaziland, for the **African Group** said that the work and outcome of the ADP process should adhere to the principles and provisions of the Convention and in particular equity and CBDR. A key element of the DP decision was agreement on the need and process to address the level of ambition through a work plan. It expressed high expectations that this process will lead to a significant scaling up of mitigation ambition particularly by developed countries, where all Annex I Parties remove conditionalities and move beyond the upper end of their pledges to be in line with the IPCC (Intergovernmental Panel on Climate Change) 4th Assessment recommendations. It also called on Annex I Parties not party to the 2nd commitment period of the Kyoto Protocol to present a carbon budget for the period of now until 2020.

It also called on developed countries to provide additional, adequate and predictable means of implementation so that there is no finance gap, to enable an effective contribution by developing countries to the global effort.

It said that a more elaborate work plan for the ADP can be agreed only upon the completion of the work of AWG-LCA, and AWG-KP through a successful adoption of a ratifiable amendment of the Kyoto Protocol allowing a 2nd commitment period.

It outlined several stages in the negotiation as critical in the work of the ADP, starting with the completion of the work of the two AWGs (AWG-KP and AWG-LCA) in Doha, after which a framing of the future agreement can be undertaken; the publication of the 5th Assessment Report of the IPCC being another report to deepen the understanding of commitments as required by science, and that the first half of 2015 be devoted to an in-depth reflection on the appropriate legal form for the negotiated substance. The African Group was of the view

that the Bonn session we must conclude the election of Chair, Vice Chair and Rapporteur.

India speaking for the **BASIC** group of countries noted that the adoption of the decision on the AWG-DP was the result of a delicate package of mutual reassurances exchanged between parties. Successful and ambitious outcomes in the AWG-LCA and KP tracks of negotiations are a critical part of these mutual reassurances.

It said the full elaboration of the work plan for the AWG-DP will only be possible after the conclusion of the work of the AWG-LCA and the AWG-KP in Doha later this year. There is also the need to have a smooth and gap-free transition from the outcome of the two existing AWGs (AWG-LCA and AWG-KP) to the work of the AWG-DP, thus allowing for unresolved AWG-LCA issues to be taken up, as appropriate, in the AWG-DP or another UNFCCC body, without reopening concluded negotiations from the AWG-LCA.

India said the outcome of the AWG-DP process should fully reflect the historical responsibility of developed country Parties and take into account the overriding priorities of developing countries for poverty eradication and their right to sustainable development.

The fact that the AWG-DP will be 'applicable to all Parties' is fully compatible with the balance of responsibilities established in the Convention. The AWG-DP should allow for enhanced efforts from all Parties, but universality of application should not translate into uniformity of application, stressed India.

As regards the scope of actions under the Durban Platform, India believed that the scope of AWG-DP includes several pillars of climate action under the Convention, the Bali Action Plan and the Cancun Agreements. This is clearly captured in paragraph 5 of the Durban Platform decision.

It was of the view that in the year 2012, priority should be to plan work and engage on important exploratory discussions and agree on the scope and approaches in line with the principles and provisions of the Convention that can guide the work under the AWG-DP. This would be the basis to then move on and build the substance of the outcome.

Gambia speaking for the **LDCs** said that the UNFCCC and the KP alone is insufficient. Urgent action was needed to stay below 2 degree and 1.5

degree C. It said the ADP had a dual mandate to enhance the level of mitigation ambition and adopt a new protocol under the Convention applicable to all. The new protocol will have to be in accordance to all principles of the Convention including equity and CBDR.

The LDCs suggested a 4-year programme of work to be elaborated so that there is distinct work streams for specific issues and are allocated clear slots of time across the four years. It said that the new protocol should cover mitigation, adaptation, finance, technology transfer, transparency of action and compliance.

It also stressed the importance of the adoption of the second commitment period under the KP and the need to fulfill the commitments by developed countries to provide the \$100 billion per year by 2020. The ADP should not be an excuse to postpone everything to 2015.

Nauru speaking for **AOSIS** said the DP provided an opportunity to respond to climate change commensurate with the challenge. It stressed the need to close the ambition gap. It wanted a mitigation work plan that would raise the ambition of the targets especially for those with historical responsibility. It also called for the adoption of a protocol under the ADP that should give balanced treatment to mitigation, adaptation, finance, technology development and transfer, transparency of action and support, and capacity-building.

Egypt speaking for the **Arab Group** stressed that the ADP negotiations should be aimed at full and effective implementation of the Convention, and to respect fully the basic principles of the Convention, especially equity and CBDR, without any attempt to re-negotiated, or to terminate the Kyoto Protocol or to modify its provisions in order to evade the legal responsibilities for leading the international effort to reduce emissions. It must also take into account the historical responsibility of developed countries for the bulk of emissions, and the inherent right of developing countries in achieving sustainable development and the priority of efforts to combat poverty and promote development. It stressed the DP process should address the post-2020 time frame.

Pakistan said that the new phase of negotiations is linked to the past, referring to the process from Bali to Durban. The DP was the result of a delicate balance. Historic responsibility must not be overlooked and all legal options for the

outcome were on the table but substance should be discussed first.

Chile, speaking for **Colombia, Costa Rica, Panama** and the **Dominican Republic** said that the DP was a historic opportunity in the climate regime to respond to the realities of the changing world. It said it was possible for a high standard of living with low emissions development and the right to development is not a right to emit. It wanted a protocol or a legal instrument under the Convention as the outcome. It said that equity and CBDR must not be interpreted dodge ambition.

Australia, speaking for the **Umbrella Group** said that the DP was about looking at the next decade with a global effort. It said that there could not be a divided world and the DP provided a universal platform for international action. The new agreement is to encourage all to act in line with their different national circumstances and all major economies need to act on common ground. There was need to think innovatively to respond to the changing economic, social and political realities of the world. It also said that there were two tasks under the ADP – developing the new agreement applicable to all effective 2020 and ways to enhance ambition and catalyse action.

The **European Union** said that Durban was a success and a turning point. The ADP was part of a wider coherent package to terminate the AWG-LCA in Doha and for the adoption of the second commitment period under the KP. The second commitment period was a transition to a single global agreement. The work plan needed to address the pre-2020 ambition gap and the new protocol.

The new agreement for a protocol under the Convention must have legally binding agreements for mitigation and must be fair so that all with greater responsibility and capacity to act must do so. What is fair means is important.

There was need for effective rules, transparency and a common robust international accounting system. There was need for a mechanism for compliance for mitigation.

Switzerland speaking for the **Environmental Integrity Group** said that the DP was a turning

point. The new agreement must involve all Parties and be in accordance with equity and CBDR. It suggested 3 phases in the process – gaining a common understanding of the concepts and principles; elaborate on the substance and finalise the instrument.

Norway said that the Durban Platform should lead to a new agreement that is applicable to all, while respecting the principles of the Convention. There is need to move from the present situation where the principle of common, but differentiated responsibilities and respective capabilities is interpreted as a binary distinction of countries according to who is listed in Annex I. Countries are not equal, but the differences cover many perspectives and circumstances. There was need for a dynamic approach to differentiation. Responsibilities and capabilities change over time. They have changed since the Convention was adopted in 1992.

Following the statements from Parties and observers, the COP Vice President, Robert Van Leirop (Surinam) said that intensive consultations had taken place before and during the Bonn meeting concerning the selection of Chairs and Vice-chairs for the Bureau of the ADP. He noted that issues remain unresolved and urged parties to be flexible and agree on nominees for the Chair and Vice- chair by Friday, 18 May so that that the ADP can begin its work as soon as possible. He said that there was a proposal to elect that Chair at this session and continue consultations on the election of the other offices until Doha. The Parties were asked to consult among themselves on the proposal.

The impasse on the appointment of the Chair of the ADP stemmed from proposals from 3 groupings of countries. The developed countries have nominated Mr. Harald Dovland of Norway, the Group of Latin American and Caribbean countries have nominated Mr. Kishan Kumarsingh from Trinidad and Tobago and the Asia-Pacific region has nominated Mr. Jayant Mauskar from India.

The ADP is expected to meet on Friday, 18 May to advance further work.