

Durban Platform: Agenda adopted, Chair elected

Geneva, 27 May (Meena Raman) – On the final day of the Bonn climate talks, Friday, 25 May, Parties reached agreement on the agenda and elected the officers including the Chair, of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP) under the UN Framework Convention for Climate Change (UNFCCC).

The ADP session was to have ended on Thursday, 24 May but both the adoption of the provisional agenda and the election of the Chair of the ADP saw much wrangling until the final hours of the talks.

Although some delegates had portrayed this “agenda fight” merely as a procedural issue, many consider it not only as being substantive in nature but that this was actually at the heart of the battle over the Durban Platform decision (1/CP.17).

Given the intense battle over the agenda, the next meeting of the ADP (which could be held in Bangkok from 30 August to 5 September if financial resources are made available by developed countries) is expected to be equally contentious, as Parties get into the substance of the work.

While all Parties, both developed and developing countries, stressed the need not to “unravel the delicate political balance” reached in Durban, stark differences were apparent during the two weeks on the “understandings reached” and interpretation of the various paragraphs contained in the decision. This prompted strong calls for a “generic agenda” that allowed the need for further discussion to explore the “understandings” arrived at and not pre-determine what belongs to the work of the ADP.

Adoption of Agenda

In issue in the original provisional agenda prepared by the UNFCCC secretariat in consultation with the President of the Conference of Parties (South Africa) for adoption were the following items: “3. Planning

of work in accordance with decision 1/CP.17; 4. Workplan on enhancing mitigation ambition.”

Agenda item 4 had been challenged by a number of developing countries on the ground that a separate agenda item on this matter should not be put, as this issue (on enhancing mitigation ambition) was being discussed in other fora such as the Ad Hoc Working Group under Kyoto Protocol (AWG-KP) and the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) as this involved the pre-2020 mitigation commitments and actions.

Some countries had come out with different proposals for amending the agenda. One proposal that was prominent and which gained traction among many countries was from the Philippines. The Philippines’ proposal was for the deletion of item 4 of the agenda and for amendment of item 3 as follows: “Planning of work in accordance with all elements of decision 1/CP.17”. Other countries wanted to maintain the reference to the “workplan on enhancing mitigation ambition.”

In an attempt to bridge the differences, at another round of informal consultations held at 6 pm on Wednesday, 23 May. Sandea De Wet (South Africa), the interim presiding officer of the ADP put forward a proposal for amendments to the provisional agenda as a possible way forward as follows:

Item 3 was as follows: “Implementation of all elements of decision 1/CP.17 (with a footnote): (a) Planning of work in accordance with paragraphs 4 and 5; (b) Matters related to paragraphs 7 and 8; (c) Additional matters;”

The footnote proposed then read: “The consideration of this item shall take note of the context of decision 1/CP.17, be in accordance with the principles and provisions of the Convention, be pursuant to paragraph 6 and build upon the work of the subsidiary bodies, noting that work to give effect to paragraph 1 is being undertaken by the AWG-LCA to be adopted by the Conference of the Parties at its

eighteenth session.”

According to diplomatic sources, some developed countries including the United States were not agreeable to the reference to “the principles and provisions of the Convention” as well as the work of the AWG-LCA.

Following further intensive consultations that went on till late evening Thursday, 24 May, agreement was reached on the agenda.

When the plenary session of the ADP was convened on Friday, 25 May at around 10 am, De Wet informed Parties that extensive consultations were held to find ways to reflect the concerns of Parties in the agenda. Various “assurances” were discussed in order to move the substance of the work. A way was found to reflect, in a balanced manner, the “assurances” sought.

She then tabled the modified agenda for adoption, which was as follows: “3. Implementation of all the elements of decision 1/CP.17 (with a footnote): (a) Matters related to paragraphs 2 to 6; (b) Matters related to paragraphs 7 and 8.”

The footnote reads: “This item will be considered within the context of decision 1/CP.17 and under the Convention, without prejudice to the position of any Party or to the work of the other Subsidiary Bodies. Two workstreams, one on paragraph 3(a) and one on paragraph 3(b) are initiated. Further workstreams may be considered as the need arises.”

The **Philippines** pointed out that the words “Subsidiary Bodies” should be in lowercase and this was agreed to. (According to seasoned negotiators, “Subsidiary Bodies” refers to the permanent subsidiary bodies under the UNFCCC and KP viz. the Subsidiary Body on Implementation and the Subsidiary Body for Scientific and Technological Advice, while reference to “subsidiary bodies” also includes the Ad Hoc Working Groups).

(The Durban Platform decision reads as follows:

1. Decides to extend the Ad Hoc Working Group on Long-term Cooperative Action under the Convention for one year in order for it to continue its work and reach the agreed outcome pursuant to decision 1/CP.13 (Bali Action Plan) through decisions adopted by the sixteenth, seventeenth and eighteenth sessions of the Conference of the Parties, at which time the Ad Hoc Working Group on

Long-term Cooperative Action under the Convention shall be terminated;

“2. Also decides 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;

3. Further decides that the Ad Hoc Working Group on the Durban Platform for Enhanced Action; shall start its work as a matter of urgency in the first half of 2012 and shall report to future sessions of the Conference of the Parties on the progress of its work;

4. Decides that the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall complete its work as early as possible but no later than 2015 in order to adopt this protocol, legal instrument or 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;

5. Also decides that the Ad Hoc Working Group on the Durban Platform for Enhanced Action shall plan its work in the first half of 2012, including, inter alia, on mitigation, adaptation, finance, technology development and transfer, transparency of action, and support and capacity-building, drawing upon submissions from Parties and relevant technical, social and economic information and expertise;

6. Further decides that the process shall raise the level of ambition and shall be informed, inter alia, by the Fifth Assessment Report of the Intergovernmental Panel on Climate Change, the outcomes of the 2013-2015 review and the work of the subsidiary bodies;

7. Decides to launch a workplan on enhancing mitigation ambition to identify and to explore options for a range of actions that can close the ambition gap with a view to ensuring the highest possible mitigation efforts by all Parties;

8. Requests Parties and observer organizations to submit by 28 February 2012 their views on options and ways for further increasing the level of ambition and decides to hold an in-session workshop at the first negotiating session in 2012 to consider options and ways for increasing ambition and possible further actions.”

Before the agenda was adopted, **Venezuela** asked De Wet how its previous proposal for a footnote to the provisional agenda would be reflected which had the support of 34 developing countries.

The footnote that Venezuela wanted was as

follows: “The implementation of decision 1/CP.17, should be reviewed on the basis of conformity with the principle in international law of ‘pacta sunt servanda’, in particular on the exception of non-performance of compliance of the UNFCCC and the KP for those Parties that are Parties to the instruments.”

(‘Pacta sunt servanda’ is an expression signifying that the agreements and stipulations of the Parties to a contract must be observed; it is a fundamental principle of international law, viz. a treaty is based on the consent of the parties to it, is binding, and must be executed in good faith.)

Venezuela said that in the spirit of compromise, it wanted assurance that its submission calling for the footnote be reflected as a miscellaneous document as well as in the report of the meeting of the ADP, which was agreed to.

The agenda as presented by De Wet with the editorial modification in the footnote suggested by the Philippines was the adopted by Parties.

Election of Chair

The impasse over the election of the Chair of the ADP continued till the morning of Friday when the plenary convened.

There were nominations from 3 groupings of countries for the position. Western Europe and Others Group (WEOG) had nominated Mr. Harald Dovland of Norway, the Group of Latin American and Caribbean (GRULAC) countries nominated Mr. Kishan Kumarsingh from Trinidad and Tobago and the Asia-Pacific region had nominated Dr. Jayant Mauskar from India.

During the morning plenary session on the final day, Ambassador Mxakato-Diseko (from South Africa, representing the COP Presidency) said that all her consultations with the regional coordinators did not yield any compromise among Parties and that voting was the only way forward. She did say that all Parties did not want the voting option as consensus was the norm. However, she informed Parties to prepare for elections.

The **European Union** raised a procedural point and said that further consultations informally could reach a solution as this was its impression and asked for an adjournment to allow Parties to consult further. Saudi Arabia (Chair of the Asia Pacific Group) supported the EU, as did

Swaziland for the African Group and Gambia for the LDCs.

The meeting was then adjourned for further consultations and was reconvened late evening the same day.

Diseko informed Parties a letter was received dated 25 May from the coordinators of the regional groups which was as follows”

“Following further consultations by the Coordinators of regional groups, we would like to inform you that pending endorsement by the Conference of the Parties at its eighteenth session (COP 18) in Doha, an agreement has been reached concerning the election of officers of the Bureau of the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP). This arrangement is outlined in the attached annex... The arrangement would be applied on an interim basis by the ADP, pending endorsement by COP 18. The ADP, in its report of this session, would recommend to COP 18 to endorse the arrangement...”

The proposal contained in the annex was as follows:

For the Year 2012-2013 (from the just concluded Bonn session till the end of next year’s Bonn session), the Non-Annex I Co-Chair is Dr J. Mauskar (India) from the Asia-Pacific Group; the Annex 1 Co-chair would be Mr H. Dovland (Norway) from the WEOG; and Mr Olav Shamanov (Russia) from the Eastern Europe group as the rapporteur;

For the year 2013 (end of Bonn session to COP), the Non-Annex 1 Co-chair would be Mr K. Kumarsingh (Trinidad and Tobago) from GRULAC; while the Co-chair would be from Annex 1 and the rapporteur from Non-Annex 1;

In 2014 (COP to COP), the Non-Annex 1 Co-chair would be Mr K. Kumarsingh from GRULAC and the Co-chair to be from Annex 1 and the rapporteur from Annex 1;

In 2015 (COP-COP), the Non-Annex 1 Co-chair would be from the African Group while the Co-chair would be from Annex 1 and the rapporteur from Non-Annex 1.

This arrangement was endorsed by the ADP plenary and Dr. Mauskar was then invited to preside over the meeting, which heard closing statements. (See separate report on this).