

Developing countries highlight importance of historical responsibility for equity

Bonn, 2 May (Alejandro Rafa) – The first of the workshops of the second session of the Ad Hoc Working Group on the Durban Platform (ADP2), on the “scope, structure and design of the 2015 agreement”, saw significant differences between Parties on the need for a rules and science-based, top-down, international climate architecture based under the Convention and its principles.

While many developing countries reiterated the importance of historical responsibility in determining the differentiation of commitments of Parties, as well as the need to address poverty and the right to development and access to sustainable development, as a part of a comprehensive and equitable approach to climate change, some developed countries, particularly the United States and Russia, outlined their intention to advance a “pledge and review” system as the basis for the 2015 agreement.

The workshop, facilitated for the entire session by Mr. Kishan Kumarsingh (Trinidad and Tobago), was divided into two parts, with the first focused on: “Design aspects for an ambitious, durable and effective 2015 agreement that mobilises national action”; and the second on: “Applying the principles of the Convention in the 2015 agreement”.

Each part received presentations from two “experts”, with Professor Ross Garnaut of the Australian National University and Mr. Adam Matthews the Secretary General of GLOBE (a network to support sustainable development among legislators) addressing the first part. The second part was addressed by Prof. Lavanya

Rajamani, of the Center for Policy Research, New Delhi and Ms. Tara Shine, of the Mary Robinson Foundation–Climate Justice.

Professor Garnaut’s presentation outlined that current pledges would put the world on track for 4°C of warming. He noted that global climate policy is currently in crisis, not least because of the collapse and failure of the EU-Emissions Trading Scheme and the Clean Development Mechanism. He said that people who did not want to take action on emissions were now using the excuse that “carbon prices” could not work because of these failures. He warned that mitigation should be “the frontline of adaptation” as the adaptation challenge is only relevant for moderate warming (i.e. 2°C), after that there would be “a breakdown in national and international order”.

Mr. Matthews outlined the considerable legislative achievements across the world relating to climate change, highlighting Bangladesh, Vietnam, Kenya, Colombia, Mexico, China, and South Korea as non-Annex I countries that had made significant developments. He concluded that an ambitious international climate deal would spur domestic action.

Switzerland noted that its national policy would not be where it was without international action, namely the Kyoto Protocol. It said the 2015 agreement must be clear and predictable, with global participation of a spectrum of efforts based on the principle of common but differentiated responsibilities and respective capabilities (CBDR-RC). It said the institutional arrangements of the future agreement should “not start from scratch”,

but draw on the Kyoto Protocol and be strengthened over time.

The Marshall Islands advocated that Parties consider how to reflect actions and commitments on adaptation in the 2015 agreement. It said that the key potential battleground issue was in defining common rules and accounting. It said that there should be an expectation that “major emitters” present quantified emission reductions and wanted other Parties to engage with that expectation. It called for “flexibility”, which should mean the agreement is flexible enough to respond to new science.

The United States declared that ambition, participation and durability were its key issues in the 2015 agreement and wanted to see a result that would get the most participation with the highest pledges implemented most effectively. It concluded that to do this every Party should choose its own pledge based on national circumstances. It asked rhetorically if this system would lead to lower levels of ambition and answered this was “probably not” the case. It referred to its proposal of having two stages in making ‘pledges’ – (i) a “clarity” stage where information is provided on how the pledge would impact the emissions trajectory of the country; (ii) a “consultation” period to assess the pledge in light of the overall contribution required. The US made clear it would not expect Parties to change their pledges based on anything determined in the clarity or consultation stages, even if indicators suggested they were not adequate or equitable. The US concluded that this proposal “could” result in more ambition and that this should be the “departure point for discussion”.

South Africa noted that contrary to suggestions from the US, the actual experience of having domestic-driven targets had not translated into ambitious results internationally but rather weaker rules and no response to the changing science. In contrast South Africa felt that a multilateral system was more amenable to inputs from science and from the rest of the international community. That international approach did not require the changing of the Convention but should consider relative contributions, not defined on “predictive

approaches” but on where countries are now and then periodically updated. It noted that flexibility and incentives would be essential for the participation of developing countries. Echoing Prof Garnaut’s presentation, South Africa said that if “mitigation is the frontline of adaptation” then technical work was needed to truly understand the adaptation cost of different temperature scenarios (e.g. 1.5; 2; 4 or 6 degrees). South Africa called for a system of top-down commitments with bottom-up actions with rules and compliance based on the KP. It concluded by affirming that adaptation would need to be central to the 2015 agreement and could not be “underestimated”.

Tom Athanasiou of the **Climate Action Network** echoed that the current emission trajectory would yield a breakdown in international order and so an independent expert allocation of the 2020-2050 carbon budget (or total amount of emissions allowed to keep within a particular temperature or atmospheric CO2 concentration target) was needed. He noted that this budget was “not large”. This should be a part of or complement an “equity review” that should sit alongside the science review being conducted under the UNFCCC. He noted that equity had been agreed under the Convention with CBDR-RC and that its constituent elements were ambition, responsibilities, capabilities and development needs. He said that a renegotiation or a rewriting of the Convention was not needed but what was needed was to ‘give life’ to their meanings. He concluded that an equity review was needed as much as a science review and suggested that modelling targets based on indicators that connected to the constituent elements of equity was easy to do and would all have similar results.

Gambia called for the agreement to have binding short, medium and long-term targets to ensure all commitments are consistent with long-term goals. It said that there must be a means to assess the “adequacy” of commitments and the long-term goals must be based on adequacy. The agreement should then provide for periodic review, to measure progress toward the long-term goal.

Russia said Parties should not be “obsessed with the design”, using the analogy of a 4-wheel drive car, but instead with the “level of participation” and that all other issues were subsidiary.

New Zealand responded that participation was of “first and foremost” importance but that “you don’t get in a car that doesn’t have any wheels” and so design was relevant. It noted the tension between “top-down” systems that reduce participation and “bottom-up” systems that reduce ambition. It asked if a hybrid was possible, suggesting that perhaps South Africa was interested in top-down for developed countries and bottom-up for developing countries. It concluded that its position was country-proposed commitments that were “rules-based”.

The **European Union** argued that it was important there was a mechanism to ensure fairness or equity that reflected historical responsibility and capability. The mechanism should not be too complex but must reflect differences and lead to quantified outcomes so we know “what it all adds up to”.

Jamaica noted it had been sceptical at first as to why the workshop was occurring, given it was a Party-driven process, but was pleased with the comments from the panelists. It continued that there was already an instrument in place designed to meet the same objectives as that of the 2015 agreement – the Kyoto Protocol. But the Protocol has “not done what we intended it to do”. It suggested this was because it lacked full participation and that its compliance was weak as it allowed countries (such as Canada) to leave and there was no punishment for failing to meet targets.

Singapore said the focus should be on incentivising national actions and this would occur by recognising national circumstances in determining countries’ pledges and allowing countries to determine their own commitments. It asked Parties to consider what the role of the means of implementation might be in determining actions and encouraging participation.

Swaziland called for an agreement that defined the right to equitable access to sustainable development and urged Parties not to be diverted from setting an “adaptation goal”. This adaptation goal needs to reflect a temperature target of no more than 1.5°C of warming by the end of the century and could be assisted by a technical paper.

Tuvalu warned that the world needed a “massive scaling up of action” and a “global Marshall plan”. It said the best way to guarantee participation would be for those who have historical responsibility to stand up and do something “meaningful”. It continued that developing countries needed the equity addressed with guarantees of support, with a mechanism to facilitate a “low carbon future.”

Prof. Lavanya Rajamani’s presentation highlighted that “equality is for equals and inequality for unequals” as an entry point into the debate over differentiation. She outlined different ways of differentiating within an agreement (e.g. on legal form, central obligations, implementation and assistance) as well as between countries.

Ms Shine said that “equity and ambition are two sides of the same coin” and that equity was fundamental also in relation to future generations. She suggested that a way needed to be found that could recognise 100% of the effort of all Parties, including their contributions on adaptation. She concluded that to “move from injustice to justice” Parties needed to acknowledge what had happened in the past and clearly deliver on existing commitments.

Russia said Rajamani’s presentation indicated that differentiation can hamper participation and it could not agree more and that differentiation “should not be legal but factual”. It also rejected the suggestion from Ms Shine that the “starting point” should be the protection of the most vulnerable; instead it should be “to protect the climate”.

Peru said that it was open-minded but did not intend to leave the principle of the Convention. It suggested that “differentiation is organic” and a “natural process” as everything in life is different

from everything else. It then suggested that using a matrix of criteria could help to categorise countries and allow for range of actions and commitments. It suggested the base criteria should be per capita emissions with the objective to reduce the global per capita average from 7 tonnes per person to 2.

Meena Raman, speaking on behalf of Third World Network, a member of Climate Justice Now!, said that the bulk of responsibility should be placed on those who have benefited most historically, as was the basis for the CBDR principle in the Convention. She pointed out that developed countries had been arguing that the “world has changed” since 1992 to move away from the developed-developing country differentiation but in fundamental aspects, there was no change. She said that there is still a huge gap in the historical responsibility of Annex I and non-Annex I countries measured in cumulative per capita emissions. Responding to the suggestion from Peru, she emphasised that it was important not to “lock in” 2 tonnes per capita for all countries without considering cumulative per capita fair shares as this will lock in inequity in per capita incomes in developing countries. In ensuring fairness, and in operationalising the CBDR principle, there should be a carbon budget approach and its sharing, taking into account the historical emissions of developed countries. She also called for the payment of the carbon debt by developed countries. She also said that there is still a gap between the per capita incomes of developed and developing countries. She added that the global economic crisis that originated in developed countries in 2008 has caused many deep economic problems in almost all developing countries, leading to rising debt, increasing balance-of-payment problems, widening trade deficits, declining commodity prices and export earnings, thus compounding the challenges for developing countries.

The **EU** said that solidarity was the basis for action on adaptation and that differentiation could deliver equity. But the Kyoto experience showed that differentiation of “form” scared some Parties off. It agreed that fairness meant those who had the greatest historical responsibility and greatest

capability should lead. It said that fairness could only work if there was accountability at the end. It noted there was a connection between “fairness on one side and efficiency on the other” and there were risks around carbon-leakage.

India rejected suggestions that equity principles were an excuse for inaction and said they were integral to the 2015 agreement. It argued that it was necessary to ensure the foundation was well laid and strong enough to deliver the ultimate objective. It reiterated that the principles in Article 3 of the Convention are “pillars” and an outcome that does not adhere to them would struggle to find agreement. The key pillars of equity, the right to sustainable development, the prevention of unilateral measures are timeless, it said, and are necessary to generate enhanced action. It concluded that any approach must be “anchored” in CBDR and should differentiate between Parties based on historical responsibility and the imperatives of development and poverty eradication. It noted that the right to development was not a right to pollute but a right for the billions of people in developing countries most vulnerable to climate change.

Anabella Rosenberg of the International Trade Union Confederation (ITUC) urged Parties to consider the right to sustainable development and just transition in discussion of principles. She reiterated that “universality of application does not mean uniformity of application”. She said from a labour perspective recognition of the past was important and that historically emission shares and impacts had not been fair.

Ecuador called for effort to be as high as possible and said that in developing countries that would be determined by the provision of support, as per Article 4.7 of the Convention. It said there would be diverse actions and commitments under the 2015 agreement and the differentiation should be defined by historical responsibility.

Bolivia outlined four key elements emerging from the discussion: historical responsibility; social development and poverty eradication; capacity of adaptation vis-à-vis vulnerability; capacity of

mitigation also considering vulnerability and the structure of economies. It considered social development and the eradication of poverty as the most important, as they are connected to the right of access to sustainable development. It explained that there were 1.3 billion poor people in the developing world, twice the population of the EU, and it asked Parties to consider how to eradicate this poverty, while ending the hunger of the 850 million malnourished people, while also undertaking mitigation actions and reducing vulnerability via adaptation. It said to do this, the application of the CBDR principle continues to be important in the new legal instrument.

The **Philippines** reminded delegates that these conversations had been happening for 20 years and that an equity regime already existed (the Convention) and what was needed was for the commitments to be implemented. It gave the example of climate finance and noted that most developing countries had actually paid for it in the form of loans or investments, or by agreeing to conditionalities when it was offered via voluntary channels. It pointed out that there had been little response to the calls for access to technology through transfer. It emphasised that CBDR and Article 4.7 were very clear on how to “ratchet up ambition” and that it was the extent to which developing countries could achieve more that would depend on implementation of developed countries’ obligations relating to finance, technology and capacity building.

China said the aim of the ADP was to strengthen implementation of the Convention including on adaptation, mitigation, finance, technology transfer and capacity building. It said that it was very clear that the principles of the Convention, particularly equity and CBDR, should guide the ADP. It urged Parties not to make things “more complicated” but instead to focus on specific actions to be advanced. It also sought clarification from panelists who had suggested the current legal structure exempted some Parties from legal commitments as Article 4 of the Convention mentions “all Parties”, as does Article 4.1 and the Kyoto Protocol in Article 10, which indicated that currently no country is exempted from legally binding commitments.

Chile said that as emissions continue to increase, we have to ensure that the “right to development doesn’t threaten the right to exist”. It concluded that strong political will was needed and fresh perspectives and approaches such as those by Ms Shine that link human rights to sustainable development could help.

Kazakhstan said differentiation should not be the starting point and that not all Annex I Parties could be associated with historical responsibility.

Norway said that differentiation was the key issue and that if Parties got it wrong there would be less participation. It strongly suggested that the world “had changed” and pointed to the delivery of the MDGs of halving poverty. It wanted Parties to consider other ways to differentiate and to consider how the world has changed.

Australia reiterated the Convention’s principles, including equity and CBDR-RC, and emphasised that “we have a common responsibility to act” and that the agreement must be universal with the widest range of capabilities and national circumstances. It emphasised RC and called on countries with the greatest capacity to lead the way and for those with the greatest vulnerability to receive the most support. It suggested a spectrum would be a practical way of translating difference into an agreement and directed Parties to its “national schedule” proposal as a specific design and architecture idea.

Costa Rica agreed that “history matters” and that historical responsibility was needed, as the new agreement could not have the same targets for “US and Bolivia or Malawi”. However, it did not think historical responsibility should be the end of differentiation and a broader foundation could be achieved by considering diversity in the developing world. It said it was not attacking “big developing countries” or “major emitters” but wanted a “safe space” to have a discussion.

Saudi Arabia said that there had been a lot of work on design, principles and institutions and what was missing was “the beef”. What was needed, it said, was actions and implementation. It said building a list of variables that would never be

agreed upon in order to differentiate countries was not helpful and that instead the focus should be on actions.

The Gambia said that principles of the Convention should guide all Parties, especially of giving full consideration to the special needs of particularly vulnerable countries (Article 3.2). It said that CBDR-RC should be used to call all countries to action and that the application of these

principles must contribute to achieving the objective of the Convention.

Swaziland said the outcome must have goals for adaptation, finance, technology transfer as well as mitigation. It said there should be equity in the review of implementation and that while Parties were looking to the future they were not starting at the same base and so historical responsibility should guide future action.