

Durban Platform: Agreement to advance work in contact group

Bonn, 13 March (Hilary Chiew) – The Ad hoc Working Group on the Durban Platform for Enhanced Action (ADP) reached a consensus to move forward in a contact group at the end of the week and will proceed in that modality for the inter-sessional in June 2014, with text for negotiations to be based on the submissions of Parties.

This came about at the stock-take on Wednesday, March 12 where most developing country groupings expressed deep concern over the lack of progress in the current mode of work in ‘open-ended consultations’ conducted by the Co-chairs Artur Runge-Metzger (the European Union) and Kishan Kumarsingh (Trinidad and Tobago) and pressed for a meeting in a formal setting of a contact group.

They reiterated their call for the establishment of a contact group by Friday, 14 March, which is the last day of the current ADP session in Bonn. They also voiced their dissatisfaction with the physical arrangements of the open-ended consultations that impeded the effective participation of all Parties.

In contrast, developed countries expressed satisfaction with the progress made through open-ended consultations and supported the efforts and guidance of the Co-chairs. They were also satisfied with the physical arrangements which they described as transparent and effective.

A major concern expressed by many developing countries was about how the text for the negotiations prior to the 20th session of the Conference of Parties (COP) of the UNFCCC will come about. They stressed the need for a Party-driven process in this regard. Developed countries led by the European Union (EU) and the United States on the other hand expressed concerns over ‘unwieldy texts’. The EU stressed “that the outputs must be the products of inputs from Parties and expressed full confidence in the Co-chairs and trusted them to guide” the process.

In response to remarks by the EU and US over ‘unwieldy texts’, Philippines asked why Parties “were afraid of a 200-page document that we can call our own rather than a 3-page document that we do not own.”

Presiding over the stocktaking exercise Co-chair Kumarsingh reassured Parties that the text for the negotiations that will be agreed in Paris will come from a Party-driven process through Party submissions and negotiations. It was also agreed that the agenda of the ADP will remain as that in the current resumed session.

Ambassador Rene Orellana of Bolivia speaking for the Group of 77 and China (G77-China) reminded Parties of Decision 1/CP.19 paragraph 2 (a) adopted at Warsaw that clearly requested the ADP “to further elaborate, beginning at its first session in 2014, elements for a draft negotiating text, taking into consideration its work, including, inter alia, on mitigation, adaptation, finance, technology development and transfer, capacity-building and transparency of action and support ...”

He said there is need to begin a more structured and formal mode of negotiations that enhances the participation of the Parties and helps achieve concrete outcomes mandated by the Durban, Doha and Warsaw decisions of the ADP. Parties need to prioritize the work that needs to be completed by Lima, Peru (where the 20th session of the UNFCCC Conference of Parties will take place), while making progress towards finalizing the text of the future agreement in time for adoption in Paris. The outcomes must be guided by the provisions and the principles of the UNFCCC and have to be balanced and legitimate to all Parties. The process should therefore be designed and conducted in a manner that inspires confidence.

The G77 Chair stressed that clarity, inclusiveness and transparency are very important. There is need for a formal process, with a modality of negotiation that allows Parties to directly engage with each other on text proposals, and to negotiate towards a successful outcome. The mode of work should meet the following three criteria: be a Party-driven process; allow for inputs by Parties, and result in an outcome that reflects the input by Parties. This will result in a text that Parties can call their own.

He further said our work in the ADP on the elements for a draft negotiating text has to be done in a manner that enables Parties to better understand their respective positions with a view to advancing towards elements for a draft negotiating text by COP20, adding that the inputs of the Parties through their proposals and submissions must be the basis for the draft negotiating text.

The organization of work of ADP sessions must ensure that there is a comprehensive and balanced treatment of issues including mitigation, adaptation, loss & damage, technology transfer, capacity building, finance, as elements for a draft negotiating text. He reiterated the proposal to establish a contact group in accordance with the ADP's mandate and in keeping with its agreed agenda, beginning this coming Friday 14 March at the latest and to continue with this negotiation format in the future sessions.

The G77 also expressed the need to improve the modality of the Technical Experts Meeting (held under workstream 2 on the pre-2020 ambition) in order to create a space for a more interactive dialogue between the group of experts and Parties. He stressed that the outcome of work under the ADP must enable us to further enhance the full, effective and sustained implementation of the Convention. It should strengthen the multilateral rules-based regime under the Convention in order to achieve its ultimate objective.

Ecuador representing the **ALBA countries** said two years of informal and open consultation had passed and it is time for concrete, formal negotiation procedure for the remaining two years. The open-ended discussion of the last two days allowed further exchange of views but was not leading towards a transparent and inclusive Party-driven outcome. It doubted that the two-day work was fulfilling the mandate of paragraph 2(a) of Decision 1/CP19, adding that although there was attempt to discuss the elements, there was imbalance in the process, referring to the lumping of finance, technology development and transfer and capacity building into

one category as 'means of implementation'. It wanted an equal time slot for each of the elements.

It expressed deep concern over the mode of work and urged Parties to immediately move forward in this session into a structured and formal process in a contact group on the 2015 agreement to deal with the six elements in a balanced manner. It was difficult to see priority given to mitigation when adaptation is the most important issue for many developing countries, which arose from the historical responsibility of the developed countries. It also wanted to see a formal discussion of issues related to workstream 2 according to the paragraph 3, 4 and 5 of Decision 1/CP19. The Technical Expert meetings were not an effective way to discuss the important issues related to pre-2020 ambition. It also emphasized that the process must be Party-driven which means the draft text should reflect all Parties inputs and not only inputs of some groups. It warned against last minute, non-inclusive and non-transparent texts that had happened in the past.

Speaking for the **Alliance of Small Island States (AOSIS)**, **Nauru** reiterated its full support to the Co-chairs and was pleased that its concern that every Party should be at the table and be heard was addressed. It, however, sought clarity on how the Co-chairs planned to capture progress in both workstreams and wanted a clearer picture of work for the remaining time in 2014. It welcomed the Technical Expert Meeting but opined that there is room for improvement particularly in how the sessions are organized with involvement of Parties on how sessions are organised and which experts are needed, drawing from broad range.

It agreed that there is need to accelerate the discussion in a more formal mode and is open to the idea for a single contact group to accommodate small delegations and for its continuation into the next session. It also supported an additional ADP session in October.

Saudi Arabia for the **Arab Group** said it had long stressed the need to act urgently and that progress was not being made. It called for the establishment of a contact group particularly for workstream 1 that will focus on elements mandated by the Durban decisions. It also lamented the limited physical arrangement that had disallowed effective participation. It wanted the contact group to focus on the six core elements mandated in Warsaw at this session. It also wanted to get a sense of how the discussions are going to be structured in the June and October sessions and to have an idea of thematic discussions at the high-level ministerial in June.

Speaking for the **African Group, Sudan** suggested that the views of Parties are taken in a contact group given the time constraints to deliberate an outcome that serves all interests. For workstream2, it lamented that there was a lack of early consultation and they could not prepare effectively for the discussions and echoed the concerns of others on small meeting rooms that affected effective contribution of Parties. It also wanted clarity on how Parties will arrive at a draft negotiating text for Lima as well as the planning for the ministerial segment in June.

Pakistan, speaking for the **Like-minded Developing Countries (LMDC)** said it was very concerned at the direction our work under the ADP is going. It had long stressed the need for urgency by which Parties needed to act and the time was running out. It wanted to see progress in this session. It recalled that at the opening plenary on Monday (March 10), the LMDC had highlighted the need for the ADP to shift to a more formal, focused, and structured mode of work. It had called for the establishment of a contact group particularly for workstream 1 focusing on the elements mandated by the Durban decision. It said the Co-chairs had instead given Parties the modality of open-ended consultations. The conduct of these open-ended consultations and the limited physical arrangements that had effectively excluded many Parties from being able to be present and to participate, were not conducive to moving our process forward. They are leading to the loss of precious negotiating time. They undermine the credibility of any outcome.

Pakistan said this is not what can be termed as progress - this is standing still while giving the impression of movement. The LMDC strongly recommend that the modality and organization of the work to be in the form of a formal contact group to be established and to be operational immediately at this session. It looked forward to directly negotiating with other Parties on the six elements – adaptation, mitigation, finance, technology transfer, capacity building, and transparency of action and support -- for a draft negotiating text coming from Parties in that contact group, in order to ensure that any topics to be discussed are consistent with the mandate from Durban and Doha and that any outcomes in a textual form come from Parties' submissions in a Party-driven and consensus-building manner. It too wanted to get a sense of how discussions would be structured in the June and the proposed session in October and the proposed agendas may be developed in consultation with Parties here.

Nepal representing the **LDCs** said it is important to formalise the work of both workstreams and how

best to capture the inputs that should also be fed into the ministerial session. It believed that the open-ended consultations had contributed to better understanding of what the nationally determined contributions (NDCs) constitute but clarification of how these are anchored in the 2015 agreement is still needed. It requested the Co-chairs to orient future discussions to promote the understanding of common concepts like 'information' on the NDCs, adding that unless there is mechanism to do so, progress will be difficult. It wanted the Secretariat to prepare an assessment of what will constitute fair shares (in mitigation). It said a decision on the contact group should be made by the end of this session but it is also flexible if Parties wanted more than one contact group.

The European Union welcomed the stock-take and supported the efforts of the Co-chairs, believing that the current mode of engagement is functioning effectively with participation of all and is transparent. It said workstream 1 discussions had been helpful in drilling down the elements of the draft negotiating text by Lima and in preparing for a robust review process next year. It was keen to engage on the means of implementation as all Parties acknowledge the clear messages coming from many quarters. On workstream 2, it said there are a number of policy options and how we can enhance actions and overcome barriers such as high capital costs to move forward in areas with high mitigation potential such as energy efficiency. It also wanted focus on other areas such as reducing emissions from forests (REDD-plus), hydrofluorocarbons (HFCs) in the June session.

On process, it said it is important to work quickly and efficiently. The Co-chairs should have the flexibility to deliver the mandate of the ADP. Parties have negotiated in the ADP negotiating texts and conclusions through open-ended consultations without a contact group. The outputs must be the products of inputs from Parties and it expressed full confidence in the Co-chairs and trusted them to guide Parties with focused and balanced treatment of issues. On workstream 1, it was important to address how all the elements are reflected in the wider 2015 package. It was of the view that the current mode of work has served Parties well.

The EU was open to discussing another mode of work but would value some assurance that Parties will move forward on the agreed agenda and in the two workstreams as it could not afford to reopen the careful balance struck on the agenda. It did not want the work to get into silos and a 300-page text that would not be in our interests. Guidance was needed

from the Co-chairs for spin-off groups with specific timeframes.

Colombia speaking for the **Independent Alliance of Latin America and the Caribbean (AILAC)** stated its strong support for the guidance of the Co-chairs. It concurred that this is and must be a Party-driven process as the Co-chairs are appointed by Parties and they are an integral part of a party-driven process. It wanted the June session to start under a single contact group for both workstreams 1 and 2.

India representing the **BASIC countries (Brazil, China, South Africa and India)** expressed deep concerns with the mode and substance of work in this ADP session so far and recalled its strong desire for a contact group setting in order to follow the mandate of the Durban Platform. It also recalled the Warsaw decision for the elaboration of the elements for a draft negotiating text. It said Parties had failed to make any progress in accordance with the mandate of the Durban decision through open-ended consultations - a format which did not enjoy the consensus of all. It was also disappointed with the logistical arrangements, in particular, for the room and the seating arrangements for the so-called open-ended consultations. This was a party-driven process and did not want any party to be left out of the process for want of a seat. It hoped precious time will not be wasted in future sessions on such logistical issues.

Parties need to focus on the elements of the 2015 outcome in order to achieve the full, effective and sustained implementation of the Convention. This implied that focus should be on the elements for a draft negotiating text in a balanced and comprehensive manner, adding that the negotiating process is party-driven and inputs and submissions by Parties shall be the basis of any negotiating text. It is also important that attention be given to paragraphs 3, 4 and 5 of the Warsaw decision for raising the ambition levels in the pre-2020 period in a balanced and comprehensive manner, covering mitigation, adaptation and provision of finance and technology support to developing countries. It also wanted clarity on the roadmap towards Lima in terms of determination of the elements for a draft negotiating text.

It was of the view that work be conducted in a formal, focused and structured manner through one contact group. The contact group should be established and started as soon as possible at this session and continue to work through next sessions. It could not afford the luxury of open-ended consultations anymore if progress is to be made for a

successful conclusion of the work on the Durban Platform. In developing its work programme, the forthcoming sessions of the ADP should prioritise the work to be completed by Lima, in order to make progress towards finalizing the text of the 2015 agreement in time for its adoption in Paris.

Australia for the **Umbrella Group** said Parties had taken the opportunities to share and deepen their understanding of the enhanced actions pre-2020. It welcomed presentations of countries that are preparing for the 2015 agreement. It trusts that the Co-chairs have captured the progress in their notes and reflections. It said Parties have an agreed agenda and an integrated approach was needed in addressing the elements. On elements for text, the best way is to move to convergence and there was no need for detailed text compilation. There is need to discuss the form and legal nature of the outcome before going into the text.

Switzerland representing the **Environmental Integrity Group** said although there were some problems initially, but things had improved under the able facilitation of the Co-chairs. It was encouraged by the substantial discussions and Parties had started to work on the elements for a draft negotiation text and common grounds are crystalizing. It agreed that the way the outcome and text that the ADP will produce will be based on Parties' inputs drawing from written submissions and interventions. However, it cautioned against an unmanageable text like back in Copenhagen (COP15, 2009). On the proposal for a contact group, it said it is crucial to maintain the organisation of work in two workstreams. It was sceptical if this is the right moment to move to one contact group with the same agenda but was ready to consider the G77-China proposal with clear understanding that the ADP agenda remained.

The Philippines said transparency, inclusiveness, Party-drivenness cannot be sacrificed at the altar of so-called efficiency. The stewards Parties have appointed to shepherd the process may be given a latitude for exercising decisive, even innovative, leadership, but again not at the expense of Party-drivenness. It also emphasized that consensus remained the basis for agreement, and must likewise be understood as each party standing on equal footing. It wanted a restoration of faith in this process. We may be putting this process in and out of 'intensive care', and as we discuss another difficult procedural obstacle, it would seem that we are all in agreement that the process needs some mending. It struggled to understand the reluctance to move into a mode of work that will ensure we are able to ensure

Party-drivenness and inclusiveness, that can capture our work with clarity. It also struggled to understand how there are evidently different interpretations of the word 'progress' as an overwhelming majority of Parties are concerned about the lack of progress.

In response, co-chair Kumarsingh said welcomed the constructive exchange and was encouraged that all Parties wanted to get into substance. On the establishment of the contact group, he said there was no opposition to the idea, based on the existing agenda and that is the way to move forward as we go into the June session. He said that at the formal closing plenary on Friday, he would confirm that understanding.

Saudi Arabia said there is no clarity on how we are going to arrive with the text before Lima, which will otherwise be a failure. The issue of the text for the negotiations needs to be resolved. If we pretend that this is not a problem, Parties would have a hard time in the June session.

Kumarsingh in response said that the Co-chairs' understanding with the Chair of the G77 and China was that the text will be developed through the views of Parties, their submissions and through the negotiations. That was the guidance the Co-chairs had. He stressed again that the text will be developed by the Parties through their views in the actual negotiations in a contact group in June. The contact group will keep to the agreed agenda of the ADP.

Kuwait asked if the text will be a compiled text based on submissions from Parties or based on the reflections of the Co-chairs' understanding of the submissions?

The United States said the idea of the contact group only had the support of a broad group of Parties and if did not change the Durban mandate in any way. The contact group is an informal group, like an ad hoc subsidiary body with no substantive implications. On the negotiating text, it was important that whatever we look at reflects the views of Parties in a coherent way. The US did not want a

document of 100 pages. Parties are to agree on the elements of the negotiating text rather than the text itself. It cannot be unwieldy and it was the job of the Co-chairs to maintain coherence. Whatever we accept from a single Party or group of Parties has no standing until it is coherent and is balanced. The process should not lead us to 250 pages exercise.

Canada said it went to the UNFCCC website to ascertain what a contact group is which is defined as "an open-ended meeting that may be established by the COP, a subsidiary body or a Committee of the Whole wherein Parties may negotiate before forwarding agreed text to a plenary for formal adoption. Observers generally may attend contact group sessions."

In response, **the Philippines** asked why Parties were afraid of a 200-page document that we can call our own rather than a 3-page document that we do not own.

Kumarsingh said it is Parties' prerogative to share views anytime they want and that the Co-chairs have no authority over the submissions. The submissions still needed to be negotiated. The final agreement will not be had until the final gavel dropped in Paris.

He said that Parties in the UNFCCC process have had many contact groups and countless informals, 'Friends of the chair' etc. This was a Party-driven process and that the Co-chairs are part of the process to serve the Parties. He then asked if anyone does not trust the Co-chair and after a few seconds concluded that silent is consent and took that as a compliment.

He said the consensus is that Parties move with the contact group to be held at the end of the ADP session and to move with that modality in June. He added that the text will be based on submissions of Parties and closed the stocktake session.