

2013-2015 Review: Work to continue in Paris, differences remain on SED report

Kuala Lumpur, 18 June (Hilary Chiew) – Parties to the UN Framework Convention on Climate Change agreed to continue work on the 2013-2015 review of the adequacy of the long term global goal and the progress made towards achieving it, at the climate talks in Paris at the end of the year.

This was the conclusion after a total of four informal consultations held on 3, 8, 9 and 10 June, including a six-hour-long ‘Friends of the Chair’ session on 9 June. Difficulties arose because Parties could not reach agreement on how to deal with the report of the Structured Expert Dialogue (SED) and had different interpretations of the mandate for the review.

The tension in the discussions over 2 weeks on this agenda item revolved around how to reflect the Structured Expert Dialogue (SED) summary report in the draft conclusion and whether there should be a draft decision for the Conference of the Parties (COP) that will meet in Paris on 30 November to 11 December.

After the 9 June morning’s informal consultation ended in a deadlock, co-facilitator Leon Charles (Grenada) proposed the convening of the Friends of the Chair and this met from 3:30 pm to 9:30 pm. The other co-facilitator was Gertraude Wollansky (Austria). Both were also co-chairs of the joint contact group set up after the opening of the 42nd session of the Subsidiary Body on Implementation (SBI) and the Subsidiary Body on Scientific and Technological Advice (SBSTA) on 1 June. The Subsidiary Bodies met on 1-11 June and the 2013-2015 review is a joint agenda item of the two bodies.

(The 18th meeting of the COP in 2012 had decided to periodically review the adequacy of the long-term global goal and the progress made towards achieving it. The SED was mandated to assist the SBI and SBSTA to do so through a focused exchange of views, information and ideas on the science of climate change. The SED concluded its work in February

2015 in Geneva. However, some developing country Parties at the Bonn meeting cautioned against picking and choosing from the SED findings which themselves appeared to be selective of the outcome of the 5th Assessment of the Intergovernmental Panel on Climate Change.)

Following are the highlights of the Bonn meetings:

Informal consultation on 8 June

After the first informal consultation on 3 June, Parties met in the second informal consultation on 8 June. Co-facilitator Wollansky circulated an ‘elements paper’ which was based on Parties’ submissions after the 41st session of the Subsidiary Bodies in Lima last year.

She informed that the ‘elements paper’ has been updated with newly received inputs from the United States for the Umbrella Group.

Wollansky explained that it contained headings in bullet-point form after the co-facilitators had gone through the inputs and tried to put them into language that might go into the draft conclusion and draft decision, noting that under most headings in the ‘elements paper’ are options of dealing with the subject. She also said if Parties are able to condense those options which are saying more or less the same thing then they can be amended further.

She went on to propose putting up the ‘elements paper’ on the screen for Parties to go through it to see if there is agreement to use some text for the draft conclusion and draft decision. She further reminded Parties about delivering the drafts to the Subsidiary Bodies’ Chairs by Wednesday (10 June) and that the time had come to work on the text.

Saudi Arabia asked what was the basis to put the ‘elements paper’ on the screen and if there is a mandate for Parties to discuss the contents to produce a specific outcome.

Supporting Saudi Arabia, **China** pointed out that the ‘elements paper’ is a mix of elements for a draft conclusion and a draft decision which are different in nature. Before going into substantive discussion, it said there are different views on whether to come to a draft decision or just draft conclusion or even finish the discussion in this session, hence there is no basis to go sentence by sentence and line by line.

(During the first week of the Bonn session, China and Saudi Arabia had questioned the push by other Parties to have a substantive content for the draft decision instead of a procedural one. Please see ‘TWN Bonn Update No. 11: *2013-2015 review: Differences over use of Structured Expert Dialogue report*’ – http://www.twn.my/title2/climate/news/Bonn15/TWN_update11.pdf).

In response, Wollansky said the paper was not invented by the co-facilitators and they did not add or change the meaning, but one that captured the different expressions of views of the same topic. She said perhaps Parties can start by putting together the elements for a draft conclusion, adding that there are no papers with any status except the CRPs (conference room papers) submitted by Parties (Trinidad and Tobago, and China submitted their respective CRP in the first week).

Wollansky also said Parties should at least come up with a draft conclusion text if nothing else as many Parties wanted a draft conclusion.

Noting that there is no consensus to put the ‘elements paper’ on the screen, she asked Parties to give their views, nevertheless.

Saudi Arabia said the work is governed by the COP mandate and nothing else. It failed to see the need to have elements in the draft conclusion, adding that it will simply acknowledge that work was done and attach the (SED) report and leave it to the COP. It asked the co-facilitator to point out where is the mandate for citing elements, insisting that Parties should just engage in a procedural conclusion and nothing else.

Trinidad and Tobago representing the Alliance of Small Island States (AOSIS) said it wanted to make it abundantly clear that for the sake of progress, the discussion (on the elements paper) is step one in the process for a substantive draft decision for the COP.

Japan wanted substantive discussion on a draft decision text in light of limited time in Paris (venue of next session of the Subsidiary Bodies and the COP), adding that it did not hear anyone opposing having a draft decision but what goes into the draft.

Wollansky then informed the meeting that Switzerland had asked for a chance to introduce its submission and that the Umbrella Group and African Group should be allowed to present their submissions as well.

Saudi Arabia asked if this is in line with the mandate which it insisted is a waste of time as entertaining Parties’ views in their respective submissions is not part of the mandate and cannot be included in the draft conclusion.

Wollansky replied that other Parties (referring to China and Trinidad and Tobago) were allowed to introduce their CRPs last week and therefore the same chance should be given to everybody and that inviting Parties to introduce their views is not outside the mandate of this group (that is discussing the 2013-2015 Review).

The **United States** suggested a six-paragraph draft conclusion on procedural matters which can be drawn from China’s CRP and a placeholder for any draft decision.

To this, **Saudi Arabia** said there is no agreement and this is not taking us anywhere and again requested for Parties to adhere to the mandate.

When asked by Wollansky what will be the output of the discussion as the group needs to have something to forward to the Chairs of the Subsidiary Bodies, **Saudi Arabia** said the co-facilitators could produce a proposed conclusion made on the basis of the mandate for Parties to engage in a discussion.

Wollansky said if that is the will of the group, then it can be done at the meeting on the next day (9 June) but that the co-facilitators so far had not had a mandate from the Parties to do so.

Brazil said a procedural conclusion does not mean that it need not be substantive and that the US’ suggestion presented some merits and can be considered as a starting point for discussion.

South Africa said it would like for a draft decision to come out of this process. **India** said it supported the position of Saudi Arabia and China.

Solomon Islands speaking for the Least Developed Countries (LDCs) said it would like to see something substantive coming out in the Bonn session. It would not stand in the way of a draft conclusion but it would remain firm that a substantive decision on this issue is needed at Paris.

Trinidad and Tobago for AOSIS said the Group cannot support the approach of having a few lines in a draft conclusion. Our mandate is to come out with findings of the report, noting that it was this Group that had put forward a proposal to have a technical

body (referring to the SED) to enable a science-policy interface to guide the discussion on the review on the long-term global goal and the overall progress made towards achieving it. It also said the Group expects both procedural and substantive content in the drafts that reflect Parties' views as it gave the mandate to the co-facilitators to produce them.

Australia, Canada, the European Union and Switzerland wanted the co-facilitators to come back with a draft conclusion and draft decision that Parties can discuss at the next meeting.

China, in supporting Saudi Arabia, said it was open to discussing a draft conclusion that Parties mandate the co-facilitators to produce but it will not support the production of a draft decision.

The United States said it would also support AOSIS in that any text must be largely drawn from Parties' submissions.

Wollansky said she would consult the Subsidiary Bodies' Chairs on the situation and would bring the draft back to Parties the next day and she encouraged Parties to continue discussion among themselves.

Informal consultation on 9 June

The meeting started with the SBSTA Chair Lidia Wojtal urging Parties to wrap up their work to make a step forward in bringing science into the decision-making process.

Chairing the informal consultation, co-facilitator Leon Charles asked the UNFCCC secretariat's legal department representative to provide Parties with a quick interpretation on the mandate and guidelines.

The legal representative presented on four relevant COP decisions (1/CP.16; 1/CP.17; 2/CP.17 and 1/CP.18) and the respective mandates to both the Subsidiary Bodies and the Ad Hoc Working Group on the Durban Platform for Enhanced Action (ADP). She noted that the only paragraph that speaks to the form of inputs is paragraph 166 of Decision 2/CP.17 which reads: *"Also requests the subsidiary bodies to report on their considerations and findings to the Conference of the Parties, which should address those considerations and provide any further guidance, as appropriate; ..."*

She said there is nothing else that predetermined what the Subsidiary Bodies can do which leaves the two bodies a whole range of possibilities, including covering the considerations of the findings and propose actions to the COP, while it is not for the Subsidiary Bodies to decide how the COP will work. The COP basically will consider whether a goal can be strengthened or if it is adequate.

Brazil sought clarification on the mandatory nature of paragraph 6 Decision 1/CP.17 in relation to informing the ADP which reads:

"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; ..."

The legal representative noted that the word 'shall' is a strong mandate i.e. the input has to be taken into account by the ADP process.

Saudi Arabia recalled that the previous day's informal consultation (8 June) ended with the understanding for the co-facilitators to produce a draft conclusion so that Parties could deliberate on it.

Co-facilitator Charles then requested the Secretariat to circulate the document noted as 'of 9 June at 09:08 am' which contained three options in the draft conclusion, and an annex containing the draft decision with two options with an appendix listing the 10 key messages of the SED report which are up to the Parties to pick, delete or propose new inputs.

Option 1 of the draft conclusion is a paragraph containing a procedural conclusion noting that the Subsidiary Bodies had completed their work in pursuant to the four COP decisions. Option 2 has 11 paragraphs of procedural conclusion in which the last paragraph said the Subsidiary Bodies would refer the report on the SED to the COP which shall take appropriate action. Option 3 comprises the first 10 paragraph of Option 2 and an additional paragraph which said the Subsidiary Bodies agreed to consider at their 43rd session (in Paris later this year) the draft decision text contained in the annex, with a view to recommending a draft decision for consideration and adoption by COP 21.

Saudi Arabia expressed disappointment that the co-facilitators did not produce a draft conclusion on the basis of the mandate and not one with options that captured different views.

Charles pointed out that it is not up to the co-facilitators to choose Parties' views hence they provided the three options.

Saudi Arabia then asked the secretariat's legal representative if the three options are in line with the mandate or there can be misinterpretation of the mandate that led to these options.

The legal representative said the COP decisions do not talk about the form of the considerations. In her view, it is up to Parties to decide the form which could be a conclusion or proposal for actions, thus reckoning

that the options (presented by the co-facilitators) met the mandate.

Trinidad and Tobago for AOSIS said the options presented are fully in line with the mandate of providing considerations and findings while acknowledging that there is flexibility in the form. However, it could not understand and could not support unsubstantive considerations and findings.

The United States said it would be useful to have at least a procedural conclusion with the view to have a conceptual discussion of the decision text at this session.

China said it is clear from the explanation of the legal representative that the mandate is just to report the considerations and findings with no specific mention of the form to forward findings to the COP. It does not want to prejudge the form to forward the considerations. It said the draft prepared by the co-facilitators somewhat prejudged that Parties will have a draft decision coming out of this process (in Bonn). It could not support option 3.

Charles proposed to bracket the entire text until Parties decide on the way forward but urged them to go through each of the options and see if they are comfortable with the wordings.

The European Union was of the view that a substantive outcome is necessary and has strong preference for option 3 as it understood that one of the results of this whole process is for the COP to take action which to its understanding, the usual way is through a draft decision.

Brazil said it is flexible on the options as they reflect the different views and positions of Parties, noting that its preference is for Option 2 that reflected the language used in past conclusions and decisions and supported the co-facilitators' proposal.

Switzerland said it interpreted paragraph 166 of decision 2/CP.17 as a mandate to provide a substantial decision and is ready to work on the proposal of the co-facilitators, noting that its preference is for Option 3.

Saudi Arabia regretted that the exercise so far has achieved nothing since the co-facilitators were asked yesterday to prepare a draft conclusion in accordance to the mandate. It maintained its position and urged the co-facilitators to consult the legal representative again on the mandate.

Charles replied that Parties had heard clearly from the legal representative that the decision is in the hands of Parties and as such they cannot follow the request of

Saudi Arabia as there are other Parties that are willing to move forward.

Norway said the mandate is to provide substantive recommendations and it supported the co-facilitators to start the discussion. It was happy that many countries have come to take part. Its preference is for option 3 but is willing to discuss the other options.

Australia welcomed the document prepared by the co-facilitators which presented the views expressed by Parties. Its preference is option 3.

As it was approaching the end of the scheduled one-hour meeting, Charles proposed to extend the meeting.

Saudi Arabia said it was not prepared to attend another meeting and asked to keep to the schedule. "I ask you not to do this because Saudi Arabia will not be there," it added.

China said we should accommodate different delegations' schedule and that it too was not able to participate in the proposed extended meeting.

When Charles asked Saudi Arabia what time it would be available, Saudi Arabia said by all means other Parties can participate but it held the right to denounce the unscheduled meeting and nothing that happened in those meetings is of its concern.

The meeting ended with Charles informing Parties that a 'Friends of the Chair' will be convened later and the co-facilitators would keep Parties informed (of the time and venue).

Informal consultation on 10 June

At the start of the meeting, co-facilitator Wollansky informed Parties that it would be the last informal consultation for the Bonn session. She said the two-hour informal consultation session would be followed by another 30 minutes of meeting in a contact group setting.

A draft text noted as 'Version x 9 June at 22:06 pm' was circulated to Parties. This retained the three options in the draft conclusion, and an annex with two options for the draft decision with an appendix consisting of the 10 key messages from the SED report similar to the 9 June morning version, but this time with some brackets and new inputs which Parties had inserted during the six-hour Friends of the Chair meeting.

Wollansky said the group is expected to deliver the final product to the Subsidiary Bodies Chairs by lunch time and urged Parties to engage in the draft text and provide their views on the understanding that there is no agreement yet on which option to bring forward to

the Chairs. (The SBI and SBSTA closing plenaries were scheduled to close the next day on 11 June.)

Saudi Arabia said it would like to work from where Parties ended yesterday (referring to the 9 June informal consultation) and need not go through the draft text that was just circulated in the room. It said while it welcomed and appreciated the efforts, but ‘not all Parties were there’ and it would like to put the document aside.

Saudi Arabia sought clarification from Wollansky to show the range of options for reporting to the COP but it insisted that it is not able to identify the range of options except to ‘just report to the COP’. It said a report does not include summarising, synthesising or drawing conclusions.

Wollansky replied that the range of options was according to the legal advice from the Secretariat based on paragraph 166 of decision 2/CP.17 which requests the Subsidiary Bodies to report on their considerations and findings and it could take any form that is known to the UNFCCC process.

Saudi Arabia insisted that the option of reporting is not to make conclusions or concrete suggestions that is not within the mandate of reporting and it is not ready to engage in negotiation that does not reflect the mandate.

Wollansky said there is clearly a different interpretation of the scope of the mandate but what the co-facilitators did was reflect Parties’ interpretations in the draft.

Saudi Arabia said it did not want to leave it to the Parties to make their own interpretation (of the mandate) suggesting a recess so that Parties could consult their lawyers on the technical aspect of the word ‘report’

Wollansky said she was sure a lot of Parties had consulted their legal advisors and she saw some of them in the room and she would say that the view of which option to choose had been checked by Parties with their lawyers.

SBSTA chair Lidia Wojtal who dropped in at the meeting addressed Parties and said she saw all SBSTA items are progressing well and hoped there is still room for compromise to reach a good solution for this item. She said the Subsidiary Bodies need time to prepare the documents for the closing plenary tomorrow (11 June) and urged Parties to show flexibility as it is the only way to move forward to a conclusion.

After an hour had passed, Saudi Arabia repeated its proposal to consult lawyers on the interpretation of

the word ‘report’. It said it is not in a position to accept the assumption of Wollansky that Parties had consulted their lawyers. It said we are not here to entertain Parties’ views but to fulfil the mandate to report.

Wollansky responded that she was not sure if the Secretariat’s legal representative was still in the room but opined that while the legal consultation can go on, it should not interrupt the work of Parties that want to engage on the draft text before we go to the contact group to present the results of the work.

China said it had listened to all the views expressed and noted that Parties are facing a very complicated situation. It said the main issue is the different options in the draft conclusion text which represent the different interpretation of Parties. It proposed that Parties set the text aside and start by drafting on the screen with one simple paragraph as a starting point.

Trinidad and Tobago raised a point-of-order for clarity from China, and said there are three options and that the only legitimate one to begin with is option 3.

Saudi Arabia took the floor to say that there is also an option to close the door on the misinterpretation of ‘report’ and it did not hear any reaction to its proposal, insisting that only by solving the interpretation can Parties deal with the options. It requested for a five-minute huddle with legal advisors in the room.

To this, Wollansky said the legal representative from the Secretariat had just left the room.

Trinidad and Tobago again raised a point-of-order. It said it appeared that there is an overwhelming majority in the room that understood what is ‘report’ and are prepared to proceed on substantial discussion and suggested that Parties which do not have clear understanding to seek clarification.

Wollansky explained that China’s proposal is to put aside the three options and to work on one paragraph without prejudging what character it may have.

Saudi Arabia retorted that there is a procedural issue in the process. It said point-of-order is only raised if there is a procedural objection or observation, and not to react to an intervention. It stressed that all Parties are equal and if a Party wants to react to another, it should take its turn to speak and adhere to the rules of procedure.

Brazil said given the time constraint, it sees the merit of China’s proposal. To accommodate option 3, it suggested for the Subsidiary Bodies to continue

considering the nature of the recommendation at SB 43 for COP 21 in Paris.

The United States said while there may be merit in China's proposal but it is reinventing the wheel. It proposed starting with option 2 and bracketing paragraph 13 (which is Option 3 that contained the proposal for a draft decision).

Trinidad and Tobago said the options are somehow not mutually exclusive and Parties could amend or add to what is on the screen. While it would like to see Brazil's proposal, it was also agreeable with the United States' proposal, noting that there is an abundance of flexibilities.

The European Union said the proposal by the United States would save time and would be a good way to move forward.

Switzerland felt that China's proposal would take a lot of time so it would support the US proposal to start with option 2 although it is in favour of option 3.

India said in light of the divergence of views, it strongly felt that the proposal by China could be a good starting point but it was also open to the proposal by Brazil.

Saudi Arabia said while Parties are starting with a paragraph that quite reflects the mandate but the exercise had also opened up to reconstructing the paragraph with ideas that are not aligned to the mandate. It questioned that text inserted into the paragraph without Parties having a chance to react to them is inappropriate.

As time ran out, Wollansky said the understanding in the room was that everything on the screen was in brackets and Parties will have the chance to look at them again in the contact group after a short break.

Contact group on 10 June

The meeting which was scheduled to start at 12 noon began 30 minutes later.

Presiding over the meeting, co-chair Leon Charles (Grenada) urged Parties to focus on deciding what they would forward to the Subsidiary Bodies, noting that Parties had run out of time for a text with substantive matters.

He said there are four possible things that can be reported to the Subsidiary Bodies' Chairs and would like to get Parties' views on which of the four that they were most comfortable with.

The four options are: the draft proposal noted as Version 1 of 9 June at 09:08 am; the newly circulated document which was based on the drafting on the screen at the just concluded informal consultation;

that the work has been initiated and will be continued at SB 43 with no document to be forwarded to the COP; and that the Parties were not able to come to any conclusion.

To a question from **Canada** on the fourth option, he clarified that no conclusion means Parties would leave it to the Subsidiary Bodies' Chairs on what to do.

Trinidad and Tobago for AOSIS said option four seems to apply to all the options on the table. Ideally, it would want to be able not to begin at the next Subsidiary Bodies' session on a clean slate and it would like to work on the proposal brought forward by the co-facilitators of the informal consultations (referring to the document in Option 1).

Charles clarified that option four would not have any document attached to it (to be forwarded to the Subsidiary Bodies' Chairs).

To a question from Switzerland on what is the difference between option 3 and option 4, Charles said option 3 implied that Parties agreed to continue work at SB 43 while option 4 implied that the Subsidiary Bodies' Chairs will most likely apply Rule 16. He went on to read out Rules 16 – 'any item of the agenda of an ordinary session where consideration is not completed shall be included on the agenda item of next session'.

Solomon Islands for LDCs said it preferred option 3 which it understood the work initiated to mean all the three documents – Version 1 of 9 June, the text drafted (and circulated) at the last informal consultation and Version x of 9 June (version coming out from the Friends of the Chair deliberation).

Charles clarified that option 3 does not imply any document. Only option 1 and 2 have reference to the document that Parties want to carry forward.

He then asked Parties if they could live with option 1. The EU, the United States, Canada, Japan, Trinidad and Tobago, and Solomon Islands preferred option 1. Saudi Arabia, China and Qatar said they could not live with option 1, and Saudi Arabia and China also could not support option 2.

Canada explained that it supported option 1 as it is similar to what was happening in the ADP discussion where many Parties had expressed concerns that their options were taken off the table and that could prejudice the Paris outcome. Parties are saying that the only text with status is the Geneva text (the text where Parties inserted their views in the Geneva session of the ADP negotiation in February) where all the options are on the table. It said option 1 contained the views of all Parties and urged Parties that do not support to reconsider.

Charles then requested option 3 to be projected on the screen which referred to paragraph 166 of decision 2/CP.17 and that Parties had begun consideration of the final and factual report of the SED referred in the Subsidiary Bodies' conclusions.

Saudi Arabia said it want to make clear that the SED report is not final nor factual and to stick to just saying the SED report.

Charles replied that that was the official reference. The Subsidiary Bodies' report on their respective 41st session in Lima last year said:

"In fulfilment of the mandate given in decision 1/CP.18, paragraph 86(b), the SBSTA and the SBI requested the co-facilitators of the SED to prepare, with the assistance of the secretariat, a final factual report that includes a compilation and a technical summary of the summary reports on the meetings of the SED and to make it available no later than 3 April 2015."

Saudi Arabia agreed that such was the mandate but Parties did not conclude that it is final and factual.

China concurred with Saudi Arabia, saying that Parties are not in a position to make judgment whether the SED report is final or factual. The mandate intended it to be so but whether it is so will depend on the individual judgment of Parties.

Charles then asked for the contested words to be bracketed.

Trinidad and Tobago supported by **Palau** said it regarded the SED report as final and factual but is open to dropping the words if that will make Parties more comfortable.

The US welcomed the signs of engaging with text now after 10 days of meeting. While it is far from its desired outcome, it would, nevertheless, reluctantly go with the suggestion to just say 'the SED report'.

The meeting concluded with draft conclusions which read:

1. *The Subsidiary Body for Scientific and Technological Advice (SBSTA) and the Subsidiary Body for Implementation (SBI), in accordance with decision 2/CP.17, paragraph 166, and in response to the mandate given at SBSTA 41 and SBI 41 began their consideration of the report of the structured expert dialogue (SED), referred to in SBSTA 41 and SBI 41 conclusions, which includes a compilation and a technical summary of the summary reports on the meetings of the SED and the submissions from Parties on the 2013–2015 review.*
2. *The SBSTA and the SBI agreed to continue their consideration of this matter at SBSTA 43 and SBI 43 (November–December 2015).*

(Edited by Chee Yoke Ling)