

ADP: Heed ground rules in streamlining negotiating text – say developing countries

Bonn, June 4 (Meena Raman and Indrajit Bose)- Developing countries urged Parties to heed the ‘ground rules’ when streamlining the negotiating text for the Paris agreement.

This call was heard in several groups meeting under the UNFCCC’s Ad Hoc Working Group on Durban Platform for Enhanced Action (ADP).

The ‘ground rules’ emerged during the course of the streamlining exercise, with developing country Parties and the secretariat making efforts at consolidating texts where options were repetitive and clearer and focused alternatives could be presented for ease of negotiations, without the addition or subtraction of words so as to retain the positions of all Parties.

Strong disagreements also arose between developed and developing countries especially in the finance discussions.

When considering the preamble section of the text, the **United States (US)** said that “merging options for the sake of merging” is not the purpose of the streamlining process.

Malaysia, speaking for the **Like-minded Developing Countries (LMDC)** in response said that Parties must follow some fundamental ground rules and said that the exercise is to streamline and present clear alternatives to focus negotiations

In the finance discussions, **Canada** presented a “streamlining proposal” which was viewed by several developing countries as a “cherry picking” exercise that did not follow the ‘ground rules’. (See further exchanges below).

In the adaptation and loss and damage discussion, developed countries did not want the merger of texts that touched on concepts dealing with ‘bifurcation’ and ‘universal commitments’. This approach of the developed countries also appeared to prevail in the other sections of the text dealing with mitigation.

There were calls also for greater clarity on the use of brackets or slashes in the negotiating text, as Parties continued to engage in the ‘first reading’ of the ‘Geneva text’ on June 3 in Bonn.

Parties worked on streamlining of six sections of the Geneva text. The ADP convened the negotiating group of the contact group on ‘facilitating implementation and compliance’ and ‘time frames and process related to commitments/contributions/other matters related to implementation and ambition’ in the morning and ‘preamble’ and ‘procedural and institutional provisions’ in the afternoon. The ADP also convened facilitated groups on these issues along with additional facilitated groups on adaptation and loss and damage, finance and mitigation.

The session on facilitating implementation and compliance was co-facilitated by Sarah N. Baashan (Saudi Arabia) and Aya Yoshida (Japan); time frames and process related to commitments/contributions/other matters related to implementation and ambition was co-facilitated by Roberto Dondisch (Mexico) and George Wamukoya (Kenya); preamble was co-facilitated by George Wamukoya and Aya Yoshida; procedural and institutional provisions’ was co-facilitated by Sarah N. Baashan and Roberto Dondisch; adaptation and loss and damage was co-facilitated by Andrea Guerrero (Colombia) and Georg Borsting (Norway); finance was co-facilitated by Georg Borsting and Diann Black-Layne (Antigua and Barbuda); mitigation was co-facilitated by Franz Perrez (Switzerland) and Fook Seng Kwok (Singapore).

Finance

The facilitated session on finance was an intense session with differing views. Two streamlining proposals were on the table: one from **G77 and China** and one from **Canada** pertaining to paragraph 82 of the finance section in the negotiations text.

After G77 and China tabled its proposal, the developed countries raised issues. “We are taking a technical approach here. Certain options were consolidated but for the sake of clarity and transparency, it would be much appreciated if the G77 could provide the exact reference points,” said the **US**. Following this, **Bolivia** on behalf of the Group, walked the Parties through the references. After Bolivia’s explanation, the US said that they had found new words added or deleted in the G77 and China’s proposal. “From we understand we are not in the mode of deletion or insertion,” said the US.

Zambia then asked the secretariat to help mark the references to sources in the G77’s proposal. As the secretariat was attributing the G77 and China’s proposal, **Switzerland** said it was not in a position to accept two of the paragraphs as they were not a “copy-paste” job.

“We need to be quite clear of what we are doing here. It is cherry picking. When we are looking at consolidation, we are looking at redundancies. We do not know how we can consolidate paragraph 82 but we cannot cherry-pick,” said **Switzerland**.

Bolivia urged Parties to get on with the exercise of streamlining. “We tried to follow rules. It was a milkshake text. When we negotiate, we will negotiate. We wanted to bring out what this option was.” said Bolivia.

Switzerland responded saying that it was not willing to go beyond the mandate. “We will do the same for the Canadian proposal and scrutinise it the same way,” said Switzerland and asked Parties to move to the Canadian proposal.

Explaining their proposal, **Canada** said they adopted a different approach to streamline the text. “The document in front of us is very dense. There is a lot but it boils down to clear concepts. The concept is that of Parties mobilising finance. We are in a conundrum. It is very hard to work with the text that has no real duplication by words. So, you cannot really use the same words. So, I have tried to streamline concepts which are in there, but I did not create new language. I sometimes changed the grammar,” said Canada. The second rationale for the proposal, it added was “there is a lot in paragraph 82 that is covered in other paragraphs. We have in paragraph 79 what Parties will do. We tried to capture from there so we some guiding principles. It is a messy text to work with or without streamlining. Our proposal is about concepts only”.

Developing countries responded sharply to the proposal by Canada. **Zambia for the LDCs** said that the proposal did not amount to “cutting and pasting”

and called for clarity on what is it that Parties were doing there.

To this, the co-facilitator responded that there were various types of challenges around the text. “As Parties you will have to consider what to do in terms of consolidating, collapsing and streamlining. You will have to show what is an useful way forward to arrive at an easier text to work on,” said Borsting (Norway), and asked Canada to clarify where the “pasting” came from.

Zambia intervened again to say that it had understood what Canada had said but “from what I understand we are having a second modality of work and do we agree on this new basis?” it asked. It added that Parties cannot have it both ways, to cut paste from the Geneva text and not cut paste from the text.

Speaking for the **Arab Group, Saudi Arabia** also wanted clarity on the mode of work. “Are we choosing some words from the Geneva text? I could pick and choose too. What our colleagues were doing earlier to the G77 proposal were they were checking word to word. Three words were missing and the proposal was harshly criticised. And we see here that it is okay for Canada to choose just half a sentence. We need to be on the same page. If we decide on cherry-picking from each option, we can also cherry pick,” said Saudi Arabia.

To this **Switzerland** suggested that Canada should take the entire sentence instead of half a sentence in its proposal. It was willing to work on Canada’s proposal by taking concepts in brackets and said it would add some of its proposals too. The **EU** said it wanted nine additions to Canada’s proposal. **Australia** said it could offer some text clarification to Canada’s proposal.

At this point, **India** said that Parties were getting into the second step of the exercise without getting into step one.

Bolivia in its national capacity urged Parties not to lose time and asked of Parties to look at the G77 and China proposal. **China** too expressed concern about the way of working. “Our mandate is to remove the duplications. We cannot continue to work this way,” said China and asked the co-facilitator to move directly to negotiations. Expressing doubts on how much progress Parties could make this way, **Brazil** said there is no point redrafting Canada’s proposal and the risk of picking and choosing words remained.

Zambia said that G77 had done a lot of work already and had submitted a text to the secretariat.

Ecuador spoke for the **LMDC** and encouraged Parties to put their proposals in writing and to circulate them. “We circulated our proposal and

received several questions of where which part came from”.

The co-facilitator concluded the session saying the matter would be taken up at the stocktaking, scheduled on 4 June. “The G77 has received questions on their proposal but there are also comments on Canada’s proposal. We will bring that back to the next meeting of the group if that is what the co-chairs decide to do. Parties can give their feedback to the co-chairs and decide on the next steps forward,” said Borsting.

He added that Canada should keep working on its proposal and everyone should send suggestions to Canada. He also encouraged other Parties to come forth with proposals on streamlining and asked of the Parties to be “better prepared” next time if the Co-chairs decided not to change anything in the stocktaking session.

Adaptation and Loss and Damage

The facilitated group on adaptation and loss and damage began with observers not being allowed into the room despite vacant chairs in the room. Following Saudi Arabia’s intervention to let observers into the room to maintain transparency, observers were allowed. This has been a sticky issue since day one when the facilitated groups were closed to the observers. It was only after Malaysia, Saudi Arabia and Nicaragua intervened that the sessions were opened to the observers.

In relation a paragraph which was being considered, Japan suggested that paragraphs that carried the idea of “bifurcation” should be kept separate and not streamlined. On the option concerned, Japan said, “The option has a bifurcated approach.” Japan received support from **Switzerland**, which said that while it is okay to merge content, but it is not okay to merge options with different content.

US concurred, saying that the concepts of universal commitment and bifurcation might “muddle” things and added “there are a bundle of options that speaks of universality and a bundle that speaks to bifurcation”.

Argentina intervened to say “this mechanical exercise” to merge texts is to make the text more workable. “While some Parties are saying it is okay to merge options, some are saying that I don’t want to see my option touched.”

The adaptation session also took an interesting turn when the co-facilitator sought Parties view on whether they should have a conceptual discussion on the adaptation goal. **Chile** was in favour of the discussion, but **Australia** wanted to know if the group had

finished with all the proposals to streamline as contained in the informal note issued by the secretariat.

To the query, the co-facilitator said that some paragraphs were still left to be discussed. At this point the US intervened to say that it is ready to engage at a conceptual level and “I am going to be very American here and point to the elephant in the room. There are groups that want to discuss loss and damage. That must also be part of the conceptual discussion. We want to put the elephant in the room. Are Parties ready to engage at a conceptual level discussion on that?” the US asked.

The co-facilitator responded that the “elephant in the room” needed to go to the Co-chairs and not to the co-facilitators, thus concluding the session.

Preamble

In the negotiating group on preamble chaired by Daniel Reifsynder (US), Parties were asked to consider a proposal for streamlining from the secretariat.

Canada said that it was premature to go into discussion on the preamble. **India** responded that Parties could not change the rules every day and should concentrate on streamlining. Parties can decide on how to move further after guidance comes from the ADP stocktake and proposed that the streamlining exercise continue.

China concurred with the Co-chairs approach and suggested that at the next session, there is need to consider what matters are premature and what are not. In response, the Co-chair said that this was an important observation.

(The ADP will hold a stocktaking exercise on June 4 and decide on the next steps).

Argentina sought clarification on the use of brackets in the text, given varying views among Parties and had also cropped up in other groups.

In response, the Co-chair said that Parties had also raised the issue of the use of slashes and brackets in the text. (As an example, the Geneva text uses the phrase “commitments/contributions/actions”). He explained that slashes were used instead of brackets in the text from Lima (where the previous COP was held), to indicate alternatives. In Geneva this year, Parties put in proposals which were then bracketed. What was not done, said Reifsynder was to come back to issue of slashes and said that this would be addressed at the stocktaking session. On the use of brackets, he said that it had two purposes – one is to indicate no agreement on the text as formulated and the other is to indicate that there are alternative ideas.

The Co-chair also proposed several paragraphs for streamlining from the secretariat to be sent to the facilitated group for discussion, and this group met soon after.

When some text was put on the screen for consideration, some Parties including **Colombia** and the **US** expressed concerns, preferring to keep the original text.

Malaysia, speaking for the **LMDC** said that the secretariat had done a “brilliant job” in removing the repetitions and in providing alternatives in a clear way. **Sudan for the African Group, Pakistan and Iran** agreed with the secretariat’s proposals.

The **US** could not agree, and said that “merging options for the sake of merging” is not the purpose but what is important is for clarity of the options and insisted that they be kept separate.

In response, **Malaysia** said that Parties must follow some fundamental ground rules and that Parties are not “merging for the sake of merging”. It said that the exercise is to streamline and present clear alternatives to focus negotiations.

Timeframes and process related to contributions

At the negotiating group on ‘timeframes and process related to contributions’ was chaired by ADP Co-chair Ahmed Djoglaf (Algeria), **Malaysia** speaking for the **LMDC** provided proposals for streamlining on several paragraphs. Malaysia explained the approach and rationale taken in the LMDC’s efforts to streamline, pointing out that where there were duplications in the options, texts were merged without adding or subtracting any words, so that the positions of Parties were preserved.

Given that Parties were seeing the LMDC proposals for the first time, there was agreement to consider some of the proposals at the facilitated group meeting held soon after. **New Zealand** also had proposals, which were transmitted to the facilitated group meeting, including that of the secretariat.

During the facilitated group meeting, in considering one of the LMDC proposals, **Tuvalu for the LDCs** raised the point Parties need to decide what are complementary decisions for the Conference of Parties (COP) and for work to be done on those paragraphs which are needed for the agreement. **Canada** also said that the para under consideration looked like a COP decision and that what was missing is sense of urgency in the process. The **European Union (EU)** agreed with these views.

In response, **India** said that Parties had not made a decision on what goes into a COP decision and what

is in the core agreement. At this stage of the debate, a technical merger of texts is done and Parties can indicate that this text is then relevant for a COP decision.

The **US** agreed that at this stage, the co-facilitators could note what Parties think but it is difficult at this stage to decide what goes as Parties had different views.

Dondisch, the co-facilitator said that at this point Parties are not making a distinction on substance but to treat all the paragraphs in the same way, but Parties views could be noted.

The **EU** said that the task is not only to streamline but to also clarify options and divergence.

Malaysia said that there are duplications and repetition which have to be streamlined so that Parties could focus on the alternative options.

Mitigation facilitation group

In the mitigation facilitation group, progress was slow in considering proposals for streamlining that came from the secretariat and Parties. This prompted the co-facilitator Perrez (Switzerland) to comment that it “did not make sense to merge (options) if people do not want to merge”.

The **Marshal Islands** said it was not comfortable with a proposal for merger as it “affected the legal form”. This prompted **China** to state that any technical streamlining at this stage would not prejudice the structure or the legal form of the agreement. With the addition of the word ‘shall’ in brackets from one of the options, agreement was reached.

Facilitating implementation and compliance

Co-chaired by Reifsnnyder, the negotiating group began with a proposal from the co-chair on a multilateral consultative process.

“I have been in the process even before the process began,” said Reifsnnyder and informed Parties about the draft text produced on a multilateral consultative process, which could not be adopted at the fifth Conference of Parties (COP5). “Several legal experts were involved. It was a one-page decision and a five-page elaboration of consultative mechanism. COP5 could not take action because of the differences in opinion on composition of the consultative process and it was never adopted. It might be useful for Parties to consider the document,” he said.

Following the proposal, Parties entered into considering which of the paragraphs from the section should go to the facilitated group for further discussion. During the facilitated group, Parties looked

at consolidated proposals from the European Union and the secretariat and made progress on streamlining.

Procedural and Institutional Provisions

Chaired by Co-chair Ahmed Djoghlaif, the session saw consolidated texts being tabled for approval in the negotiating group as opposed to those proposals being

sent to the facilitated groups. The session was to also discuss definitions and Kuwait asked for a clarification on that. “We have to agree on words and then look at the definition,” said Djoghlaif.