

APA: North-South divide over transparency framework in the Paris Agreement

Bonn, 25 May (Indrajit Bose and Meena Raman) – Discussions under the UNFCCC's Ad Hoc Working Group on the Paris Agreement (APA) clearly revealed a divide between developed and developing countries over the transparency framework established under the Paris Agreement (PA).

This clash in approach was clearly apparent during the exchange of views among Parties on 24 May during the APA informal consultations. The APA is tasked to develop recommendations for modalities, procedures and guidelines for the transparency framework for action and support of the PA.

While the **United States (US)** made clear that the transparency framework under the PA did not differentiate between developed and developing countries, the **Like-Minded Developing Countries (LMDC)** said that the PA explicitly premised the transparency framework on the existing arrangements under the Convention which differentiate between developed and developing countries.

While the LMDC and other developing countries said that flexibility under the transparency framework in the PA is accorded to all developing countries, the US and other developed countries said that the flexibility is only for those countries that need them, according to their capacities or their special circumstances.

The **European Union (EU)** said that flexibility could not be applied at a general level and added that while the transparency framework should be a dynamic system that recognizes the different capacities of countries, it should not cement capacity differences.

[Under the UNFCCC, Parties are obliged to communicate to the Conference of the Parties (COP), through the UNFCCC secretariat,

information on the climate actions they have taken or envisage they will take to implement the Convention. This is to enable Parties to inform one another of their national level actions and serves as a basis for the COP to assess the implementation of the Convention by Parties. Under the Bali Action Plan, in 2007, Parties agreed on the principle for measurement, reporting and verification (MRV) of their mitigation actions and subsequently, since 2010 in Cancun, established the existing MRV framework which also includes the MRV of financial support provided to developing countries by developed countries.]

[Under Article 13(1) of the PA, Parties agreed that: *"In order to build mutual trust and confidence and to promote effective implementation, an enhanced transparency framework for action and support, with built-in flexibility which takes into account Parties' different capacities and builds upon collective experience is hereby established."*]

In the consultations on 24 May, the APA Co-chairs **Sarah Baashan (Saudi Arabia)** and **Jo Tyndall (New Zealand)** proposed two guiding questions for Parties to frame their discussions. The questions were on how the experiences and lessons learned from existing MRV arrangements provided a basis for an enhanced transparency framework on action and support; and what constituted flexibilities for developing countries and how could it be applied through modalities, procedures and guidelines in a way that supported full and effective participation in the transparency framework.

Outlining the views of the **Like-Minded Developing Countries (LMDC)**, **India** said that the existing MRV arrangements under the Convention showed that a common but differentiated transparency framework on action and support could be developed and implemented effectively. Doing so preserves and reflects equity

and common but differentiated responsibilities (CBDR) consistent with the Convention, which increases developing countries' acceptance of and willingness to be subject to such an MRV regime, said India.

"The existing transparency arrangements under the Convention can be found in the transparency and reporting modalities and guidance contained in decisions 1/CP.16 (Cancun), 2/CP.17 (Durban), and 1/CP.18 (Warsaw), which created a transparency regime for both action and support which differentiates between developed and developing country Parties. This differentiated transparency regime under the Convention requires that Annex I Parties' implementation be made comparable with each other, with greater amounts and detail of information and more frequent periodicity, and more stringent verification processes; while developing countries would have greater flexibility and less stringency in terms of what to submit, when to submit, and how the information would be verified," said India.

On flexibility, India said that Article 13 of the PA explicitly premised the transparency framework for action and support on the existing transparency arrangements under the Convention and that flexibility shall be provided to developing countries in the implementation of the transparency framework under the PA.

A differentiated regime between developed and developing countries also exists when it comes to providing information relating to the support provided to and received by developing countries, it added. "Article 13(9) reflects developed countries' obligation to provide financial support to developing countries on an 'agreed full cost' basis for all reporting functions, while Article 13(10) only creates an expectation but does not make it mandatory for developing countries to provide information on the support that they received," said India.

India further added that flexibilities to developing countries must be systemically applied to the entire transparency regime, including in being reflected in the operational modalities, procedures and guidelines for reporting and verification under the PA. This differentiated transparency regime would require that Annex I Parties' implementation be made comparable with each other, with greater amounts and detail of information and more frequent periodicity, and more stringent verification processes; while developing countries would have

greater flexibility and less stringency in terms of what to submit, when to submit, and how the information would be verified, said India.

It also said that the PA's transparency framework must be based on existing transparency processes under the Convention. "This means that these existing modalities, procedures, guidelines and processes should continue to be implemented as the transparency framework for the PA. There exists no compelling reason to change the existing transparency regime under the Convention as it can be applied *mutatis mutandis* as the transparency regime for the PA, particularly considering that the Agreement is a related legal instrument under the Convention," it pointed out.

India stressed that for developing countries in particular, the transparency framework must be facilitative, non-punitive, and non-intrusive. The transparency framework must recognize and reflect the nationally-determined nature of the nationally determined contributions (NDCs). Hence, the transparency framework should not result in the creation of a top-down regime for the establishment of subsequent NDCs or creating *de facto* limitations on the extent to which Parties, particularly developing countries, may exercise national determination in shaping and communicating their NDCs, said India.

Saudi Arabia spoke for the **Arab Group** and said that two layers of flexibility are recognized in the PA. The first layer of flexibility should be systematically applied and built in the transparency framework which takes into account the different capacities of developing countries and builds upon their collective experience, it added. "Different starting points call for a systematic approach to flexibility," it elaborated further.

"The second layer of flexibility already exists and is embedded in the current modalities, procedures and guidelines, and will inevitably be maintained ..." said Saudi Arabia adding that "this type of flexibility exists in all kinds of modalities and it includes language such as 'should' and 'may' and 'if appropriate' or provisions of options in the modalities, procedures and guidelines to accommodate different capacities and Parties different NDCs." It stressed that the transparency framework under the PA builds on and should enhance the transparency arrangements under the Convention.

It added that some Parties have demonstrated the ability to report beyond the current requirements or

with minimum utilization of flexibilities provided, while other Parties have not or have required capacity-building in order to do so and these actual experiences must form part of the lessons learned.

On experiences and lessons learned, **South Africa** for the **Africa Group** highlighted that Parties needed to take into account the crosscutting principles such as the notion of flexibility; the need to build capacity; the principle of continuous improvement over time; building on current experiences; and inter-linkages with other Articles of the PA. It added that flexibility should be built in a manner that will not burden developing countries. South Africa also said that flexibility for developing countries was at the core of Parties' work for modalities procedures and guidelines for an enhanced transparency framework. National circumstances are diverse and translate to different starting points and different levels of participation, it said, adding that if flexibility was left unaddressed, it would affect participation of developing countries in the PA.

Speaking for the **Least Developed Countries (LDCs)**, the **Democratic Republic of Congo (DRC)** stressed that information to be reported under the transparency framework needed to be consistent and comparable with action and support. It said that the provision of flexibilities and the capacity-building initiative should be addressed taking into account the special circumstances of developing countries, particularly the LDCs and SIDS (Small Island Developing States).

On the way forward, DRC said that clear guidelines are needed on what should be MRV-ed and accounted for in the system. It also stressed the need for an agreed definition on climate finance and on the need to develop clear reporting requirements on the support received. It also said that the capacity building initiative for transparency should have adequate resources, particularly for LDCs, to meet reporting requirements.

Speaking for the **Alliance of Small Island States (AOSIS)**, **Maldives** underscored that flexibility for developing countries is embedded in the PA and the (2015) COP21 decision, which recognizes the specific needs of the LDCs and SIDS. It called for capacities of developing countries to be built over time.

Speaking for the **Independent Alliance of Latin America and the Caribbean (AILAC)**, **Peru** said it was critical to build on the existing systems, and that common modalities, procedures and guidelines

for reporting, technical review and multilateral consultations should have flexibilities for developing countries as regards the timing, scope and details of the reports.

China said that the transparency framework should reflect the different obligations of Parties. Developed countries and developing countries have common but differentiated obligations under the Convention, and therefore, in the PA, the transparency framework under the current practice is also common but differentiated between developed and developing countries, and this forms the most important modality of the Paris transparency framework, it emphasized.

It added that besides the CBDR obligations, the transparency framework must also recognize the respective capabilities of developed and developing country Parties. Otherwise the framework could not be put into effective practice. "This is also our experience under the Convention, to formulate guidelines for developed and developing country Parties separately, in order to facilitate the implementation," said China.

The PA also provided for support to developing countries on a continuous basis for the implementation of Article 13 and for transparency-related capacity building, said China and that this was crucial.

It stressed that Article 13 covers both the transparency of action and support but the current experience showed that Parties have implemented the well-developed MRV system for mitigation actions, but fall far behind on the transparency of adaptation actions and transparency of support. Hence, this is an area for future work here, it said.

China further said that Article 13(2) makes clear that the flexibility is provided to developing countries, as well as the accompanying decision in relation to the scope, frequency and level of detail of reporting, and in the scope and modality of review. It emphasized that providing flexibility and support to developing country Parties is a necessary condition for implementation, adding that it should be reflected in a comprehensive way, covering the whole process and all elements.

China explained further as to what does not constitute flexibility. Among other aspects, it said that while each Party has the right to determine its own NDC, if a Party decides to make a mitigation contribution for emissions reductions in absolute terms, it cannot have the flexibility for choosing

reporting parameters for a business-as-usual type of mitigation action.

Brazil said a common matrix did not mean a single matrix. Stressing on different starting points, it said that Annex I (developed) countries had 20 years of experience, whereas most developing countries had not even gone through a complete cycle of the transparency processes.

It called for detailed guidance to leave less room for interpretation. It underscored that the PA offers guidance on flexibility for developing countries, especially on the scope, frequency and the level of details to be submitted. In developing the transparency framework, Brazil said there should be a subset of provisions, which underscored the voluntary nature of some information as well as flexibility.

The **US** said that the transparency framework under the PA did not differentiate between developed and developing countries and flexibility is limited to those developing countries that need it according to their capacities.

It also said that Parties had learned several lessons over 20 years and that the reporting and review processes provided opportunities for capacity building. It said that no country got it right the first time, but eventually everyone got things right. It said that while all countries had different starting points, the transparency arrangements would be implemented in a “non-punitive” manner, which was central. It said that capacity building support is key and called for clarity on guidelines on transparency.

In developing modalities, procedures and guidelines it is important to ask the question, flexibility “in relation to what”, said the US. It gave the example that a Party reporting based on domestic reporting arrangements did not need capacity support. It said flexibility could be embedded in other guidelines such as IPCC (Intergovernmental Panel on Climate Change) guidelines. It also said that flexibility could also emanate from choices of NDCs and those with economy wide targets did not need it. It said that capacity building is an “iterative” process and that enhanced transparency framework would be a “learning by doing” process.

The **EU** said the existing transparency arrangements proved capable to significantly improve emissions data and that Parties had gained positive experience from it, based on which they could draw an enhanced transparency framework. It added though that there were gaps in the current systems and cited the example of no time series being there for greenhouse gas emissions of developing countries. It called for the existing MRV arrangements to be complemented and for common guidelines.

On flexibility, the EU said the PA is very clear in defining that flexibility is needed for those who need it in line with special circumstances of countries. It said that flexibility could not be applied at a general level, adding that the transparency framework should be a dynamic system that recognizes different capacities and not cement capacity differences. It called for submissions on these and related issues.

Switzerland underscored the need for a common consideration process while offering flexibilities according to the capacities of countries. It said that common information was needed to be given by all Parties and that the transparency framework under the PA would need to set incentives for Parties to improve information over time.

New Zealand said that enhanced transparency arrangements must draw from the experience of Parties on various components such as reporting, analysis, multilateral assessments and facilitative sharing of views. It said in designing the transparency framework, the underlying design element should be to not place undue burden on Parties. On flexibility, it said that it would be much easier to look at particular components of the transparency system to see what flexibility was needed. It said that the PA depended on the full and effective participation of all Parties and the challenge was to have a common transparency system.

Australia said that common guidelines could look at flexibilities to be offered to countries that need it. Calling for submissions, **Canada** also underscored the point of developing “common” arrangements for the transparency framework and called for submissions on the issue.