

Parties attempt to reflect positions in informal notes

Bonn, 17 May (T.Ajit and Jade Chiang) - Over the past two days, on 16 and 17 May, Parties under the informal consultations of the UNFCCC's Ad Hoc Working Group on the PA (APA) have been engaged in intense discussions in order to ensure that their positions are reflected in the notes that are prepared by the co-facilitators of the various agenda items.

As the work of the APA and the other UNFCCC subsidiary bodies viz. the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA) is scheduled to end on Thursday, 18 May, Parties have been working in a frenzied and intense pace, especially as regards the work related to the implementation of the Paris Agreement (PA).

In the informal consultations under the APA, Parties have engaged in discussions on largely two areas. One, on the informal notes of the co-facilitators, and two, on the work Parties see forthcoming between this session and the twenty-third session of the Conference of the Parties (COP23) to the UNFCCC, scheduled to be held in Bonn in November 2017.

As of 16 May, all informal consultations had ended and the APA Co-chairs issued a [draft conclusion](#) of the session. However, since not all the informal consultations, such as on GST have agreed on the next steps, a contact group of the APA is expected to convene on 17 May to discuss the next steps as well as the draft conclusions.

The informal notes of the APA co-facilitators are meant to capture the discussions during the informal consultations. In fact, there have been several iterations of the informal notes for some of the agenda items.

The reason for the several iterations is that Parties during the discussions, have been

pointing out which of their views are missing from the co-facilitators first iteration of the informal notes.

(Although the informal notes are prepared under the own responsibility of the co-facilitators, they are viewed with much caution and interest as they tend to guide the process in the evolution of negotiating texts as regards the rules related to the implementation of the PA.)

While the development of informal notes has been an iterative process, which the APA Co-chairs **Sara Baashan (Saudi Arabia)** and **Jo Tyndall (New Zealand)** had promised when the APA session started last week, in the words of Pei Liang, a negotiator from China, "an informal note has done its job if it has made all Parties equally happy or equally unhappy."

On the second issue of work between this May session and COP23, there remain differences among Parties on how to move the work forward.

There remain several divergences on all the substantive issues under discussion: on nationally determined contributions (NDCs), adaptation communications, the transparency framework on action and support, facilitating implementation and promoting compliance, the global stocktake (GST) and other matters related to the implementation of the PA, including the Adaptation Fund (AF).

Below is a snapshot of the developments in some of the agenda items of the APA and the SBI.

Nationally Determined Contributions

The informal note captures what the Co-chairs view as the general reflections of Parties on the features of NDCs, information to facilitate clarity, transparency and understanding of NDCs

and accounting for Parties' NDCs as well as headings and elements.

(When APA launched its work, Co-chair Tyndall had indicated that the "Informal notes could be based on inputs from Parties, such as skeletal outline, headings, bullets or text inputs. The informal notes could also include placeholders for cross referencing that could be included elsewhere. See related [TWN Update](#))

With reference to the elements, the [informal note](#) clarifies that the elements outlined in the informal note represented neither "agreed views, ideas or text" nor an attempt to draw any conclusions on possible areas of convergence and/or divergence. "These elements should be read as a reflection of ideas and views raised during the exchanges of views during this session, without any assumptions about the extent to which these views are shared among Parties and without prejudice to the identification of further elements," reads the informal note.

The scope of the NDCs and the reflecting differentiation and its operationalisation were the most contentious issues under the NDCs discussions.

Reflecting these differences, the informal note reads: "A wide range of strongly-held views on how to discuss the issues of scope of NDCs and differentiation were shared. While a number of Parties expressed the view that these issues should be discussed under each of the sub-items under this agenda item, a number of other Parties expressed the view that these issues should be discussed elsewhere under the process, and another number of Parties expressed the view that these issues were already treated within the overall architecture of the PA."

On the next steps, Parties agreed that they should make submissions, taking into consideration the contents of the informal note of the co-facilitators at this session, including on the elements and issues outlined and how these would be reflected in the guidance, without prejudice to further work.

It was also agreed that the APA would request the Secretariat to issue a non-paper based on Parties submissions that "should capture convergence, divergence and options where appropriate, should not prejudge or create something new, should aim at the identification of options based on Parties' views, where

appropriate, without omitting or prejudging Parties' views on matters discussed under this agenda item". The dates for the submissions and the non-paper are likely to be discussed on 17 May at the contact group meeting of the APA.

Transparency Framework

The [informal note](#) of the co-facilitators (who are from China and the United States) is divided into various sections such as: overview of the informal consultations, next steps along with an annex containing "possible headings and subheadings" of the modalities, procedures and guidelines (MPGs) for both transparency of action as well as support.

Differentiation between developed and developing countries was the most contested area in the discussions on the transparency framework. The Co-facilitators recognize that there are varying views on the structure of the MPGs, including differentiation.

They also recognize that Articles 13.7 to 13.12 of the PA vary in their legal nature (i.e. there are provisions which use the word "shall" and those that use the term "should") and that this will be reflected in the MPGs.

They also note that the MPGs will provide flexibility to those developing country Parties that need it in the light of their capacities.

The Co-facilitators note that there are varying views on the operationalization of the provisions in Article 13.3 of the PA and consideration of developing country Parties' transition to the enhanced transparency framework. (Article 13.3 provides that "the transparency framework shall build on and enhance the transparency arrangements under the Convention.....").

There were divergences in views in this regard, with the developed countries not wanting to reflect differentiation and developing countries insisting on it. After much discussions, the note says that "there were varying views on the structure of the MPGs, including differentiation..."

On the next steps, Parties agreed on targeted submissions taking into account the possible "headings and subheadings" contained in the annex to the informal note on the MPGs .

They also agreed on a pre-session workshop "focusing on issues covered in Parties' submissions...and also including technical discussions on how cross-cutting issues listed in

Article 13, including, inter alia, paragraphs 2-4, were considered in Parties' submissions".

Global Stocktake

The GST was a difficult area of discussion, with developed countries rejecting outright the [informal note](#) prepared by the co-facilitators.

The informal note also contains a possible textual outline, which developed countries said contained elements that were outside of the mandate of the global stocktake.

Developed countries also presented an alternative option, narrowing down the elements to be discussed at COP23. Developing countries, however, were in favour of the outline prepared by the co-facilitators, and wanted it to be the basis for discussions in COP23, adding that not all the issues they had raised during the informal consultations had been captured in the informal note, but they were willing to advance discussions based on the co-facilitators' informal note.

Speaking for the **G77 and China, Philippines** said that it was important to capture progress made at the session and that the outline was neither complete, nor completely accurate. "What we need is a vehicle to move us forward. The outline does that well," said Philippines, and urged strongly on using the outline of the co-facilitators to advance further work.

It also thanked Parties for saying that the mandate from the PA and decision from Paris (1/CP.21) must be reflected and that it hoped the same Parties would do the same in other parts of the negotiations so that they did not end up reinterpreting the PA.

Developed countries on the other hand, stuck to their position and no agreement could be reached.

On the way forward, there were also differences in views on whether there should be a call for focused submissions or pre-session workshops should be held.

The **G77 and China** suggested that the best way forward would be to send the existing iteration to the APA Co-chairs to reflect the co-facilitators' understanding of where Parties were with respect to the GST and proposed that there be call for targeted submissions in the interim on how to structure or re-arrange the paper.

Developed countries said they could not agree to

any approach on the way ahead with the informal note as was.

The co-facilitators are expected to report the developments and the lack of consensus on the next steps to the APA Co-chairs. The contact group planned for 17 May is likely to discuss the issue further.

Committee to facilitate implementation and promote compliance of the PA

Parties in the informal consultations had a rich exchange over four meetings during the first week focusing on five general elements: scope and functions of the Committee; commencement/initiation of Committee activities ('trigger'); measures and outputs; consideration of national capabilities and circumstances; and linkages and relationships with other arrangements under the PA.

The key fault line between developed and developing countries lay in the recognition of the principles of common but differentiated responsibilities and respective capabilities (CBDR-RC) in light of different national circumstances, to inform the development of modalities and principle of the compliance mechanism.

On 16 May, Parties met and were presented with an informal note prepared by the co-facilitators. Following feedbacks, the co-facilitators issued a second iteration.

At the last informal consultation, Parties also deliberated on guiding questions for targeted submissions by Parties, with the aim to promote further understanding of views and to inform any technical workshop and continued consideration under this item.

Adaptation Fund serving the PA

Parties met six times in an informal setting over the issue of the AF serving the PA and the co-facilitators issued a reflection note called the 'draft snapshot document by the co-facilitators' on 14 May.

Following views from Parties, a second iteration of the 'draft snapshot document' was issued on 16 May.

The document said that by the decision adopted in Marrakech last year (decision 1/CP.22), the COP requested the APA, in its consideration of the necessary preparatory work on the AF, to address the governance and institutional arrangements, safeguards and operating modalities for the Fund to serve the PA.

Parties identified a number of options and elements that could be addressed as part of the governance and institutional arrangements, safeguards and operating modalities.

The views expressed by Parties in response to three guiding questions were captured in an Annex I called 'List of options and elements identified by Parties in response to the guiding questions.'

Furthermore, Parties raised a number of questions and requested the legal views of the Secretariat. The secretariat Legal Affairs programme provided preliminary legal views on some of the questions raised by Parties during the informal consultations, which are summarized in Annex II to the co-facilitators' note.

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